UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

(Mark One)
☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2017

OR
☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission file number 001-14206

El Paso Electric Company
(Exact name of registrant as specified in its charter)

Texas
(State or other jurisdiction of incorporation or organization)

Stanton Tower, 100 North Stanton, El Paso, Texas
(Address of principal executive offices)

74-0607870
(I.R.S. Employer Identification No.)

79901
(Zip Code)

Registrant’s telephone number, including area code: (915) 543-5711

Securities Registered Pursuant to Section 12(b) of the Act:

Title of each class
Common Stock, No Par Value

Name of each exchange on which registered
New York Stock Exchange

Securities Registered Pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES ☒ NO ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES ☐ NO ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T ($232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES ☒ NO ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐
Non-accelerated filer ☐ (Do not check if a smaller reporting company)
Emerging growth company ☐
Smaller reporting company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES ☐ NO ☒

As of June 30, 2017, the aggregate market value of the voting stock held by non-affiliates of the registrant was $2,069,728,021 (based on the closing price as quoted on the New York Stock Exchange on that date).

As of January 31, 2018, there were 40,661,003 shares of the Company’s no par value common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant’s definitive Proxy Statement for the 2018 annual meeting of its shareholders are incorporated by reference into Part III of this report.
## DEFINITIONS

The following abbreviations, acronyms or defined terms used in this report are defined below:

<table>
<thead>
<tr>
<th>Abbreviations, Acronyms or Defined Terms</th>
<th>Terms</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANPP Participation Agreement</td>
<td>Arizona Nuclear Power Project Participation Agreement dated August 23, 1973, as amended</td>
</tr>
<tr>
<td>APS</td>
<td>Arizona Public Service Company</td>
</tr>
<tr>
<td>ASU</td>
<td>Accounting Standards Update</td>
</tr>
<tr>
<td>Company</td>
<td>El Paso Electric Company</td>
</tr>
<tr>
<td>Copper</td>
<td>The Company's Copper Power Station</td>
</tr>
<tr>
<td>DOE</td>
<td>United States Department of Energy</td>
</tr>
<tr>
<td>El Paso</td>
<td>City of El Paso, Texas</td>
</tr>
<tr>
<td>FASB</td>
<td>Financial Accounting Standards Board</td>
</tr>
<tr>
<td>FERC</td>
<td>Federal Energy Regulatory Commission</td>
</tr>
<tr>
<td>Fort Bliss</td>
<td>Fort Bliss, the United States Army post next to El Paso, Texas</td>
</tr>
<tr>
<td>Four Corners</td>
<td>Four Corners Generating Station</td>
</tr>
<tr>
<td>GHG</td>
<td>Greenhouse gas</td>
</tr>
<tr>
<td>HAFB</td>
<td>Holloman Air Force Base</td>
</tr>
<tr>
<td>IRS</td>
<td>Internal Revenue Service</td>
</tr>
<tr>
<td>kV</td>
<td>Kilovolt(s)</td>
</tr>
<tr>
<td>kW</td>
<td>Kilowatt(s)</td>
</tr>
<tr>
<td>kWh</td>
<td>Kilowatt-hour(s)</td>
</tr>
<tr>
<td>Las Cruces</td>
<td>City of Las Cruces, New Mexico</td>
</tr>
<tr>
<td>MPS</td>
<td>The Company's Montana Power Station</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt(s)</td>
</tr>
<tr>
<td>MWh</td>
<td>Megawatt-hour(s)</td>
</tr>
<tr>
<td>Net dependable generating capability</td>
<td>The maximum load net of plant operating requirements that a generating plant can supply under specified conditions for a given time interval, without exceeding approved limits of temperature and stress</td>
</tr>
<tr>
<td>Newman</td>
<td>The Company's Newman Power Station</td>
</tr>
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<td>NMPRC</td>
<td>New Mexico Public Regulation Commission</td>
</tr>
<tr>
<td>NRC</td>
<td>Nuclear Regulatory Commission</td>
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<td>Palo Verde Generating Station</td>
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<td>Those utilities that share in power and energy entitlements, and bear certain allocated costs, with respect to Palo Verde pursuant to the ANPP Participation Agreement</td>
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<td>PNM</td>
<td>Public Service Company of New Mexico</td>
</tr>
<tr>
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<td>Public Utility Commission of Texas</td>
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<td>Rio Grande Electric Cooperative</td>
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<td>Rio Grande Resources Trust</td>
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<td>The Company's Rio Grande Power Station</td>
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<td>TCJA</td>
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FORWARD-LOOKING STATEMENTS

Certain matters discussed in this Annual Report on Form 10-K, other than statements of historical fact, are "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements often include words like we "believe", "anticipate", "target", "project", "expect", "predict", "pro forma", "estimate", "intend", "will", "is designed to", "plan" and words of similar meaning, or are indicated by the Company's discussion of strategies or trends. Forward-looking statements describe the Company's future plans, objectives, expectations or goals. Although the Company believes that the expectations reflected in such forward-looking statements are reasonable, no assurances can be given that these expectations will prove to be correct. Such statements address future events and conditions and include, but are not limited to:

- capital expenditures,
- earnings,
- liquidity and capital resources,
- ratemaking/regulatory matters,
- litigation,
- accounting matters, including accounting for taxes,
- possible corporate restructurings, acquisitions and dispositions,
- compliance with debt and other restrictive covenants,
- interest rates and dividends,
- environmental matters,
- nuclear operations,
- operation of the Company's generating units and its transmission and distribution systems, and
- the overall economy of our service area.

These forward-looking statements are based on assumptions and analyses in light of the Company's experience and perception of historical trends, current conditions, expected future developments and other factors the Company believes were appropriate in the circumstances when the statements were made. Forward-looking statements by their nature involve substantial risks and uncertainties that could significantly impact expected results, and actual future results could differ materially from those described in such statements. While it is not possible to identify all factors, the Company continues to face many risks and uncertainties. Factors that would cause or contribute to such differences include, but are not limited to:

- actions of the Company's regulators,
- the Company's ability to fully and timely recover its costs and earn a reasonable rate of return on its invested capital through the rates that it is permitted to charge,
- rates, cost recovery mechanisms and other regulatory matters including the ability to recover fuel costs on a timely basis,
- the ability of the Company's operating partners to maintain plant operations and manage operation and maintenance costs at the Palo Verde Generating Station ("Palo Verde"), including costs to comply with any new or expanded regulatory or environmental requirements,
- reductions in output at generation plants operated by the Company,
- the size of the Company's construction program and its ability to complete construction on budget and on time,
- the Company's reliance on significant customers,
- the credit worthiness of the Company's customers,
- unscheduled outages of generating units including outages at Palo Verde,
- changes in customers' demand for electricity as a result of energy efficiency initiatives and emerging competing services and technologies, including distributed generation,
individual customer groups, including distributed generation customers, may not pay their full cost of service, and other customers may or may not be required to pay the difference,

changes in, and the assumptions used for, pension and other post-retirement and post-employment benefit liability calculations, as well as actual and assumed investment returns on pension plan and other post-retirement plan assets,

the impact of changing cost escalation and other assumptions on the Company's nuclear decommissioning liability for Palo Verde, as well as actual and assumed investment returns on decommissioning trust fund assets,

disruptions in the Company's transmission system, and in particular the lines that deliver power from its remote generating facilities,
the sufficiency of the Company's insurance coverage, including availability, cost, coverage and terms,
electric utility deregulation or re-regulation,
regulated and competitive markets,
going municipal, state and federal activities,
cuts in military spending or prolonged shutdowns of the federal government that reduce demand for the Company's services from military and governmental customers,
political, legislative, judicial and regulatory developments,
homeland security considerations, including those associated with the U.S./Mexico border region and the energy industry,
changes in environmental laws and regulations and the enforcement or interpretation thereof, including those related to air, water or greenhouse gas ("GHG") emissions or other environmental matters,
economic, commercial bank, financial and capital market conditions,
actions by credit rating agencies,
changes in accounting requirements and other accounting matters,
changing weather trends and the impact of severe weather conditions,
possible physical or cyber attacks, intrusions or other catastrophic events,
the impact of lawsuits filed against the Company,
the impact of changes in interest rates or rates of inflation,
Texas, New Mexico and electric industry utility service reliability standards,
uranium, natural gas, oil and wholesale electricity prices and availability,
possible income tax and interest payments as a result of audit adjustments proposed by the Internal Revenue Service ("IRS") or state taxing authorities,
the impact of recent changes to U.S. tax laws,
the impact of U.S. health care reform legislation,
the effectiveness of the Company's risk management activities,
loss of key personnel, the Company's ability to recruit and retain qualified employees and the Company's ability to successfully implement succession planning, and
other circumstances affecting anticipated operations, sales and costs.

These lists are not all-inclusive because it is not possible to predict all factors. A discussion of some of these factors is included in this document under the headings "Risk Factors" and "Management’s Discussion and Analysis of Financial Condition and Results of Operations –Summary of Critical Accounting Policies and Estimates" and "Management’s Discussion and Analysis of Financial Condition and Results of Operations –Liquidity and Capital Resources." This Annual Report on Form 10-K should be read in its entirety. Management cautions against putting undue reliance on forward-looking statements or projecting any future results based on such statements or present or prior earnings levels. Any forward-looking statement speaks only as of the date.

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such statement was made, and the Company is not obligated to update any forward-looking statement to reflect events or circumstances after the date on which
such statement was made, except as required by applicable laws or regulations.
PART I

Item 1.  Business

General

El Paso Electric Company (the "Company") is a public utility engaged in the generation, transmission and distribution of electricity in an area of approximately 10,000 square miles in west Texas and southern New Mexico. The Company also serves a full requirements wholesale customer in Texas. The Company owns or has significant ownership interests in several electrical generating facilities providing it with a net dependable generating capacity of approximately 2,082 MW. For the year ended December 31, 2017, the Company’s energy sources consisted of approximately 49% nuclear fuel, 36% natural gas, 15% purchased power and less than 1% generated by Company-owned solar photovoltaic panels. The Company continues to expand its portfolio of renewable energy sources, particularly solar photovoltaic generation. As of December 31, 2017, the Company had power purchase agreements for 107 MW from solar photovoltaic generation facilities. (See “Energy Sources – Purchased Power”).

The Company serves approximately 417,900 residential, commercial, industrial, public authority and wholesale customers. The Company distributes electricity to retail customers principally in El Paso, Texas and Las Cruces, New Mexico (representing approximately 64% and 11%, respectively, of the Company’s retail revenues for the year ended December 31, 2017). In addition, the Company’s wholesale sales include sales for resale to other electric utilities and power marketers. Principal industrial, public authority and other large retail customers of the Company include United States military installations, such as Fort Bliss in Texas and White Sands Missile Range ("White Sands") and Holloman Air Force Base ("HAFB") in New Mexico, an oil refinery, several medical centers, two large universities and a steel production facility.

The Company’s principal offices are located at the Stanton Tower, 100 North Stanton, El Paso, Texas 79901 (telephone: 915-543-5711). The Company was incorporated in Texas in 1901. As of January 31, 2018, the Company had approximately 1,100 employees, 38% of whom are covered by a collective bargaining agreement.

The Company makes available free of charge through its website, www.epelectric.com, its Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statement and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission ("SEC"). In addition, copies of this Annual Report on Form 10-K will be made available free of charge upon written request. The SEC also maintains an internet site that contains reports, proxy and information statements and other information for issuers that file electronically with the SEC. The address of that site is www.sec.gov. The information on the Company's website is not incorporated by reference into this Annual Report on Form 10-K.

Facilities

As of December 31, 2017, the Company’s net dependable generating capability of approximately 2,082 MW consists of the following:

<table>
<thead>
<tr>
<th>Station</th>
<th>Primary Fuel Type</th>
<th>Company’s Share of Net Dependable Generating Capability* (MW)</th>
<th>Company Ownership Interest</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newman Power Station</td>
<td>Natural Gas</td>
<td>752</td>
<td>100%</td>
<td>El Paso, Texas</td>
</tr>
<tr>
<td>Palo Verde</td>
<td>Nuclear</td>
<td>633</td>
<td>15.8%</td>
<td>Wintersburg, Arizona</td>
</tr>
<tr>
<td>Rio Grande Power Station</td>
<td>Natural Gas</td>
<td>276</td>
<td>100%</td>
<td>Sunland Park, New Mexico</td>
</tr>
<tr>
<td>Montana Power Station (Units 1, 2, 3 and 4)</td>
<td>Natural Gas</td>
<td>354</td>
<td>100%</td>
<td>El Paso, Texas</td>
</tr>
<tr>
<td>Copper Power Station</td>
<td>Natural Gas</td>
<td>64</td>
<td>100%</td>
<td>El Paso, Texas</td>
</tr>
<tr>
<td>Renewables</td>
<td>Solar</td>
<td>3</td>
<td>100%</td>
<td>Culberson/El Paso Counties, Texas; Dona Ana County, New Mexico</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>2,082</td>
</tr>
</tbody>
</table>

* During summer peak period.
Palo Verde

The Company owns an interest, along with six other utilities, in the three nuclear generating units and common facilities ("Common Facilities") at Palo Verde. Arizona Public Service Company ("APS") serves as operating agent for Palo Verde, and under the Arizona Nuclear Power Project Participation Agreement ("ANPP Participation Agreement"), the Company has limited ability to influence operations and costs at Palo Verde.

- **Palo Verde Operating Licenses.** Operation of each of the three Palo Verde Units requires an operating license from the Nuclear Regulatory Commission ("NRC"). The NRC issued full power operating licenses for Unit 1 in June 1985, Unit 2 in April 1986 and Unit 3 in November 1987 and issued renewed operating licenses for each of the three units in April 2011, which extended the licenses for Units 1, 2 and 3 to June 2045, April 2046 and November 2047, respectively.

- **Decommissioning.** Pursuant to the ANPP Participation Agreement and federal law, the Company must fund its share of the estimated costs to decommission Palo Verde Units 1, 2 and 3, including the Common Facilities, through the term of their respective operating licenses. In 2017, the Palo Verde Participants approved the 2016 Palo Verde decommissioning study (the "2016 Study"), which estimated that the Company must fund approximately $432.8 million (stated in 2016 dollars) to cover its share of decommissioning costs. At December 31, 2017, the Company's decommissioning trust fund had a balance of $286.9 million. Although the 2016 Study was based on the latest available information, there can be no assurance that decommissioning cost estimates will not increase in the future or that regulatory requirements will not change.

- **Spent Fuel and Waste Disposal.** Pursuant to the Nuclear Waste Policy Act of 1982, as amended in 1987 (the "NWPA"), the United States Department of Energy ("DOE") is legally obligated to accept and dispose of all spent nuclear fuel and other high-level radioactive waste generated by all domestic power reactors by 1998. The DOE's obligations are reflected in a contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (the "Standard Contract") with each nuclear power plant. The DOE failed to begin accepting spent nuclear fuel by 1998. On December 19, 2012, APS, acting on behalf of itself and the Palo Verde Participants, filed a second breach of contract lawsuit against the DOE. This lawsuit sought to recover damages incurred due to the DOE’s failure to accept Palo Verde's spent nuclear fuel for the period beginning January 1, 2007 through June 30, 2011. On August 18, 2014, APS and the DOE entered into a settlement agreement stipulating to a dismissal of the lawsuit. Pursuant to the terms of the August 18, 2014 settlement agreement, APS files annual claims for the period July 1 of the then-previous year to June 30 of the then-current year. The settlement agreement, as amended, provides APS with a method for submitting claims and receiving recovery for costs incurred through December 31, 2016, which has been extended to December 31, 2019. The Company's share of costs recovered are presented below (in thousands):

<table>
<thead>
<tr>
<th>Costs Recovery Period</th>
<th>Amount Refunded</th>
<th>to Customers through Fuel Adjustment Clauses</th>
<th>Period Credited to Customers</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2007 - June 2011</td>
<td>$9,076</td>
<td>$7,944</td>
<td>September 2014</td>
</tr>
<tr>
<td>July 2011 - June 2014</td>
<td>6,643</td>
<td>5,759</td>
<td>March 2015</td>
</tr>
<tr>
<td>July 2014 - June 2015</td>
<td>1,884</td>
<td>1,581</td>
<td>March 2016</td>
</tr>
<tr>
<td>July 2015 - June 2016</td>
<td>1,779</td>
<td>1,432</td>
<td>March 2017</td>
</tr>
</tbody>
</table>

On October 31, 2017, APS filed an $8.9 million claim for the period July 1, 2016 through June 30, 2017. The Company's share of this claim is approximately $1.4 million. In February 2018, the DOE approved this claim. Any reimbursement is anticipated to be received in the first half of 2018, and the majority of the reimbursement received by the Company is expected to be credited to customers through the applicable fuel adjustment clauses.

- **DOE's Construction Authorization Application for Yucca Mountain.** The DOE had planned to meet its disposal obligations by designing, licensing, constructing and operating a permanent geologic repository in Yucca Mountain, Nevada. In March 2010, the DOE filed a motion to dismiss with prejudice its Yucca Mountain construction authorization application that was pending before the NRC. Several interested parties have intervened in the NRC proceeding. Additionally, a number of interested parties have filed a variety of lawsuits in different jurisdictions around the country challenging the DOE's authority to withdraw the Yucca Mountain
construction authorization application and NRC’s cessation of its review of the Yucca Mountain construction authorization application. The cases have been consolidated into one matter at the U.S. Court of Appeals for the District of Columbia Circuit (the “D.C. Circuit”). In August 2013, the D.C. Circuit ordered the NRC to resume its review of the application with available appropriated funds.

On October 16, 2014, the NRC issued Volume 3 of the safety evaluation report developed as part of the Yucca Mountain construction authorization application. This volume addresses repository safety after permanent closure, and the issuance of Volume 3 is a key milestone in the Yucca Mountain licensing process. Volume 3 contains the NRC staff’s finding that the DOE’s repository design meets the requirements that apply after the repository is permanently closed, including but not limited to the post-closure performance objectives in the NRC’s regulations.

On December 18, 2014, the NRC issued Volume 4 of the safety evaluation report developed as part of the Yucca Mountain construction authorization application. This volume covers administrative and programmatic requirements for the repository. It documents the NRC staff’s evaluation of whether the DOE’s research and development and performance confirmation programs, as well as other administrative controls and systems, meet applicable NRC requirements. Volume 4 contains the NRC staff’s finding that most administrative and programmatic requirements in NRC regulations are met, except for certain requirements relating to ownership of land and water rights.

Publication of Volumes 3 and 4 does not signal whether or when the NRC might authorize construction of the repository. The Company cannot predict when spent fuel shipments to the DOE will commence.

- *Waste Confidence and Continued Storage.* On June 8, 2012, the D.C. Circuit issued its decision on a challenge by several states and environmental groups of the NRC’s rulemaking regarding temporary storage and permanent disposal of high level nuclear waste and spent nuclear fuel. The petitioners challenged the NRC’s 2010 update to the agency’s Waste Confidence Decision and temporary storage rule ("Waste Confidence Decision").

The D.C. Circuit found that the agency’s 2010 Waste Confidence Decision update constituted a major federal action, which, consistent with the National Environmental Policy Act (“NEPA”), requires either an environmental impact statement or a finding of no significant impact from the agency’s actions. The D.C. Circuit found that the NRC’s evaluation of the environmental risks from spent nuclear fuel was deficient, and therefore remanded the 2010 Waste Confidence Decision update for further action consistent with NEPA.

On September 6, 2012, the NRC Commissioners issued a directive to the NRC staff to proceed directly with development of a generic environmental impact statement to support an updated Waste Confidence Decision. The NRC Commissioners also directed the NRC staff to establish a schedule to publish a final rule and environmental impact study within 24 months of September 6, 2012.

In September 2013, the NRC issued its draft Generic Environmental Impact Statement ("GEIS") to support an updated Waste Confidence Decision. On August 26, 2014, the NRC approved a final rule on the environmental effects of continued storage of spent nuclear fuel. Renamed the Continued Storage Rule, the NRC’s decision adopted the findings of the GEIS regarding the environmental impacts of storing spent fuel at any reactor site after the reactor’s licensed period of operations. As a result, those generic impacts do not need to be re-analyzed in the environmental reviews for individual licenses. Although Palo Verde has not been involved in any licensing actions affected by the D.C. Circuit’s June 8, 2012 decision, the NRC lifted its suspension on final licensing actions on all nuclear power plant licenses and renewals that went into effect when the D.C. Circuit issued its June 2012 decision. The final Continued Storage Rule was subject to continuing legal challenges before the NRC and the Court of Appeals. In June 2016, the D.C. Circuit issued its final decision, rejecting all remaining legal challenges to the Continue Storage Rule. On August 8, 2016, the D.C. Circuit denied a petition for rehearing.

Palo Verde has sufficient capacity at its on-site independent spent fuel storage installation ("ISFSI") to store all of the nuclear fuel that will be irradiated during the initial operating license period, which ends in December 2027. Additionally, Palo Verde has sufficient capacity at its on-site ISFSI to store a portion of the fuel that will be irradiated during the period of extended operation, which ends in November 2047. If uncertainties regarding the United States government’s obligation to accept and store spent fuel are not favorably resolved, APS will evaluate alternative storage solutions that may obviate the need to expand the ISFSI to accommodate all of the fuel that will be irradiated during the period of extended operation.

- *The One-Mill Fee.* In 2011, the National Association of Regulatory Utility Commissioners and the Nuclear Energy Institute challenged the DOE’s 2010 determination of the adequacy of the one tenth of a cent per kWh
fee (the "one-mill fee") paid by the nation’s commercial nuclear power plant owners pursuant to their individual obligations under the Standard Contract. This fee was recovered by the Company through applicable fuel adjustment clauses. In June 2012, the D.C. Circuit held that the DOE failed to conduct a sufficient fee analysis in making the 2010 determination. The D.C. Circuit remanded the 2010 determination to the Secretary of the DOE (the "Secretary") with instructions to conduct a new fee adequacy determination within six months. In February 2013, upon completion of the DOE’s revised one-mill fee adequacy determination, the court reopened the proceedings. On November 19, 2013, the D.C. Circuit ordered the Secretary to notify Congress of his intent to suspend collecting annual fees for nuclear waste disposal from nuclear power plant operators, as he is required to do pursuant to the NWPA and the court’s order. On January 3, 2014, the Secretary notified Congress of his intention to suspend collection of the one-mill fee, subject to Congress’ disapproval and on May 16, 2014, the DOE notified all commercial nuclear power plant operators, effective May 16, 2014, the one-mill fee was suspended. Electricity generated at Palo Verde and sold on or after May 16, 2014 is no longer subjected to the one-mill fee.

- **NRC Oversight of the Nuclear Energy Industry in the Wake of the Earthquake and Tsunami in Japan**. The NRC regulates the operation of all commercial nuclear power reactors in the United States, including Palo Verde. The NRC periodically conducts inspections of nuclear facilities and monitors performance indicators to enable the agency to arrive at objective conclusions about a licensee's safety performance. Following the March 11, 2011 earthquake and tsunami in Japan, the NRC established a task force to conduct a systematic and methodical review of NRC processes and regulations to determine whether the agency should make additional improvements to its regulatory system. On March 12, 2012, the NRC issued the first regulatory requirements based on the recommendations of the NRC's Near Term Task Force. With respect to Palo Verde, the NRC issued two orders requiring safety enhancements regarding: (1) mitigation strategies to respond to extreme natural events resulting in the loss of power at plants and (2) enhancement of spent fuel pool instrumentation.

The NRC has issued a series of interim staff guidance documents regarding implementation of these requirements. Palo Verde has met the NRC's imposed deadlines for the installation of equipment to address these requirements. Palo Verde has spent approximately $125.4 million (the Company's share is $19.8 million) on capital enhancements related to these requirements as of December 31, 2017.

- **Liability and Insurance Matters**. The Palo Verde Participants have insurance for public liability resulting from nuclear energy hazards, covered by primary liability insurance provided by commercial insurance carriers and an industry-wide retrospective assessment program. If a loss at a nuclear power plant covered by the programs exceeds the accumulated funds in the primary level of protection, the Company could be assessed retrospective premium adjustments on a per incident basis up to $60.4 million, with an annual payment limitation of approximately $9.0 million. The Palo Verde Participants also maintain $2.75 billion of "all risk" nuclear property insurance. The insurance provides coverage for property damage and decontamination at Palo Verde. For covered incidents involving property damage not accompanied by a release of radioactive material, the policy's coverage limit is $2.25 billion. In addition, the Company has secured insurance against portions of any increased cost of generation or purchased power and business interruption resulting from a sudden and unforeseen outage at Palo Verde.

**Fossil-Fueled Plants**

The Newman Power Station ("Newman") consists of three conventional steam-electric generating units and two combined cycle generating units. The station operates primarily on natural gas but the conventional steam-electric generating units can also operate on fuel oil.

The Company's Rio Grande Power Station ("Río Grande") consists of three conventional steam-electric generating units and one aeroderivative unit that operate on natural gas.

The Company's Montana Power Station ("MPS") consists of four aeroderivative generating units which operate on natural gas. The units can also operate on fuel oil.

The Company's Copper Power Station ("Copper") consists of a natural gas combustion turbine used primarily to meet peak demand.

The Company owned a 7% interest in Units 4 and 5 at Four Corners Generating Station ("Four Corners"). The Company shared power entitlements and certain allocated costs of the two units with APS (the Four Corners operating agent) and the other Four Corners participants. On July 6, 2016, the Company sold its interests in Four Corners for $32.0 million to 4C Acquisition, LLC, an affiliate of APS ("APS's affiliate"), and Pinnacle West Capital Corporation ("Pinnacle West"), the parent company of APS.
and APS’s affiliate. No significant gain or loss was recorded for this sale. APS’s affiliate assumed responsibility for all Four Corners capital expenditures made after July 6, 2016, which assumption is guaranteed by Pinnacle West. In addition, APS’s affiliate will indemnify the Company against certain liabilities and costs related to the future operation of Four Corners, which indemnification is guaranteed by Pinnacle West. See Part II, Item 8, Financial Statements and Supplementary Data, Note C and Note E of Notes to Financial Statements for further discussions.

**Solar Photovoltaic Facilities**

The Company’s Texas Community solar facility, a 3 MW utility-scale solar plant located at MPS, began commercial operations on May 31, 2017. The Company also owns six other solar photovoltaic facilities with a total capacity of 0.2 MW.

**Transmission and Distribution Lines and Agreements**

The Company owns, or has significant ownership interests in, four 345 kV transmission lines in New Mexico and Arizona and three 500 kV lines in Arizona. These lines enable the Company to deliver its energy entitlements from its remote generation at Palo Verde to its service area (pursuant to various transmission and power exchange agreements to which the Company is a party). The Company also owns the transmission and distribution network within its New Mexico and Texas retail service area and operates these facilities under franchise agreements with various municipalities. Pursuant to standards established by the North American Electric Reliability Corporation and the Western Electricity Coordinating Council, the Company operates its transmission system in a way that allows it to maintain system integrity in the event that any one of these transmission lines is out of service.

In addition to the transmission and distribution lines within our service territory, the Company's transmission network and associated substations include the following:

<table>
<thead>
<tr>
<th>Line</th>
<th>Length (miles)</th>
<th>Voltage (kV)</th>
<th>Company Ownership Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Springerville-Macho Springs-Luna-Diablo Line (1)</td>
<td>310</td>
<td>345</td>
<td>100.0%</td>
</tr>
<tr>
<td>West Mesa-Arroyo Line (2)</td>
<td>202</td>
<td>345</td>
<td>100.0%</td>
</tr>
<tr>
<td>Greenlee-Hidalgo-Luna-Newman Line (3)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greenlee-Hidalgo</td>
<td>60</td>
<td>345</td>
<td>40.0%</td>
</tr>
<tr>
<td>Hidalgo-Luna</td>
<td>50</td>
<td>345</td>
<td>57.2%</td>
</tr>
<tr>
<td>Luna-Newman</td>
<td>86</td>
<td>345</td>
<td>100.0%</td>
</tr>
<tr>
<td>Eddy County-AMRAD Line (4)</td>
<td>125</td>
<td>345</td>
<td>66.7%</td>
</tr>
<tr>
<td>Palo Verde Transmission</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palo Verde-Westwing (5)</td>
<td>45</td>
<td>500</td>
<td>18.7%</td>
</tr>
<tr>
<td>Palo Verde-Jojoba-Kyrene (6)</td>
<td>75</td>
<td>500</td>
<td>18.7%</td>
</tr>
</tbody>
</table>

(1) Runs from Tucson Electric Power Company's ("TEP") Springerville Generating Plant near Springerville, Arizona, to the Company's Diablo Substation near Sunland Park, New Mexico.
(2) Runs from Public Service Company of New Mexico ("PNM") West Mesa Substation located near Albuquerque, New Mexico, to the Company's Arroyo Substation located near Las Cruces, New Mexico.
(3) Runs from TEP's Greenlee Substation located near Duncan, Arizona to Newman.
(4) Runs from the Company's and PNM's high voltage direct current terminal at the Eddy County Substation near Artesia, New Mexico to the AMRAD Substation near Oro Grande, New Mexico.
(5) Represents two 45-mile, 500 kV lines running from Palo Verde to the Westwing Substation located northwest of Phoenix near Peoria, Arizona.
(6) Runs from Palo Verde to the Jojoba Substation located near Gila Bend, Arizona, then to the Kyrene Substation located near Tempe, Arizona.
Environmental Matters

General. The Company is subject to extensive laws, regulations and permit requirements with respect to air and GHG emissions, water discharges, soil and water quality, waste management and disposal, natural resources and other environmental matters by federal, state, regional, tribal and local authorities. Failure to comply with such laws, regulations and requirements can result in actions by authorities or other third parties that might seek to impose on the Company administrative, civil and/or criminal penalties or other sanctions. In addition, releases of pollutants or contaminants into the environment can result in costly cleanup liabilities. These laws, regulations and requirements are subject to change through modification or reinterpretation, or the introduction of new laws and regulations, and, as a result, the Company may face additional capital and operating costs to comply. Certain key environmental issues, laws and regulations facing the Company are described further below.

In March 2017, the Company entered into a Compliance Agreement ("Compliance Agreement") with the Texas Commission on Environmental Quality under the Texas Environmental, Health and Safety Audit Privilege Act to address certain water and waste compliance issues associated with the integrity of the synthetic liner of the evaporation pond at the Company’s Newman Generating Station. The Company has initiated a capital project to extend the life of evaporation pond and in doing so will complete its obligation of the Compliance Agreement.

Air Emissions. The U.S. Clean Air Act ("CAA"), associated regulations and comparable state and local laws and regulations relating to air emissions impose, among other obligations, limitations on pollutants generated during the operations of the Company's facilities and assets, including sulfur dioxide ("SO2"), particulate matter ("PM"), nitrogen oxides ("NOx") and mercury.

National Ambient Air Quality Standards ("NAAQS"). Under the CAA, the EPA sets NAAQS for six criteria pollutants considered harmful to public health and the environment, including PM, NOx, carbon monoxide ("CO"), ozone and SO2. NAAQS must be reviewed by the EPA at five-year intervals. In 2010, the EPA tightened the NAAQS for both nitrogen dioxide ("NO2") and SO2. The EPA is considering a 1-hour secondary NAAQS for NO2 and SO2. In January 2013, the EPA tightened the primary annual NAAQS for fine PM. On October 1, 2015, the EPA released a final rule tightening the primary and secondary NAAQS for ground-level ozone from its 2008 standard levels of 75 parts per billion ("ppb") to 70 ppb. The EPA may designate the areas in which we operate as nonattainment. For example, in December 2017, EPA proposed to designate southern Dona Ana County, New Mexico, as a nonattainment area. States that contain any areas designated as nonattainment, and any tribes that choose to do so, will be required to complete development of implementation plans in the 2020-2021 timeframe. Most nonattainment areas are expected to have until 2020 or 2023 to meet the primary (health) standard, with the exact attainment date varying based on the ozone level in the area. The Company continues to evaluate what impact these final and proposed NAAQS could have on its operations. If the Company is required to install additional equipment to control emissions at its facilities, the NAAQS, individually or in the aggregate, could have a material impact on its operations and financial results.

Other Laws and Regulations and Risks. The Company sold its interest in Four Corners to APS's affiliate on July 6, 2016 at the expiration of the 50-year participation agreement. As of the closing date of the sale, the Company’s environmental liabilities associated with Four Corners were limited to conditions that existed at the time of the sale and further limited to the portion thereof for which the Company would have been financially responsible if Four Corners had fully ceased operation on July 6, 2016. Pursuant to the terms of the Purchase and Sale Agreement, neither APS's affiliate nor APS assumed the Company's pre-closing obligations under environmental laws with respect to its interest in Four Corners. The Company may be subject to certain future claims under environmental laws and regulations as a former owner of Four Corners. The extent of such claims, if any, cannot be predicted with certainty.

Climate Change. There has been a wide-ranging policy debate, at the local, state, national, and international levels, regarding the impact of GHG and possible means for their regulation. Efforts continue to be made in the international community toward the adoption of international treaties or protocols that would address global climate change issues. In April 2016, the United States signed the Paris Agreement, which requires countries to review and "represent a progression" in their intended nationally determined contributions, which set GHG emission reduction goals, every five years beginning in 2020. In August 2017, the United States formally documented to the United Nations its intent to withdraw from the Paris Agreement. The earliest possible effective withdrawal date from the Paris Agreement is November 2020.

The U.S. federal government has either considered, proposed and/or finalized legislation or regulations limiting GHG emissions, including carbon dioxide. In particular, the U.S. Congress has considered legislation to restrict or regulate GHG emissions. In October 2015, the EPA published a rule establishing guidelines for states to regulate CO2 emissions from existing power plants, known as the Clean Power Plan ("CPP"). Legal challenges to the CPP are ongoing. The Company cannot at this time determine the impact of the CPP, related proposals and legal challenges may have on our financial position, results of operations or cash flows.
While a significant portion of the Company's generation assets are nuclear or gas-fired, and as a result, the Company believes that its GHG emissions are low relative to electric power companies who rely more on coal-fired generation, current and future legislation and regulation of GHG or any future related litigation could impose significant costs and/or operating restrictions on the Company, reduce demand for the power the Company generates, and/or require the Company to purchase rights to emit GHG, any of which could be material to the Company's business, reputation, financial condition or results of operations.

Climate change also has potential physical effects that could be relevant to the Company's business. In particular, climate change could affect the Company's service area by causing higher temperatures, less winter precipitation and less spring runoff, as well as by causing more extreme weather events. Such developments could change the demand for power in the region and could also impact the price or ready availability of water supplies or affect maintenance needs and the reliability of Company equipment. The Company believes that material effects on the Company's business or results of operations may result from the physical consequences of climate change, the regulatory approach to climate change ultimately selected and implemented by governmental authorities, or both. Given the very significant remaining uncertainties regarding whether and how these issues will be regulated, as well as the timing and severity of any physical effects of climate change, the Company believes it is impossible to meaningfully quantify the costs of these potential impacts at present.

*Environmental Litigation and Investigations*. Since July 2011, the U.S. Department of Justice (the "DOJ"), on behalf of the EPA, and APS have been engaged in substantive settlement negotiations in an effort to resolve certain of the pending matters. The allegations being addressed through settlement negotiations are that APS failed to obtain the necessary permits and install the controls necessary under the CAA to reduce SO2, NOx, and PM, and that defendants failed to obtain an operating permit under Title V of the CAA that reflects applicable requirements imposed by law. On June 24, 2015, the parties filed with the U.S. District Court for New Mexico a settlement agreement ("CAA Settlement Agreement") resolving this matter. On August 17, 2015, the U.S. District Court for New Mexico entered the CAA Settlement Agreement. The agreement imposes a total civil penalty payable by the co-owners of Four Corners collectively in the amount of $1.5 million, and it requires the co-owners to pay $6.7 million for environmental mitigation projects. At December 31, 2017, the Company has accrued its remaining unpaid share of approximately $0.2 million related to this matter.
Construction Program

Utility construction expenditures reflected in the following table consist primarily of local generation, expanding and updating the transmission and distribution systems, the cost of capital improvements and replacements at Palo Verde and other generating facilities, and other property and equipment. Studies indicate that the Company will need additional power generation resources to meet increasing load requirements on its system and to replace retiring plants and terminated purchased power agreements, the costs of which are included in the table below.

The Company’s estimated cash construction costs for 2018 through 2022 are approximately $1.3 billion. Actual costs may vary from the construction program estimates shown. Such estimates are under continuous review and subject to ongoing adjustment and are updated periodically to reflect changed conditions.

<table>
<thead>
<tr>
<th>By Year (1)(2) (estimates in millions)</th>
<th>By Function (estimates in millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018 $236</td>
<td>Production (1)(2) $551</td>
</tr>
<tr>
<td>2019 238</td>
<td>Transmission 183</td>
</tr>
<tr>
<td>2020 278</td>
<td>Distribution 430</td>
</tr>
<tr>
<td>2021 298</td>
<td>General 139</td>
</tr>
<tr>
<td>2022 253</td>
<td><strong>Total</strong> $1,303</td>
</tr>
<tr>
<td><strong>Total</strong> $1,303</td>
<td><strong>Total</strong> $1,303</td>
</tr>
</tbody>
</table>

(1) Does not include acquisition costs for nuclear fuel. See "Energy Sources – Nuclear Fuel."
(2) Estimated production costs consist of:
   a. $320 million for new generating capacity, primarily including:
      i. $305 million of construction costs from 2018 through 2022 for a 320 MW combined cycle generating plant scheduled to be completed in 2023.
      ii. $13 million for two utility-scale solar energy generating facilities which would have a combined maximum capacity of up to 7 MW.
   b. $231 million of other generation costs, including $184 million for Palo Verde.
Energy Sources

General

The following table summarizes the percentage contribution of nuclear fuel, natural gas, coal and purchased power to the total kWh energy mix of the Company. Energy generated by Company-owned solar photovoltaic panels and wind turbines accounted for less than 1% of the total kWh energy mix of the Company.

<table>
<thead>
<tr>
<th>Power Source</th>
<th>2017 (percentage of total kWh energy mix)</th>
<th>2016 (percentage of total kWh energy mix)</th>
<th>2015 (percentage of total kWh energy mix)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nuclear</td>
<td>49%</td>
<td>49%</td>
<td>47%</td>
</tr>
<tr>
<td>Natural gas</td>
<td>36%</td>
<td>34%</td>
<td>34%</td>
</tr>
<tr>
<td>Coal</td>
<td>—%</td>
<td>2%</td>
<td>6%</td>
</tr>
<tr>
<td>Purchased power</td>
<td>15%</td>
<td>15%</td>
<td>13%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Allocated fuel and purchased power costs are generally recoverable from customers in Texas and New Mexico pursuant to applicable regulations. Historical fuel costs and revenues are reconciled periodically in proceedings before the Public Utility Commission of Texas ("PUCT") and the New Mexico Public Regulation Commission ("NMPRC"). See "Regulation – Texas Regulatory Matters" and "Regulation – New Mexico Regulatory Matters."

Nuclear Fuel

The nuclear fuel cycle for Palo Verde consists of the following stages: the mining and milling of uranium ore to produce uranium concentrates, the conversion of the uranium concentrates to uranium hexafluoride ("conversion services"), the enrichment of uranium hexafluoride ("enrichment services"), the fabrication of fuel assemblies ("fabrication services"), the utilization of the fuel assemblies in the reactors, and the storage and disposal of the spent fuel.

Pursuant to the ANPP Participation Agreement, the Company owns an undivided interest in nuclear fuel purchased in connection with Palo Verde. The Palo Verde Participants are continually identifying their future nuclear fuel resource needs and negotiating arrangements to fill those needs. The Palo Verde Participants have contracted for 100% of Palo Verde's requirements for uranium concentrates through 2023 and 50% of its requirements for 2024 through 2025. The participants have contracted for 100% of Palo Verde's requirement for conversion services through 2021 and 46% of its requirements for 2022 through 2025. The participants have also contracted for 100% of Palo Verde's requirement for enrichment services through 2020 and 20% of its requirement for 2021 through 2026 and all of Palo Verde's requirement for fuel assembly fabrication services through 2024.

Nuclear Fuel Financing. The Company’s financing of nuclear fuel is accomplished through Rio Grande Resources Trust ("RGRT"), a Texas grantor trust, which is consolidated in the Company’s financial statements. As of December 31, 2017, RGRT has $45 million aggregate principal amount borrowed in the form of senior notes. In August 2017, RGRT's $50 million Series B 4.47% Senior Notes matured and were paid utilizing funds borrowed under the revolving credit facility (the "RCF"). The Company guarantees the payment of principal and interest on the senior notes. The nuclear fuel financing requirements of RGRT are met with a combination of the senior notes and short-term borrowings under the RCF.

Natural Gas

The Company manages its natural gas requirements through a combination of a long-term (greater than a year) supply contract, several medium-term (greater than a month but less than one year) supply contracts and spot or short-term (daily to a month) market purchases. The long-term supply contract provides for firm deliveries of gas at market-based index prices. Medium-term and spot agreements are either fixed priced and/or index priced depending on the market. In 2017, the Company’s natural gas requirements at Newman, Rio Grande and MPS were met with short-term, medium-term and long-term natural gas purchases from various suppliers, and this practice is expected to continue in 2018. Interstate gas is delivered under a base firm transportation contract. The Company has expanded its firm interstate transportation contract to include MPS. The Company anticipates it will continue to purchase natural gas at spot market prices on a monthly basis for a portion of the fuel needs for Newman, Rio Grande and MPS. The Company will continue to evaluate the availability of short-term natural gas supplies versus medium and long-term supplies to maintain a reliable and economical supply for its local generating stations.

Natural gas for Newman and Copper is also supplied pursuant to a long-term intrastate natural gas contract that became effective October 1, 2009 and continues through March 31, 2018. Beginning April 1, 2018, intrastate natural gas reservation and storage for Newman, Copper and MPS will be provided through a new contract that will continue through March 31, 2028. Under
this new contract, intrastate gas supply will be sourced in the same manner as interstate gas, through a variety of long, medium and short-term supply contracts.

**Purchased Power**

To supplement its own generation and operating reserve requirements, and to meet required renewable portfolio standards, the Company engages in power purchase arrangements that may vary in duration and amount based on an evaluation of the Company’s resource needs, the economics of the transactions and specific renewable portfolio requirements.

The Company has a firm 100 MW Power Purchase and Sale Agreement (the "Power Purchase and Sale Agreement") with Freeport-McMoran Copper and Gold Energy Services LLC ("Freeport"), pursuant to which Freeport will deliver energy to the Company from the Luna Energy Facility (a natural gas-fired combined cycle generation facility located in Luna County, New Mexico) and the Company will deliver a like amount of energy at Greenlee, Arizona. The Company may purchase up to the contracted MW amount at a specified price at times when energy is not exchanged under the Power Purchase and Sale Agreement. The Power Purchase and Sale Agreement was approved by the Federal Energy Regulatory Commission ("FERC") and will continue through an initial term ending December 31, 2021, with subsequent rollovers until terminated. Upon mutual agreement, the Power Purchase and Sale Agreement allows the parties to increase the amount of energy that is purchased and sold thereunder. The parties have agreed to increase the amount up to 125 MW through December 2018.

The Company has entered into several power purchase agreements to help meet its renewable portfolio requirements. Specifically, the Company has a 25-year purchase power agreement with Hatch Solar Energy Center I, LLC for a 5 MW solar photovoltaic project located in southern New Mexico, which began commercial operation in July 2011. In June 2015, the Company entered into a consent agreement with Hatch Solar Energy Center I, LLC to provide for additional or replacement photovoltaic modules. The Company also entered into a 20-year contract with NRG Solar Roadrunner, LLC ("NRG") for the purchase of all of the output of a 20 MW solar photovoltaic plant built in southern New Mexico, which began commercial operation in August 2011. In addition, the Company has 25-year purchase power agreements to purchase all of the output of two additional solar photovoltaic projects located in southern New Mexico, SunE EPE1, LLC (10 MW) and SunE EPE2, LLC (12 MW), which began commercial operation in June 2012 and May 2012, respectively. In September 2017, Longroad Solar Portfolio Holdings, LLC purchased SunE EPE1, LLC and in October 2017, Silicon Ranch Corporation purchased SunE EPE2, LLC with the Company's consent per the terms of both purchase power agreements.

Furthermore, the Company has a 20-year purchase power agreement with Macho Springs Solar, LLC to purchase the entire generation output delivered from the 50 MW Macho Springs solar photovoltaic project located in Luna County, New Mexico which began commercial operation in May 2014. Finally, the Company has a 30-year purchase power agreement with Newman Solar LLC to purchase the total output, which is approximately 10 MW, from a solar photovoltaic generation plant on land subleased from the Company in proximity to Newman. This solar project began commercial operation in December 2014.

Other purchases of shorter duration were made during 2017 to supplement the Company's generation resources during planned and unplanned outages, for economic reasons and to supply off-system sales.
### Operating Statistics

#### Years Ended December 31,

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating revenues (in thousands):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-fuel base revenues:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>$287,884</td>
<td>$278,774</td>
<td>$246,265</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>198,799</td>
<td>194,942</td>
<td>187,436</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>38,403</td>
<td>39,070</td>
<td>40,411</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>97,890</td>
<td>96,881</td>
<td>91,244</td>
</tr>
<tr>
<td>Total retail base revenues</td>
<td>622,976</td>
<td>609,667</td>
<td>565,356</td>
</tr>
<tr>
<td>Wholesale:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales for resale</td>
<td>2,730</td>
<td>2,407</td>
<td>2,455</td>
</tr>
<tr>
<td>Total non-fuel base revenues</td>
<td>625,706</td>
<td>612,074</td>
<td>567,811</td>
</tr>
<tr>
<td>Fuel revenues:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recovered from customers during the period</td>
<td>218,380</td>
<td>148,397</td>
<td>127,765</td>
</tr>
<tr>
<td>Under (over) collection of fuel</td>
<td>(17,133)</td>
<td>14,893</td>
<td>(13,342)</td>
</tr>
<tr>
<td>New Mexico fuel in base rates</td>
<td>—</td>
<td>33,279</td>
<td>72,129</td>
</tr>
<tr>
<td>Total fuel revenues</td>
<td>201,247</td>
<td>196,569</td>
<td>186,552</td>
</tr>
<tr>
<td>Off-system sales:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel cost</td>
<td>46,258</td>
<td>38,933</td>
<td>52,406</td>
</tr>
<tr>
<td>Shared margins</td>
<td>11,055</td>
<td>5,632</td>
<td>11,048</td>
</tr>
<tr>
<td>Retained margins</td>
<td>1,673</td>
<td>1,137</td>
<td>1,362</td>
</tr>
<tr>
<td>Total off-system sales</td>
<td>58,986</td>
<td>45,702</td>
<td>64,816</td>
</tr>
<tr>
<td>Other</td>
<td>30,858</td>
<td>32,591</td>
<td>30,690</td>
</tr>
<tr>
<td>Total operating revenues</td>
<td>$916,797</td>
<td>$886,936</td>
<td>$849,869</td>
</tr>
<tr>
<td>Number of customers (end of year) (1):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>370,054</td>
<td>363,987</td>
<td>358,819</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>42,291</td>
<td>41,741</td>
<td>40,367</td>
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<tr>
<td>Commercial and industrial, large</td>
<td>48</td>
<td>49</td>
<td>49</td>
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<tr>
<td>Other</td>
<td>5,500</td>
<td>5,285</td>
<td>5,261</td>
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<tr>
<td>Total</td>
<td>417,893</td>
<td>411,062</td>
<td>404,496</td>
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<tr>
<td>Average annual kWh use per residential customer</td>
<td>7,671</td>
<td>7,748</td>
<td>7,763</td>
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<tr>
<td>Energy supplied, net, kWh (in thousands):</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Generated</td>
<td>8,950,875</td>
<td>8,820,006</td>
<td>9,585,089</td>
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<td>Purchased and interchanged</td>
<td>1,540,841</td>
<td>1,552,251</td>
<td>1,390,946</td>
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<tr>
<td>Total</td>
<td>10,491,716</td>
<td>10,372,257</td>
<td>10,976,035</td>
</tr>
<tr>
<td>Energy sales, kWh (in thousands):</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Retail:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Residential</td>
<td>2,823,260</td>
<td>2,805,789</td>
<td>2,771,138</td>
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<td>Commercial and industrial, small</td>
<td>2,410,710</td>
<td>2,403,447</td>
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<tr>
<td>Commercial and industrial, large</td>
<td>1,045,319</td>
<td>1,030,745</td>
<td>1,062,662</td>
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<tr>
<td>Sales to public authorities</td>
<td>1,564,670</td>
<td>1,572,510</td>
<td>1,585,568</td>
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<tr>
<td>Total retail</td>
<td>7,843,959</td>
<td>7,812,491</td>
<td>7,803,882</td>
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<td>Wholesale:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Sales for resale</td>
<td>62,887</td>
<td>62,086</td>
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<td>Off-system sales</td>
<td>2,042,884</td>
<td>1,927,508</td>
<td>2,500,947</td>
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<td>Total wholesale</td>
<td>2,105,771</td>
<td>1,989,594</td>
<td>2,564,294</td>
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<td>Total energy sales</td>
<td>9,949,730</td>
<td>9,802,085</td>
<td>10,368,176</td>
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<tr>
<td>Losses and Company use</td>
<td>541,986</td>
<td>570,172</td>
<td>607,859</td>
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<tr>
<td>Total</td>
<td>10,491,716</td>
<td>10,372,257</td>
<td>10,976,035</td>
</tr>
<tr>
<td><strong>Native system:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,935,000</td>
<td>1,892,000</td>
<td>1,794,000</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>Peak load, kW</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net dependable generating capability for peak, kW</td>
<td>2,082,000</td>
<td>2,080,000</td>
<td>2,055,000</td>
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</table>

**Total system:**

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<tr>
<th></th>
<th>1,982,000</th>
<th>2,027,000</th>
<th>1,992,000</th>
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</thead>
<tbody>
<tr>
<td>Peak load, kW (2)</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Net dependable generating capability for peak, kW</td>
<td>2,082,000</td>
<td>2,080,000</td>
<td>2,055,000</td>
</tr>
</tbody>
</table>

(1) The number of retail customers presented is based on the number of service locations.
(2) Includes spot sales and net losses of 47,000 kW, 135,000 kW and 198,000 kW for 2017, 2016 and 2015, respectively.
Regulation

The rates and services of the Company are regulated by incorporated municipalities in Texas, the PUCT, the NMPRC and the FERC. Municipal orders, ordinances and other agreements regarding rates and services adopted by Texas municipalities are subject to review and approval by the PUCT. The FERC has jurisdiction over the Company's wholesale (sales for resale) transactions, transmission service and compliance with federally-mandated reliability standards. The decisions of the PUCT, the NMPRC and the FERC are subject to judicial review.

Texas Regulatory Matters

2015 Texas Retail Rate Case Filing. On August 10, 2015, the Company filed with the City of El Paso, other municipalities incorporated in its Texas service territory, and the PUCT in Docket No. 44941, a request for an annual increase in non-fuel base revenues ("2015 Texas Retail Rate Case").

On July 21, 2016, the parties to PUCT Docket No. 44941 filed the Joint Motion to Implement Uncontested Amended and Restated Stipulation and Agreement which was unopposed by the parties (the "2016 Unopposed Settlement"). On August 25, 2016, the PUCT approved the 2016 Unopposed Settlement and issued its final order in Docket No. 44941 ("2016 PUCT Final Order"), as proposed. The 2016 PUCT Final Order provided for: (i) an annual non-fuel base rate increase, lower annual depreciation expense, a revised return on equity for allowance for funds used during construction ("AFUDC") purposes, and the inclusion of substantially all new plant in service in rate base; (ii) an additional annual non-fuel base rate increase of $3.7 million related to Four Corners costs, which was collected through a surcharge that terminated on July 11, 2017; (iii) removing the separate rate treatment for residential customers with solar systems that the Company had proposed in its October 10, 2015 filing; (iv) allowing the Company to recover $3.1 million in rate case expenses through a separate surcharge; and (v) allowing the Company to recover revenues associated with the relate back of rates to consumption on and after January 12, 2016 through March 31, 2016 through a separate surcharge.

For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2015 Texas Retail Rate Case until it received the 2016 PUCT Final Order on August 25, 2016. Accordingly, it reported in the third quarter of 2016 the cumulative effect of the 2016 PUCT Final Order, which related back to January 12, 2016.

2016 Texas Retail Rate Case Filing. On February 13, 2017, the Company filed with the City of El Paso, other municipalities incorporated in its Texas service territory, and the PUCT in Docket No. 46831, a request for an increase in non-fuel base revenues ("2017 Texas Retail Rate Case"). On November 2, 2017, the Company filed the Joint Motion to Implement Uncontested Stipulation and Agreement with the Administrative Law Judges for the 2017 Texas Retail Rate Case.

On December 18, 2017, the PUCT issued its final order in the Company's rate case pending in Docket No. 46831 ("2017 PUCT Final Order"), which provides, among other things, for the following: (i) an annual non-fuel base rate increase of $14.5 million; (ii) a return on equity of 9.65%; (iii) all new plant in service as filed in the Company's rate filing package was prudent and used and useful and therefore is included in rate base; (iv) recovery of the costs of decommissioning Four Corners in the amount of $5.5 million over a seven year period beginning August 1, 2017; (v) the Company to recover reasonable rate case expenses of approximately $3.4 million through a separate surcharge over a three year period; and (vi) a requirement that the Company file a refund tariff if the federal statutory income tax rate, as it relates to the Company, is decreased before the Company files its next rate case. The 2017 PUCT Final Order also establishes baseline revenue requirements for recovery of future transmission and distribution investment costs, and includes a minimum monthly bill of $30.00 for new residential customers with distributed generation, such as private rooftop solar. Additionally, the 2017 PUCT Final Order allows for the annual recovery of $2.1 million of nuclear decommissioning funding and establishes annual depreciation expense that is approximately $1.9 million lower than the annual amount requested by the Company in its initial filing. Finally, the 2017 PUCT Final Order allows for the Company to recover revenues associated with the relate back of rates to consumption on and after July 18, 2017 through a separate surcharge.

New base rates, including additional surcharges associated with rate case expenses and the relate back of rates to consumption on and after July 18, 2017 through December 31, 2017 were implemented in January 2018.

For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2017 Texas Retail Rate Case until it received the 2017 PUCT Final Order on December 18, 2017. Accordingly, it reported in the fourth quarter of 2017 the cumulative effect of the 2017 PUCT Final Order, which related back to July 18, 2017.
The 2017 PUCT Final Order requires the Company to file a refund tariff if the federal statutory income tax rate, as it relates to the Company, is decreased before the Company files its next rate case. Following the enactment of the Tax Cuts and Jobs Act of 2017 ("TCJA") on December 22, 2017, and in compliance with the 2017 PUCT Final Order, the Company will reduce the recognition of Texas jurisdictional revenues beginning January 1, 2018, to approximate the tax savings resulting from the TCJA and will file a refund tariff which the Company will ask to be implemented in the first half of 2018. The refund tariff is expected to be reflected in rates over a period of a year and will be updated annually until new base rates are implemented pursuant to the Company’s next rate case filing. See Part II, Item 8, Financial Statements and Supplementary Data, Note E for further details.

Energy Efficiency Cost Recovery Factor. On May 1, 2017, the Company filed its annual application, which was assigned PUCT Docket No. 47125, to establish its energy efficiency cost recovery factor ("EECRF") for 2018. In addition to projected energy efficiency costs for 2018 and a true-up to prior year actual costs, the Company requested approval of an incentive bonus for the 2016 energy efficiency program results in accordance with PUCT rules. Interim rates were approved effective January 1, 2018. The Company, the staff of the PUCT, and the City of El Paso reached an agreement that includes an incentive bonus of $0.8 million. The agreement was filed on January 25, 2018, and was approved by the PUCT on February 15, 2018.

Fuel and Purchased Power Costs. The Company’s actual fuel costs, including purchased power energy costs, are recovered from customers through a fixed fuel factor. The PUCT has adopted a fuel cost recovery rule (the "Texas Fuel Rule") that allows the Company to seek periodic adjustments to its fixed fuel factor. The Company can seek to revise its fixed fuel factor based upon the approved formula at least four months after its last revision except in the month of December. The Texas Fuel Rule requires the Company to request to refund fuel costs in any month when the over-recovery balance exceeds a threshold material amount and it expects fuel costs to continue to be materially over-recovered. The Texas Fuel Rule also permits the Company to seek to surcharge fuel under-recoveries in any month the balance exceeds a threshold material amount and it expects fuel cost recovery to continue to be materially under-recovered. Fuel over and under-recoveries are considered material when they exceed 4% of the previous twelve months’ fuel costs. All such fuel revenue and expense activities are subject to periodic final review by the PUCT in fuel reconciliation proceedings.

On November 30, 2016, the Company filed a request, which was assigned PUCT Docket No. 46610, to increase its fixed fuel factor by approximately 28.8% to reflect increased fuel expenses primarily related to an increase in the price of natural gas used to generate power. The increase in the fixed fuel factor was effective on an interim basis January 1, 2017 and approved by the PUCT on January 10, 2017. As of September 30, 2017, the Company had over-recovered fuel costs in the amount of $1.1 million for the Texas jurisdiction. On October 13, 2017, the Company filed a request, which was assigned PUCT Docket No. 47692, to decrease the Texas fixed fuel factor by approximately 19% to reflect decreased fuel expenses primarily related to a decrease in the price of natural gas used to generate power. The decrease in the Texas fixed fuel factor became effective beginning with the November 2017 billing month and will continue thereafter until changed by the PUCT. At December 31, 2017, the Company had a net fuel over-recovery balance of approximately $5.8 million in Texas.

Fuel Reconciliation Proceeding. On September 27, 2016, the Company filed an application with the PUCT, designated as PUCT Docket No. 46308, to reconcile $436.6 million of Texas fuel and purchased power expenses incurred during the period of April 1, 2013 through March 31, 2016. On June 29, 2017, the PUCT approved a settlement in this proceeding. The settlement provides for the reconciliation of fuel and purchased power costs incurred from April 1, 2013 through March 31, 2016. Additionally, the settlement modifies and tightens the Palo Verde performance rewards measurement bands beginning with the 2018 performance period. The financial results for the twelve months ended December 31, 2017 include a $5.0 million, pre-tax increase to income reflecting the settlement of the Texas fuel reconciliation proceeding. This amount represents Palo Verde performance rewards associated with the 2013 to 2015 performance periods net of disallowed fuel and purchased power costs as approved in the settlement. Texas jurisdictional fuel and purchased power costs subject to prudence review are costs from April 1, 2016 through December 31, 2017 that total approximately $250.9 million.

Community Solar. On June 8, 2015, the Company filed a petition with the PUCT to initiate a community solar program that includes the construction and ownership of a 3 MW solar photovoltaic system located at the Company’s MPS. Participation is on a voluntary basis, and customers contract for a set capacity (kW) amount and receive all energy produced. This case was assigned PUCT Docket No. 4480. The Company filed a settlement agreement among all parties on July 1, 2016 approving the program, and the PUCT approved the settlement agreement and program on September 1, 2016. On April 19, 2017, the Company announced that the entire 3 MW program was fully subscribed by approximately 1,500 Texas customers. The Community Solar facility began commercial operation on May 31, 2017.

Four Corners Generating Station. On February 17, 2015, the Company and APS entered into the Purchase and Sale Agreement providing for the sale of the Company’s interest in Four Corners to APS. The sale of the Company’s interest in Four Corners closed on July 6, 2016. See Part II, Item 8, “Financial Statements and Supplementary Data, Note E of Notes to Financial Statements” for further details on the sale of Four Corners.
On June 10, 2015, the Company filed an application in Texas requesting reasonableness and public interest findings and certain rate and accounting findings related to the Purchase and Sale Agreement. This case was assigned PUCT Docket No. 44805. Subsequent to the filing of the application, the case was subject to numerous procedural matters, including a March 23, 2016 order in which the PUCT determined not to dismiss the reasonableness and public interest issues in this docket but to consider the requested rate and accounting findings, including coal mine reclamation costs, in a rate case proceeding. On September 1, 2016, a motion by parties in the proceeding to suspend the procedural schedule in order to pursue settlement was approved. On March 3, 2017, the Company filed a Joint Motion to Implement Stipulation and Agreement (the "Stipulation and Agreement"), and PUCT Staff filed its recommendation that the Company’s disposition of its interest in Four Corners was reasonable and consistent with the public interest. Additionally, the signatories of the Stipulation and Agreement agreed to support the recovery of the Company’s Four Corners decommissioning costs in the 2017 Texas Retail Rate Case. A final order approving the Stipulation and Agreement was adopted by the PUCT on March 30, 2017. The approval to recover Four Corners decommissioning costs was included in the 2017 PUCT Final Order.

Other Required Approvals. The Company has obtained other required approvals for tariffs and other approvals required by the Texas Public Utility Regulatory Act ("PURA") and the PUCT.

New Mexico Regulatory Matters

2015 New Mexico Rate Case Filing. On May 11, 2015, the Company filed a request with the NMPRC, in Case No. 15-00127-UT, for an annual increase in non-fuel base rates. On June 8, 2016, the NMPRC issued its final order in Case No. 15-00127-UT (the "NMPC Final Order") which approved an annual increase in non-fuel base rates of approximately $0.6 million, an increase of approximately $0.5 million in other service fees and a decrease in the Company's allowed return on equity to 9.48%. The NMPC Final Order concluded that all of the Company's new plant in service was reasonable and necessary and therefore would be recoverable in rates. The Company's rates were approved by the NMPC effective July 1, 2016 and implemented at such time.

Future New Mexico Rate Case Filing. NMPC Case No. 15-00109-UT required the Company to make a rate filing in New Mexico in the second quarter of 2017 using a historical test year ended December 31, 2016. On March 24, 2017, the Company, NMPC Utility Division Staff and the New Mexico Attorney General filed a Joint Motion to Modify Filing Date Stated in Final Order requesting that the rate filing date be changed to no later than July 31, 2019, using the appropriate historical test year period. The joint request was approved by the NMPC on April 12, 2017. The NMPC has initiated an investigation into the impact of the TCJA on utility customers that may require earlier action by the Company. The Company is evaluating possible approaches to begin providing a refund credit for the TCJA income tax rate decrease to New Mexico customers.

Fuel and Purchased Power Costs. Historically, fuel and purchased power costs were recovered through base rates and a Fuel and Purchased Power Cost Adjustment Clause (the "FPPCAC") that accounts for changes in the costs of fuel relative to the amount included in base rates. Effective July 1, 2016, with the implementation of the NMPC Final Order, fuel and purchased power costs are no longer recovered through base rates but are recovered through the FPPCAC. The Company's request to reconcile its fuel and purchased power costs for the period January 1, 2013 through December 31, 2014 was approved in Case No. 15-00127-UT. New Mexico jurisdictional costs subject to prudence review are costs from January 1, 2015 through December 31, 2017 that total approximately $173.1 million. At December 31, 2017, the Company had a net fuel over-recovery balance of approximately $0.4 million in New Mexico. As required, the Company filed a request to continue use of its FPPCAC with the NMPC on January 5, 2018 which was assigned NMPC Case No. 18-00006-UT.

5 MW HAFB Facility Certificate of Convenience and Necessity ("CCN"). On October 7, 2015, in NMPC Case No. 15-00185-UT, the NMPCC issued a final order approving a CCN for a 5 MW solar power generation facility located on HAFB in the Company's service territory in New Mexico. The Company and HAFB negotiated a retail contract, which includes a power sales agreement for the facility, to replace the existing load retention agreement which was approved by final order issued October 5, 2016 in NMPC Case No. 16-00224-UT. Construction of the solar generation facility is expected to be completed in the third quarter of 2018.

New Mexico Efficient Use of Energy Recovery Factor. On July 1, 2016, the Company filed its annual application requesting approval of its 2017 Energy Efficiency and Load Management Plan and to establish energy efficiency cost recovery factors for 2017. In addition to projected energy efficiency costs for 2017, the Company requested approval of a $0.4 million incentive for 2017 energy efficiency programs in accordance with NMPC rules. This case was assigned Case No. 16-00185-UT. On February 22, 2017, the NMPC issued a Final Order approving the Company’s 2017 Energy Efficiency and Load Management Plan and authorizing recovery in 2017 of a base incentive of $0.4 million. The Company’s energy efficiency cost recovery factors were approved and effective in customer bills beginning on March 1, 2017.

On July 1, 2016, the Company filed its 2015 Annual Report for Energy Efficiency Programs, which included an incentive for verified 2015 program performance of $0.3 million, which was approved in Case No. 13-00176-UT. The Company recorded
the $0.3 million approved incentive in operating revenues in the first quarter of 2017. In addition, on June 30, 2017, the Company filed its 2016 Annual Report for Energy Efficiency Programs, which included an incentive for verified 2016 program performance of $0.4 million that was approved in Case No. 13-00176-UT. The Company recorded the $0.4 million approved incentive in operating revenues in the third quarter of 2017.

Revolving Credit Facility, Issuance of Long-Term Debt, and Securities Financing. On October 7, 2015, the Company received approval in NMPRC Case No. 15-00280-UT to guarantee the issuance of up to $65.0 million of long-term debt by the Rio Grande Resources Trust ("RGRT") to finance future purchases of nuclear fuel and to refinance existing nuclear fuel debt obligations, which remains effective. On October 4, 2017, the Company received additional approval in NMPRC Case No. 17-00217-UT to amend and extend its Revolving Credit Facility ("RCF"), issue up to $350.0 million in long-term debt and to redeem and refinance the $63.5 million 2009 Series A 7.25% Pollution Control Bonds and the $37.1 million 2009 Series B 7.25% Pollution Control Bonds, which have optional redemptions beginning in 2019. The NMPRC approval to issue $350.0 million in long-term debt supersedes its prior approval.

Other Required Approvals. The Company has obtained other required approvals for tariffs and other approvals as required by the New Mexico Public Utility Act and the NMPRC.

Federal Regulatory Matters

Revolving Credit Facility, Issuance of Long-Term Debt, Securities Financing, and Guarantee of Debt. On October 31, 2017, the FERC issued an order in Docket No. ES17-54-000 approving the Company's filing to (i) amend and extend the RCF; (ii) issue up to $350.0 million in long-term debt; (iii) guarantee the issuance of up to $65.0 million of long-term debt by the RGRT; and (iv) redeem and refinance the $63.5 million 2009 Series A 7.25% Pollution Control Bonds and the $37.1 million 2009 Series B 7.25% Pollution Control Bonds, which have optional redemptions beginning in 2019. The order also approves the Company's request to continue to utilize the Company's existing RCF with the ability to amend and extend at a future date. The authorization is effective from November 15, 2017 through November 14, 2019 and supersedes prior FERC approvals.

Other Required Approvals. The Company has obtained required approvals for rates, tariffs and other approvals as required by the FERC.

United States Department of Energy. The DOE regulates the Company's exports of power to Mexico pursuant to a DOE grant of export authorization. In addition, the Company is the holder of two presidential permits issued by the DOE under which the Company constructed and operates border facilities crossing the United States/Mexico border.

The DOE is authorized to assess operators of nuclear generating facilities a share of the costs of decommissioning the DOE's uranium enrichment facilities and for the ultimate costs of disposal of spent nuclear fuel. See "Facilities – Palo Verde" for discussion of spent fuel storage and disposal costs.

Sales for Resale and Network Transmission Service to Rio Grande Electric Cooperative

The Company provides firm capacity and associated energy to the Rio Grande Electric Cooperative ("RGEC") pursuant to an ongoing contract with a two-year notice to terminate provision. The Company also provides network integrated transmission service to the RGEC pursuant to the Company's Open Access Transmission Tariff ("OATT"). The contract includes a formula-based rate that is updated annually to recover non-fuel generation costs and a fuel adjustment clause designed to recover all eligible fuel and purchased power costs allocable to the RGEC. The Company's service to RGEC is regulated by FERC.

Power Sales Contracts

The Company has entered into several short-term (three months or less) off-system sales contracts throughout 2017.
Franchises and Significant Customers

Franchises

The Company operates under franchise agreements with several cities in its service territory, including one with El Paso, Texas, the largest city it serves. The franchise agreement allows the Company to utilize public rights-of-way necessary to serve its customers within El Paso. Pursuant to the El Paso franchise agreement, which was amended in 2010, the Company pays to the City of El Paso, on a quarterly basis, a fee equal to 4.00% of gross revenues the Company receives for the generation, transmission and distribution of electrical energy and other services within the city. The 2005 El Paso franchise agreement set the franchise fee at 3.25% of gross revenues, but the 2010 amendment added an incremental fee equal to 0.75% of gross revenues to be placed in a restricted fund to be used by the city solely for economic development and renewable energy purposes. Any assignment of the franchise agreement, including a deemed assignment as a result of a change in control of the Company, requires the consent of the City of El Paso. The El Paso franchise agreement is set to expire on July 31, 2030.

The Company does not have a written franchise agreement with Las Cruces, New Mexico, the second largest city in its service territory. The Company utilizes public rights-of-way necessary to service its customers within Las Cruces under an implied franchise by satisfying all obligations under the franchise agreement that expired on April 30, 2009. The Company pays the City of Las Cruces a franchise fee of 2.00% of gross revenues the Company receives from services within the City of Las Cruces.

Military Installations

The Company serves HAFB, White Sands and Fort Bliss. These military installations represent approximately 2.5% of the Company's annual retail revenues. In July 2014, the Company signed an agreement with Fort Bliss under which Fort Bliss takes retail electric service from the Company under the applicable Texas tariffs. The Company serves White Sands under the applicable New Mexico tariffs. In August 2016, the Company signed a contract with HAFB under which the Company provides retail electric service and limited wheeling services to HAFB under the applicable New Mexico tariffs. As stated in the contract, HAFB will purchase the full output of a Company-owned 5 MW solar facility upon its completed construction, with HAFB's other power requirements and limited wheeling services provided under the applicable New Mexico tariffs.

Other Information

Investors should note that we announce material financial information in our filings with the SEC, press releases and public conference calls. Based on guidance from the SEC, we may also use the Investor Relations section of our website (www.epelectric.com) to communicate with investors about the Company. It is possible that the financial information we post there could be deemed to be material information. The information contained on or accessible from our website is not incorporated by reference into and does not constitute a part of this Annual Report on Form 10-K.
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**Item 1A. Risk Factors**

Like other companies in our industry, our financial results are impacted by weather, the economy of our service territory, market prices for power, fuel prices, and the decisions of regulatory agencies. Our common stock price and creditworthiness will be affected by local, regional and national macroeconomic trends, general market conditions and the expectations of the investment community, all of which are largely beyond our control. In addition, the following statements highlight risk factors that may affect our financial condition and results of operations. These are not intended to be an exhaustive discussion of all such risks, and the statements below must be read together with factors discussed elsewhere in this Annual Report on Form 10-K and in our other filings with the SEC.

#### Our Revenues and Profitability Depend Upon Regulated Rates

Our retail rates are subject to regulation by incorporated municipalities in Texas, the PUCT, the NMPRC and the FERC. The 2017 PUCT Final Order established our current retail base rates in Texas, effective July 18, 2017. In addition, the NMPRC Final Order established rates in New Mexico that became effective in July 2016.

Our profitability depends on our ability to recover the costs, including a reasonable return on invested capital, of providing electric service to our customers through base rates approved by our regulators. These rates are generally established based on an analysis of the expenses we incur in a historical test year, and as a result, the rates ultimately approved by our regulators may or may not match our expenses at any given time and recovery of expenses may lag behind the occurrence of those expenses. Rates in New Mexico may be established using projected costs and investment for a future test year period in certain instances. While rate regulation is based on the assumption that we will have a reasonable opportunity to recover our costs and earn a reasonable rate of return on our invested capital, there can be no assurance that our future Texas rate cases or New Mexico rate cases will result in base rates that will allow us to fully recover our costs including a reasonable return on invested capital. There can be no assurance that regulators will determine that all of our costs are reasonable and have been prudently incurred including costs associated with future plant retirements. It is also likely that third parties will intervene in any rate cases and challenge whether our costs are reasonable and necessary. If all of our costs are not recovered, or timely recovered, through the retail base rates ultimately approved by our regulators, our profitability and cash flow could be adversely affected which, over time, could adversely affect our ability to meet our financial obligations.

#### We May Not Be Able To Recover All Costs of New Generation and Transmission Assets

We received approval, both from the PUCT and the NMPRC, to construct Units 3 and 4, two 89 MW simple-cycle aeroderivative combustion turbines at MPS. In 2016, we completed construction of these units, which began commercial operation in May 2016 and September 2016, respectively. The PUCT approved the inclusion of the Texas jurisdictional portion of MPS Units 3 and 4 in base rates in the 2017 PUCT Final Order. However, the New Mexico jurisdictional portion of MPS Units 3 and 4 have not yet been approved by the NMPRC for inclusion in customer base rates. Accordingly, we are exposed to the risk of failing to recover these costs as well as costs associated with the construction of other new units and transmission and distribution assets.

In addition, if future units are not completed on time, we may be required to purchase power or operate less efficient generating units to meet customer requirements. Any replacement purchased power or fuel costs will be subject to regulatory review by the PUCT and the NMPRC. We face financial risks to the extent that recovery is not allowed for any replacement fuel costs resulting from delays in the completion of these new units or other new units.

#### Weakness in the Economy and Uncertainty in the Financial Markets Could Reduce Our Sales, Hinder Our Capital Programs and Increase Our Funding Obligations for Pensions and Decommissioning

The global credit and equity markets and the overall economy can be extremely volatile which could have a number of adverse effects on our operations and capital programs. For example, tight credit and capital markets could make it difficult and more expensive to raise capital to fund our operations and capital programs. If we are unable to access the credit markets, we could be required to defer or eliminate important capital projects in the future. In addition, declines in the stock market performance may reduce the value of our financial assets and decommissioning trust investments. Similarly, inflationary increases will increase our future decommissioning obligations. Such market results may also increase our funding obligations for our pension plans, other post-retirement benefit plans and nuclear decommissioning trusts. Changes in the corporate interest rates that we use as the discount rate to determine our pension and other post-retirement liabilities may have an impact on our funding obligations for such plans and trusts. Further, continued economic volatility may result in reduced customer demand, both in the retail and wholesale markets, and increases in customer delinquencies and write-offs. Uncertainty in the credit markets may negatively impact the ability of our customers to finance purchases of our services and could adversely affect the collectability of our receivables. Similarly, actions or inaction of Congress and of governmental agencies can impact our operations. For example, during 2013, sales to public authorities and small commercial and industrial customers were negatively impacted by the federal government sequestration and
shutdown. The credit markets and overall economy (including inflationary increases) may also adversely impact our ability to arrange future financings on acceptable terms and therefore our ability to refinance our existing indebtedness could be limited. Furthermore, the credit markets and overall economy may also adversely impact the financial health of our suppliers. If that were to occur, our access to and prices for inventory, supplies and capital equipment could be adversely affected. Our power trading counterparties could also be adversely impacted by the market and economic conditions which could result in reduced wholesale power sales or increased counterparty credit risk. Declines in revenues, earnings and cash flow from these events could impact our ability to fund construction expenditures and impact the level of dividend payments.

There are Inherent Risks in the Ownership of Nuclear Facilities

Our 15.8% ownership interest in Palo Verde, which is the largest nuclear electric generating facility in the United States, subjects us to a number of risks. A significant percentage of our generating capacity, off-system sales margins, assets and operating expenses is attributable to Palo Verde. Our interest in each of the three Palo Verde units totals approximately 633 MW of generating capacity. Palo Verde represents approximately 30% of our available net generating capacity and provided approximately 49% of our energy requirements for the twelve months ended December 31, 2017. Palo Verde comprises approximately 25% of our total net plant-in-service and Palo Verde expenses comprise a significant portion of operation and maintenance expenses. APS is the operating agent for Palo Verde, and we have limited ability under the ANPP Participation Agreement to influence operations and costs at Palo Verde. Palo Verde operated at a capacity factor of 93.8% and 93.2% in the twelve months ended December 2017 and 2016, respectively.

We participate in Palo Verde with one or more parties who may not have the same goals, strategies, priorities or resources as we do and may compete with us. Furthermore, regulatory compliance issues and financial restraints could cause these parties to make decisions that could potentially be adverse to us.

As Palo Verde is a nuclear electric generating facility, it is subject to environmental, health and financial risks, such as the ability to obtain adequate supplies of nuclear fuel and water; the ability to dispose of spent nuclear fuel; increases in decommissioning costs due to inflation and regulatory changes, the ability to maintain adequate trust fund reserves for decommissioning; potential liabilities arising out of the operation of these facilities; the costs of securing the facilities against possible terrorist attacks; cyber attacks, or other causes; and unscheduled outages due to equipment and other problems. If a nuclear incident were to occur at Palo Verde, it could materially and adversely affect our results of operations and financial condition. A major incident at a nuclear facility anywhere in the world could cause regulatory bodies to limit or prohibit the operation of licensing of any domestic nuclear unit and to promulgate new regulations that could require significant capital expenditures and/or increase operating costs.

We May Not Be Able to Recover All of Our Fuel Expenses from Customers On a Timely Basis Or at All

In general, by law, we are entitled to recover our reasonable and necessary fuel and purchased power expenses from our customers in Texas and New Mexico. NMPRC Case No. 13-00380-UT provides for energy delivered to New Mexico customers from the deregulated Palo Verde Unit 3 to be recovered through fuel and purchased power costs based upon a previous purchased power contract. Fuel and purchased power expenses in Texas and New Mexico are subject to reconciliation by the PUCT and NMPRC. Prior to the completion of a reconciliation, we record fuel and purchased power costs such that fuel revenues equal recoverable fuel and purchased power expense including the re-priced energy costs for Palo Verde Unit 3 in New Mexico. In the event that recovery of fuel and purchased power expenses is denied in any reconciliation proceeding, the amounts recorded for fuel and purchased power expenses could differ from the amounts we are allowed to collect from our customers, and we would incur a loss to the extent of the disallowance.

In New Mexico, the FPPCAC allows us to reflect current fuel and purchased power expenses in the FPPCAC and to adjust for under-recoveries and over-recoveries with a two-month lag. In Texas, fuel costs are recovered through a fixed fuel factor. In Texas, we can seek to revise our fixed fuel factor based upon our approved formula at least four months after our last revision except in the month of December. If we materially under-recover fuel costs, we may seek a surcharge to recover those costs at any time the balance exceeds a threshold material amount and is expected to continue to be materially under-recovered. During periods of significant increases in natural gas prices, we realize a lag in the ability to reflect increases in fuel costs in our fuel recovery mechanisms in Texas. As a result, cash flow is impacted due to the lag in payment of fuel costs and collection of fuel costs from customers. To the extent the fuel and purchased power recovery processes in Texas and New Mexico do not provide for the timely recovery of such costs, we could experience a material negative impact on our cash flow.

Weather Conditions Affect the Demand for Electricity or Could Result in Unplanned Outages

Our service territory is in west Texas and southern New Mexico and is particularly susceptible to dry and hot temperatures in the summer months. These seasonal weather patterns result in temperatures that can lead to daytime highs exceeding 100 degrees Fahrenheit for extended periods during the summer when we typically experience peak kWh sales at higher summer rates. Milder
temperatures during this period will occur occasionally and result in less kWh sales which will adversely affect our results of operations. From time to time, we experience extreme weather conditions, including high winds (usually in the spring months but can occur during other months), that may result in unplanned outages. Under such conditions, we may incur additional costs to repair and, or, to replace equipment. Depending upon the length and extent of the damage, we may also incur additional purchase power costs. Fallen power lines and poles can cause severe damage to customer property and subject us to claims, all of which could have a material adverse effect on our results of operations and cash flows.

Equipment Failures and Other External Factors Can Adversely Affect Our Results

The generation and transmission of electricity require the use of expensive and complex equipment. While we have a maintenance program in place, generating plants are subject to unplanned outages because of equipment failure and severe weather conditions. The advanced age of several of our gas-fired generating units in or near El Paso increases the vulnerability of these units. In the event of unplanned outages, we must acquire power from other sources at unpredictable costs in order to supply our customers and comply with our contractual agreements. This additional purchased power cost would be subject to review and approval of the PUCT and the NMPRC in reconciliation proceedings. As noted above, in the event that recovery for fuel and purchased power expenses could differ from the amounts we are allowed to collect from our customers, we would incur a loss to the extent of the disallowance. Unplanned outages could also prevent us from selling excess power at wholesale. In addition, actions of other utilities may adversely affect our ability to use transmission lines to deliver or import power, thus subjecting us to unexpected expenses or to the cost and uncertainty of public policy initiatives. We may also incur additional capital and operating costs in connection with the physical security and cyber security of transmission lines and generation facilities. Damage to certain transmission and generation facilities due to vandalism or other deliberate acts, or damage due to severe weather could lead to outages or other adverse effects. We are particularly vulnerable to this because a significant portion of our available energy (at Palo Verde) is located hundreds of miles from El Paso and Las Cruces and must be delivered to our customers over long distance transmission lines. In addition, Palo Verde’s availability is an important factor in realizing off-system sales margins. These factors, as well as interest rates, economic conditions, fuel prices and price volatility could have a material adverse effect on our earnings, cash flow and financial position. While we believe that we maintain adequate insurance coverage for such incidents, there is no assurance that all costs in excess of deductible amounts will be reimbursed or that we can maintain such coverage limits in the future at competitive market rates. In the event future insurance costs and/or deductible amounts increase, our financial condition, operating results and cash flows could be materially adversely affected.

Competition and Deregulation Could Result in a Loss of Customers and Increased Costs

As a result of changes in federal law, our wholesale and large retail customers have access to, in varying degrees, alternative sources of power, including co-generation of electric power. Deregulation legislation is in effect in Texas requiring us to separate our transmission and distribution functions, which would remain regulated, from our power generation and energy services businesses, which would operate in a competitive market, in the future. In 2004, the PUCT approved a rule delaying retail competition in our Texas service territory. This rule was codified in the PURA in June 2011. The PURA identifies various milestones that we must reach before retail competition can begin. The first milestone calls for the development, approval by the FERC, and commencement of independent operation of a regional transmission organization in the area that includes our service territory. This and other milestones are not likely to be achieved for a number of years, if at all. There is substantial uncertainty about both the regulatory framework and market conditions that would exist if and when retail competition is implemented in our Texas service territory, and we may incur substantial preparatory, restructuring and other costs that may not ultimately be recoverable. There can be no assurance that deregulation would not adversely affect our future operations, cash flow and financial condition.

Future Costs of Compliance with Environmental Laws and Regulations Could Adversely Affect Our Operations and Financial Results

We are subject to extensive federal, state and local environmental laws and regulations relating to discharges into the air, air quality, discharges of effluents into water, water quality, the use of water, the handling, disposal and clean-up of hazardous and non-hazardous substances and wastes, natural resources, and health and safety. Compliance with these legal requirements, which change frequently and often become more restrictive, could require us to commit significant capital and operating resources toward permitting, emission fees, environmental monitoring, installation and operation of pollution control equipment and purchases of air emission allowances and/or offsets. These laws and regulations could also result in limitations in operating hours and/or changes in construction schedules for future generating units.

Cost of compliance with environmental laws and regulations or fines or penalties resulting from non-compliance, if not recovered in our rates, could adversely affect our operations and financial results, especially if emission and/or discharge limits are tightened, more extensive permitting requirements are imposed, additional substances become regulated and the number and types of assets we operate increase. We cannot estimate our compliance costs or any possible fines or penalties with certainty, or
the degree to which such costs might be recovered in our rates, due to our inability to predict the requirements and timing of implementation of environmental laws or regulations. For example, the EPA has issued in the recent past various proposed regulations regarding air emissions, such as the revision of the primary and secondary ground-level ozone NAAQS. If these regulations become finalized and survive legal challenges, the cost to us to comply could adversely affect our operations and our financial results.

Climate Change and Related Legislation and Regulatory Initiatives Could Affect Demand for Electricity or Availability of Resources, and Could Result in Increased Compliance Costs

We emit GHG (including carbon dioxide) through the operation of our power plants. Federal legislation had been introduced in both houses of Congress to regulate GHG emissions and numerous states have adopted programs to stabilize or reduce GHG emissions. Additionally, the EPA is proceeding with regulation of GHG under the CAA.

In October 2015, the EPA published a rule establishing guidelines for states to regulate CO2 emissions from existing power plants, known as the Clean Power Plan ("CPP"). Legal challenges to the CPP are ongoing. We cannot at this time determine the impact of the CPP, related proposals and legal challenges may have on our financial condition, results of operations or cash flows. Further, in April 2016, the U.S. signed the 21st Conference of Parties Paris Agreement, which requires countries to set and "represent a progression" in GHG emission reduction goals every five years beginning in 2020. In August 2017, the United States formally documented to the United Nations its intent to withdraw from the Paris Agreement. The earliest possible effective withdrawal date from the Paris Agreement is November 2020. The potential impact of this agreement and GHG rules (if and when finalized) on us is unknown at this time, but they could result in significant costs, limitations on operating hours, and/or changes in construction schedules for future generating units.

It is not possible to predict how any pending, proposed or future GHG legislation by Congress, the states or multi-state regions or any GHG regulations adopted by the EPA or state environmental agencies will impact our business. However, any legislation or regulation of GHG emissions or any future related litigation could result in increased compliance costs or additional operating restrictions or increased or reduced demand for our services, could require us to purchase rights to emit GHG, and could have a material adverse effect on our business, financial condition, reputation or results of operations.

Adverse Regulatory Decisions or Changes in Applicable Regulations Could Have a Material Adverse Effect on Our Business or Result in Significant Additional Costs

Our business is subject to extensive federal, state and local laws and regulations regarding safety and performance, siting and construction of facilities, customer service and the rates we can charge our customers, among other things. FERC regulates our wholesale operations, provision of transmission services and compliance with federally mandated reliability standards. FERC has issued a number of rules pertaining to preventing undue discrimination in transmission services and electric reliability standards. Under the Energy Policy Act of 2005, FERC can impose penalties (up to $1,238,271 per violation, per day) for failure to comply with statutes, rules and orders within FERC’s jurisdiction, including mandatory electric reliability standards. Additional regulatory authorities have jurisdiction over some of our operations and construction projects, including the EPA, the DOE, the PUCT, the NMPRC and various local regulatory districts (including the cities of El Paso and Las Cruces).

We must periodically apply for licenses and permits from these various regulatory authorities and abide by their respective orders. Should we be unsuccessful in obtaining necessary licenses or permits or should these regulatory authorities initiate any investigations or enforcement actions or impose penalties or disallowances on us, our business could be adversely affected. Existing regulations may be revised or reinterpreted and new laws and regulations may be adopted or become applicable to us or our facilities in a manner that may have a detrimental effect on our business or result in significant additional costs because of our obligation to comply with those requirements.

Security Breaches, Criminal Activity, Terrorist Attacks and Other Disruptions to Our Infrastructure Could Interfere With Our Operations, Could Expose Us or Our Customers or Employees to a Risk of Loss, and Could Expose Us to Liability, Regulatory Penalties, Reputational Damage and Other Harm to Our Business

We rely upon our infrastructure to manage or support a variety of business processes and activities, including the generation, transmission and distribution of electricity, supply chain functions, and the invoicing and collection of payments from our customers. We also use information technology systems for internal accounting purposes and to comply with financial reporting, legal and tax requirements. Our information technology networks and infrastructure may be vulnerable to damage, disruptions or shutdowns due to attacks by hackers, breaches due to employee error or malfeasance, system failures, computer viruses, natural disasters, a physical attack on our facilities, or other catastrophic events. The occurrence of any of these events could impact the reliability of our generation, transmission and distribution systems and energy marketing and trading functions; could expose us or our customers or employees to a risk of loss or misuse of confidential information; and could result in legal claims or proceedings, liability or
regulatory penalties against us, damage our reputation or otherwise harm our business. In addition, we may be required to incur significant costs to prevent or respond to damage caused by these disruptions or security breaches in the future.

Additionally, we cannot predict the impact that any future information technology or terrorist attack may have on the energy industry in general. The effects of such attacks against us or others in the energy industry could increase the cost of regulatory compliance, increase the cost of insurance coverage or result in a decline in the U.S. economy which could negatively affect our results of operations and financial condition. Ongoing and future governmental efforts to regulate cybersecurity in the energy industry could lead to increased regulatory compliance costs.

The Effects of Technological Advancement, Energy Conservation Measures and Distributed Generation Could Adversely Affect Our Operations and Financial Results

New technologies may emerge that could be superior to, or may not be compatible with, some of our existing technologies, and may require us to make significant expenditures to remain competitive. Our future success will depend, in part, on our ability to anticipate and adapt to technological changes in a cost-effective manner and to offer, on a timely basis, services that meet customer demands and evolving industry standards.

Additionally, the electric utility industry is undergoing other technological advances such as the expanded cost effective utilization of energy efficiency measures, energy storage, and distributed generation including solar rooftop projects. Customers’ increased use of energy efficiency measures, energy storage, and the use of distributed generation, to the extent not substantially offset through ratemaking mechanisms, could have a material adverse impact on our financial condition, results of operations and cash flows.

Inflation Could Adversely Affect Our Financial Results

For the past several years, inflation has been relatively low and, therefore has had little impact on our results of operations and financial condition. However, should we experience increases in costs due to inflationary impacts, any delays in requesting and receiving compensatory increases in our base rates could have a material adverse impact on our financial condition, results of operations and cash flows.

Our Line of Business Is Concentrated Solely to the Electric Industry and to One Region

We are a fully vertically integrated electric utility company whose only business is the generation, transmission and distribution of electricity to customers in an area of approximately 10,000 square miles in west Texas and southern New Mexico. Approximately 90% of revenues are directly related to the retail sales of electric power to approximately 417,900 residential, commercial and public authority customers. As such, risks uniquely associated with the utility industry such as changes in utility legislation and regulations, weather patterns in the region and economic conditions will have a greater effect on our overall operating results than otherwise if our operations were more diversified into other lines of business and in a broader geographical area.

New Laws, Regulations and Policies Announced by the Trump Administration Could Impact Our Operations

President Donald Trump campaigned on a number of issues, including increasing border security and immigration regulations, overhauling federal taxes, repealing the Patient Protection Affordable Care Act, withdrawal from the Trans Pacific Partnership agreement, enacting duties on NAFTA imports and reducing the burdens of environmental and climate change regulations. Since President Trump’s inauguration, he has initiated executive orders towards achieving some of these goals; however it is uncertain to what extent President Trump proposes additional new executive orders and the effect such orders will have on the national, regional and local economies. Our service territory borders with Mexico and as such businesses in our service territory rely heavily on commerce with businesses in Mexico. Changes in regulations restricting such commerce activities could reduce our customer growth rate and materially adversely affect our results of operations, financial condition and cash flows.

On December 22, 2017, the TCJA was signed into law, enacting significant changes to the Internal Revenue Code (“IRC”). Key provisions impacting the Company include a reduction in the corporate income tax rate from 35% to 21% effective January 1, 2018, the discontinuation of bonus depreciation for regulated public utilities for assets acquired and placed into service after September 27, 2017, elimination of corporate alternative minimum tax provisions, limitations on the utilization of net operating losses (“NOL”) arising after December 31, 2017 to 80% of taxable income with no carryback but with an indefinite carryforward, and additional limitations on the deductibility of executive compensation. We continue to evaluate the impact of the TCJA as regulations and accounting standards related to the TCJA are finalized to determine whether changes could have a material adverse effect on our results of operations, financial condition, and cash flows.

Portions of our transmission lines are located on public and private properties, including Indian lands, pursuant to easements or other rights-of-way that are effective for specified periods. We are unable to predict the final outcome of pending or future approvals by applicable property owners and governing bodies with respect to renewals of these easements and rights-of-way.

Failure to Successfully Operate Our Facilities or Perform Certain Corporate Functions May Adversely Affect Our Operations and Financial Condition

Our performance depends on the successful operation of our facilities. Operating these facilities involves many risks, including:

- operator error or failure of equipment or processes, including failure to follow appropriate safety protocols;
- the handling of hazardous equipment or materials that could result in serious personal injury, loss of life and environmental and property damage;
- operating limitations that may be imposed by environmental or other regulatory requirements;
- labor disputes;
- information technology or financial system failures, including those due to the implementation and integration of new technology, that impair our information technology infrastructure, reporting systems or disrupt normal business operations;
- information technology failure that affects our ability to access customer information or causes us to lose confidential or proprietary data that materially and adversely affects our reputation or exposes us to legal claims; and
- catastrophic events such as fires, earthquakes, explosions, leaks, floods, droughts, natural disasters, terrorism, pandemic health events or other similar occurrences, which may require participation in mutual assistance efforts by us or other utilities to assist in power restoration efforts.

Such events may result in a decrease or elimination of revenue from our facilities, an increase in the cost of operating our facilities or delays in cash collections, any of which could have a material adverse effect on our results of operations, financial condition and/or cash flows.

Our Success Depends on the Availability of the Services of a Qualified Workforce and Our Ability to Attract and Retain Qualified Personnel and Senior Management

Our workforce is aging and many employees have retired in the last few years or are or will become eligible to retire within the next few years. Although we have undertaken efforts to recruit and train new field service personnel, we may be faced with a shortage of experienced and qualified personnel. Our costs, including costs to replace employees, productivity costs and safety costs, may rise. Failure to hire and adequately train replacement employees, including the transfer of significant internal historical knowledge and expertise to the new employees, or the future availability and cost of contract labor may adversely affect the ability to manage and operate our business. If we are unable to successfully attract and retain an appropriately qualified workforce, our results of operations could be negatively affected.

A substantial number of our employees are covered by a collective bargaining agreement that is scheduled to expire in September 2019. Labor disruptions could occur depending on the outcome of negotiations to renew the terms of this agreement with the union or if a tentative new agreement is not ratified by its members. In addition, some of our non-represented employees could join this union in the future. Labor disruptions, strikes or significant negotiated wage and benefit increases, whether due to union activities, employee turnover or otherwise, could have a material adverse effect on our business, results of operations and/or cash flows.

We depend on our senior management and other key personnel. Our success depends on our ability to attract and retain key personnel. The inability to recruit and retain or effectively transition key personnel or the unexpected loss of key personnel may adversely affect our operations. In addition, because of the reliance on our management team, our future success depends in part on our ability to identify and develop talent to succeed senior management. Any such occurrences could negatively impact our financial condition and results of operations.
Our Ability to Accurately Report Our Financial Results or Prevent Fraud May Be Adversely Affected if We Fail to Maintain an Effective System of Internal Controls

Effective internal controls are necessary for us to provide reliable financial reports, effectively prevent fraud and operate successfully as a public company. If our efforts to maintain an effective system of internal controls are not successful, we are unable to maintain adequate controls over our financial reporting and processes in the future or we are unable to comply with our obligations under Section 404 of the Sarbanes-Oxley Act of 2002, our operating results could be harmed, or we may fail to meet our reporting obligations. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which would likely have a negative effect on the trading price of our common stock and other securities.

Insufficient Insurance Coverage and Increased Insurance Costs Could Adversely Affect Our Operations and Financial Results

We currently have general liability and property insurance in place to cover certain of our facilities in amounts that we consider appropriate. Such policies are subject to certain limits and deductibles and do not include business interruption coverage. Insurance coverage may not be available in the future at current costs or on commercially reasonable terms, and the insurance proceeds received for any loss of, or any damage to, any of our facilities may not be sufficient to restore the loss or damage without negative impact on our results of operations, financial condition and cash flows.

Provisions in Our Corporate Documents, Franchise Agreements and State Law Could Delay or Prevent a Change in Control of the Company, Even if That Change Would Be Beneficial to Our Shareholders

Our Articles of Incorporation and Bylaws contain provisions that may make acquiring control of the Company difficult and could preclude our shareholders from receiving a change of control premium, including:

• provisions relating to the classification, nomination and removal of our directors;

• provisions regulating the ability of our shareholders to bring matters for action at annual meetings of our shareholders;

• provisions limiting the ability to call special meetings of the shareholders to the Chairman of the Board, our President and Chief Executive Officer, our Secretary, the majority of the Board of Directors or the holders of at least 25% of the outstanding shares of our capital stock entitled to vote at such meeting;

• provisions restricting our ability to engage in a wide range of “Business Combination” transactions with an “Interested Shareholder” (generally, any person who owns 15% or more of our outstanding voting power) or any affiliate or associate of an Interested Shareholder, unless specific conditions are met; and

• the authorization given to our Board of Directors or any duly designated committee to issue and set the terms of preferred stock.

Our El Paso franchise agreement states that any assignment of the franchise agreement, including a deemed assignment as a result of a change in control of the Company, requires the consent of the City of El Paso. In addition, approval of the NMPRC, PUCT and FERC would likely be required in any transaction involving a change of control.

In addition, Texas law prohibits us from engaging in a business combination with any shareholder for three years from the date that person became an affiliated shareholder by beneficially owning 20% or more of our outstanding common stock, in the absence of certain board of director or shareholder approvals.
Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

The principal properties of the Company are described in Item 1, "Business," and such descriptions are incorporated herein by reference. Transmission lines are located either on company-owned land, private rights-of-way, easements or on streets or highways by public consent.

The Company owns an executive and administrative office building and the Eastside Operations Center (the "EOC") in El Paso County, Texas. The Company leases land in El Paso, Texas, adjacent to Newman under a lease which expires in June 2033, subject to a renewal option of 25 years. The Company has several other leases for office and parking facilities that expire within the next five years.

Item 3. Legal Proceedings

The Company is involved in various legal, environmental, tax and regulatory proceedings before various courts, regulatory commissions and governmental agencies regarding matters arising in the ordinary course of business. In many of these matters, the Company has excess casualty liability insurance that covers the various claims, actions and complaints. The Company regularly analyzes current information and, as necessary, makes provisions in its financial statements for probable liabilities for the eventual disposition of these matters. While the outcome of these matters cannot be predicted with certainty, based upon a review of the matters and applicable insurance coverage, the Company believes that none of these matters will have a material adverse effect on the financial position, results of operations or cash flows of the Company.

See Item 1, "Business – Environmental Matters and Regulation," Item 1, "Regulation," and Part II, Item 8, "Financial Statements and Supplementary Data, Note C, Note L and Note K of Notes to Financial Statements" for discussion of the effects of government legislation and regulation on the Company as well as certain pending legal proceedings.

Item 4. Mine Safety Disclosures

Not Applicable.
## Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

The Company’s common stock trades on the New York Stock Exchange ("NYSE") under the symbol "EE." The intraday high, intraday low and close sales prices for the Company’s common stock, as reported in the consolidated reporting system of the NYSE, and quarterly dividends per share paid by the Company for the periods indicated below were as follows:

<table>
<thead>
<tr>
<th></th>
<th>Sales Price</th>
<th>Dividends</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td><strong>2016</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First Quarter</td>
<td>$46.20</td>
<td>$37.19</td>
</tr>
<tr>
<td>Second Quarter</td>
<td>47.27</td>
<td>42.42</td>
</tr>
<tr>
<td>Third Quarter</td>
<td>48.75</td>
<td>44.07</td>
</tr>
<tr>
<td>Fourth Quarter</td>
<td>48.35</td>
<td>42.49</td>
</tr>
<tr>
<td><strong>2017</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First Quarter</td>
<td>$50.75</td>
<td>$44.70</td>
</tr>
<tr>
<td>Second Quarter</td>
<td>55.45</td>
<td>48.81</td>
</tr>
<tr>
<td>Third Quarter</td>
<td>56.78</td>
<td>50.25</td>
</tr>
<tr>
<td>Fourth Quarter</td>
<td>61.15</td>
<td>54.60</td>
</tr>
</tbody>
</table>
The following graph compares the performance of the Company’s common stock to the performance of Edison Electric Institute’s ("EEI") index of investor-owned electric utilities and the NYSE Composite, setting the value of each at December 31, 2012 to a base of 100. The table sets forth the relative yearly percentage change in the Company’s cumulative total shareholder return, assuming reinvestment of dividends, as compared to EEI and the NYSE Composite, as reflected in the graph.

As of December 31, 2012, there were 2,232 holders of record of the Company’s common stock. The Company has been paying quarterly cash dividends on its common stock since June 30, 2011 and paid a total of $53.3 million in cash dividends during the twelve months ended December 31, 2017. On February 1, 2018, the Board of Directors declared a quarterly cash dividend of $0.335 per share payable on March 30, 2018 to shareholders of record as of the close of business on March 16, 2018. Typically, the Board of Directors reviews the Company’s dividend policy annually in the second quarter of each year. Declaration and payment of dividends is subject to compliance with certain financial tests under Texas law. Since 1999, the Company has also returned cash to shareholders through a stock repurchase program pursuant to which the Company has bought approximately 25.4 million shares at an aggregate cost of $423.6 million, including commissions. Under the Company’s program, purchases can be made at open market prices or in private transactions and repurchased shares are available for issuance under employee benefit and stock incentive plans, or may be retired. On March 21, 2011, the Board of Directors authorized a repurchase of up to 2.5 million shares of the Company’s outstanding common stock (the "2011 Plan"). No shares of common stock were repurchased during the twelve months ended December 31, 2017 under the 2011 Plan. The table below provides the amount of the fourth quarter issuer purchases of equity securities.
<table>
<thead>
<tr>
<th>Period</th>
<th>Total Number of Shares Purchased (a)</th>
<th>Average Price Paid per Share (Including Commissions)</th>
<th>Total Number of Shares Purchased as Part of a Publicly Announced Program</th>
<th>Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1 to October 31, 2017</td>
<td>—</td>
<td>$—</td>
<td>—</td>
<td>393,816</td>
</tr>
<tr>
<td>November 1 to November 30, 2017</td>
<td>—</td>
<td>$—</td>
<td>—</td>
<td>393,816</td>
</tr>
<tr>
<td>December 1 to December 31, 2017</td>
<td>8,360</td>
<td>55.35</td>
<td>—</td>
<td>393,816</td>
</tr>
</tbody>
</table>

(a) Represents shares of common stock delivered to us as payment of withholding taxes due upon the vesting of restricted stock held by our employees, not considered part of the 2011 Plan.

For Equity Compensation Plan Information see Part III, Item 12 – "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters."

Item 6.  **Selected Financial Data**

As of and for the following periods (in thousands except for share and per share data):

<table>
<thead>
<tr>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating revenue</td>
<td>$916,797</td>
<td>$886,936</td>
<td>$849,869</td>
<td>$917,525</td>
<td>$890,362</td>
</tr>
<tr>
<td>Operating income</td>
<td>198,254</td>
<td>194,861</td>
<td>146,191</td>
<td>151,163</td>
<td>165,635</td>
</tr>
<tr>
<td>Net income</td>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
<td>$91,428</td>
<td>$88,583</td>
</tr>
<tr>
<td>Basic earnings per share:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td>$2.42</td>
<td>$2.39</td>
<td>$2.03</td>
<td>$2.27</td>
<td>$2.20</td>
</tr>
<tr>
<td>Weighted average number of shares outstanding</td>
<td>40,414,556</td>
<td>40,350,688</td>
<td>40,274,986</td>
<td>40,190,991</td>
<td>40,114,594</td>
</tr>
<tr>
<td>Diluted earnings per share:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td>$2.42</td>
<td>$2.39</td>
<td>$2.03</td>
<td>$2.27</td>
<td>$2.20</td>
</tr>
<tr>
<td>Weighted average number of shares and dilutive potential shares outstanding</td>
<td>40,535,191</td>
<td>40,408,033</td>
<td>40,308,562</td>
<td>40,211,717</td>
<td>40,126,647</td>
</tr>
<tr>
<td>Dividends declared per share of common stock</td>
<td>$1.315</td>
<td>$1.225</td>
<td>$1.165</td>
<td>$1.105</td>
<td>$1.045</td>
</tr>
<tr>
<td>Cash additions to utility property, plant and equipment</td>
<td>$190,305</td>
<td>$225,361</td>
<td>$281,458</td>
<td>$277,078</td>
<td>$237,411</td>
</tr>
<tr>
<td>Total assets (a)</td>
<td>$3,484,363</td>
<td>$3,376,278</td>
<td>$3,200,607</td>
<td>$3,033,400</td>
<td>$2,748,139</td>
</tr>
<tr>
<td>Long-term debt, net of current portion (a)</td>
<td>$1,195,988</td>
<td>$1,195,513</td>
<td>$1,122,660</td>
<td>$1,122,235</td>
<td>$988,436</td>
</tr>
<tr>
<td>Common stock equity</td>
<td>$1,142,165</td>
<td>$1,074,396</td>
<td>$1,016,538</td>
<td>$984,254</td>
<td>$943,833</td>
</tr>
</tbody>
</table>

(a) The Company implemented Accounting Standards Update ("ASU") 2015-03, Interest-Imputation of Interest (Topic 715) and ASU 2015-17, Balance Sheet Classification of Deferred Taxes in the first quarter of 2016, retrospectively to all periods presented in the table above.
As you read this Management’s Discussion and Analysis of Financial Condition and Results of Operations, please refer to our Financial Statements and the accompanying notes, which contain our operating results.

Summary of Critical Accounting Policies and Estimates

Our financial statements have been prepared in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). Part II, Item 8, Financial Statements and Supplementary Data, Note A of Notes to Financial Statements contains a summary of our significant accounting policies, many of which require the use of estimates and assumptions. We believe that of our significant accounting policies, the following are noteworthy because they are based on estimates and assumptions that require complex, subjective assumptions by management, which can materially impact reported results. The Company evaluates its estimates on an on-going basis, including those related to depreciation, unbilled revenue, income taxes, fuel costs, pension and other post-retirement obligations and asset retirement obligations ("ARO"). Changes in these estimates or assumptions, or actual results that are different, could materially impact our financial condition and results of operation.

Regulatory Accounting

We apply accounting standards that recognize the economic effects of rate regulation in our Texas, New Mexico and FERC jurisdictions. As a result, we record certain costs or obligations as either assets or liabilities on our balance sheet and amortize them in subsequent periods as they are reflected in regulated rates. The deferral of costs as regulatory assets is appropriate only when the future recovery of such costs is probable. In assessing probability, we consider such factors as specific regulatory orders, regulatory precedent and the current regulatory environment. As of December 31, 2017, we had recorded regulatory assets currently subject to recovery in future rates of approximately $96.0 million and regulatory liabilities of approximately $296.7 million as discussed in greater detail in Part II, Item 8, Financial Statements and Supplementary Data, Notes D and J of the Notes to Financial Statements. Regulatory tax assets of approximately $19.6 million related to the regulatory treatment of the equity portion of AFUDC and approximately $20.9 million related to excess deferred state income taxes are included in regulatory assets. Regulatory tax liabilities of approximately $289.0 million, primarily related to the reduction of the corporate tax rate from 35% to 21%, are included in regulatory liabilities and will be refunded to customers.

In the event we determine that we can no longer apply the Financial Accounting Standards Board's (the "FASB") guidance for regulated operations to all or a portion of our operations or to the individual regulatory assets recorded, based on regulatory action, we could be required to record a charge against income in the amount of the unamortized balance of the related regulatory assets. Such an action could materially reduce our total assets, specifically our total deferred charges and other assets, and shareholders' equity.

Collection of Fuel Expense

In general, by law and regulation, our actual fuel and purchased power expenses are recovered from our customers. In times of rising fuel prices, we experience a lag in recovery of higher fuel costs. These costs are subject to reconciliation by the PUCT on a periodic basis every one to three years. The NMPRC, in its discretion, may order that a prudence review be conducted to assure that fuel and purchased power costs recovered from customers are prudently incurred. Prior to the completion of a reconciliation proceeding or audit, we record fuel transactions such that fuel revenues, including fuel costs recovered through the FPPCAC in New Mexico, equal fuel expense. In the event that a disallowance of fuel cost recovery occurs during a reconciliation proceeding or an audit, the amounts recorded for fuel and purchased power expenses could differ from the amounts we are allowed to collect from our customers, and we could incur a loss to the extent of the disallowance.

On September 27, 2016, the Company filed an application with the PUCT, designated as PUCT Docket No. 46308, to reconcile $436.6 million of Texas fuel and purchased power expenses incurred during the period of April 1, 2013 through March 31, 2016. On June 29, 2017, the PUCT approved a settlement in this proceeding. The settlement provides for the reconciliation of fuel and purchased power costs incurred from April 1, 2013 through March 31, 2016. As of December 31, 2017, Texas jurisdictional fuel and purchased power costs subject to prudence review are costs from April 1, 2016 through December 31, 2017 that total approximately $250.9 million. The Company's request to reconcile its fuel and purchased power costs for the period January 1, 2013 through December 31, 2014 was approved in Case No. 15-00127-UT. New Mexico jurisdictional costs subject to prudence review are costs from January 1, 2015 through December 31, 2017 that total approximately $173.1 million.

The Company recovers fuel and purchased power costs from the RGEC pursuant to an ongoing contract with a two-year notice to terminate provision. The contract includes a fuel adjustment clause designed to recover all eligible fuel and purchased power costs allocable to the RGEC and is updated on an annual basis. This update is reviewed and approved by the RGEC annually.
in February following the prior calendar year. As of December 31, 2017, the RGEC fuel costs subject to prudence review were approximately $1.4 million.

Decommissioning Costs and Estimated Asset Retirement Obligation

Pursuant to the ANPP Participation Agreement, the rules and regulations of the Nuclear Regulatory Commission and federal law, we must fund our share of the estimated costs to decommission Palo Verde Units 1, 2, 3 and associated common areas. The determination of the estimated liability is based on site-specific estimates, which are updated every three years and involve numerous judgments and assumptions, including estimates of future decommissioning costs at current price levels, escalation rates and discount rates. The Palo Verde ARO is approximately $90.6 million and represents approximately 97% of our total ARO balance of $93.0 million as of December 31, 2017. A 10% increase in the estimates of future Palo Verde decommissioning costs at current price levels would have increased the ARO liability by approximately $10.1 million at December 31, 2017. For further details see Part II, Item 8, "Financial Statements and Supplementary Data, Note E of Notes to Financial Statements."

We are required to fund estimated nuclear decommissioning costs over the life of the generating facilities through the use of external trust funds pursuant to rules of the NRC, PUCT and the ANPP Participation Agreement. Historically, in Texas and New Mexico, we have been permitted to collect the funding requirements for our nuclear decommissioning trusts as part of our rates, except for a portion of Palo Verde Unit 3, which is deregulated in the New Mexico jurisdiction. While we periodically attempt to seek to recover the costs of decommissioning obligations through our rates, we are not able to conclude, given the currently available evidence, that it is probable these costs will continue to be collected over the period until decommissioning begins in 2044. We are ultimately responsible for these costs, and our future actions combined with future decisions from regulators will determine how successful we are in this effort.

The funding amounts are based on assumptions about future investment returns and future decommissioning cost escalations. If the rates of return earned by the trusts fail to meet expectations or if estimated costs to decommission the nuclear plant increase beyond our expectations, we would be required to increase our funding to the nuclear decommissioning trusts.

Our decommissioning trust funds consist of equity securities and fixed income instruments and are carried at fair value. We face interest rate risk on the fixed income instruments, which consist primarily of municipal, federal and corporate bonds and which were valued at $130.2 million as of December 31, 2017. A hypothetical 10% increase in interest rates would have reduced the fair values of these funds by $1.6 million at December 31, 2017. Our decommissioning trust funds also include marketable equity securities of approximately $149.8 million at December 31, 2017. A hypothetical 20% decrease in equity prices would have reduced the fair values of these funds by $30.0 million at December 31, 2017. Declines in market prices could require that additional amounts be contributed to our nuclear decommissioning trusts to maintain minimum funding requirements.

We do not anticipate expending monies held in the nuclear decommissioning trusts before 2044 or a later period when decommissioning of Palo Verde begins.

Future Pension and Other Post-retirement Obligations

We maintain a qualified noncontributory defined benefit pension plan, which covers substantially all of our employees, and two non-funded nonqualified supplement plans that provide benefits in excess of amounts permitted under the provisions of the tax law for certain participants in the qualified plan. We also sponsor a plan that provides other post-retirement benefits, such as health and life insurance benefits to retired employees. Our net obligations under these various benefit plans at December 31, 2017 totaled $112.4 million and are recorded as liabilities on our balance sheet. The net periodic benefit costs for these plans totaled $2.6 million for the twelve months ended December 31, 2017.

During October 2016, we approved and communicated a plan amendment that resulted in a remeasurement of our other post-retirement benefit plan. Effective January 1, 2017, retirees and dependents that are less than 65 years of age are offered a choice between a $1,000 and $2,250 deductible plan. Additionally, retirees and dependents that are 65 years of age or greater are covered by a fully insured Medicare advantage plan. The impact of these plan changes was a reduction in the other post-retirement benefit plan obligation of $32.7 million as of December 31, 2016.

Our pension and other post-retirement benefit liabilities and the related net periodic benefit costs are calculated on the basis of a number of actuarial assumptions regarding discount rates, expected return on plan assets, rate of compensation increase, life expectancy of retirees and health care cost inflation. For 2017, the discount rates used to measure our year end liabilities are based on a segmented spot rate yield curve that matches projected future payments with the appropriate interest rate applicable to the timing of the projected future benefit payments. As of December 31, 2017, the corresponding weighted-average discount rates range from 3.40% to 3.81% depending upon the benefit plan.
Our overall expected gross long-term rate of return on assets for the pension trust fund is 7.5% effective January 1, 2018, which is both a pre-tax and after-tax rate as pension funds are generally not subject to income tax. Our overall expected gross long-term rate of return on assets for the other post-retirement benefits trust, on an after-tax basis, is 6.12% effective January 1, 2018. Both expected gross long-term rates of return are based on the after-tax weighted average of the expected returns on investments. The expected returns on investments in the pension trust and the other post-retirement benefits trust are based upon the target asset allocations for the two trusts.

Our accrued post-retirement benefit liability and the service and interest components of the related net periodic benefit costs are calculated using an actuarial assumption regarding health care cost inflation. For measurement purposes, a 6.25%, 7.25%, 4.5% and 10.0% annual rate of increase in the per capita cost of covered health care benefits was assumed for 2018 for pre-65 medical, pre-65 drug, post-65 medical and post-65 drug, respectively. The health care cost trend rates are assumed to decline steadily to an ultimate rate of 4.5% by 2025 for pre-65 medical and by 2026 for pre-65 and post-65 drug. Post-65 medical trend is assumed to be 4.5% for all years into the future. Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plan.

The estimated rate of compensation increase used in our retirement plans is 4.5% and is based on recent trends for all non-union employees and the amounts we are contractually obligated for union employees.

In 2016, we changed the method used to estimate the service and interest components of net periodic benefit cost for pension and other post-retirement benefits. This change, compared to the previous method, resulted in a decrease in the service cost and interest cost components of net periodic benefit cost for pension and other post-retirement benefits in 2016 by approximately $2.9 million and $0.8 million, respectively. Historically, we estimated service and interest costs utilizing a single weighted-average discount rate derived from the yield curve used to measure the benefit obligation at the beginning of the period. In 2016, we elected to utilize a full yield curve approach to estimate these components by applying the specific spot rates along the yield curve used in the determination of the benefit obligation to the relevant projected cash flows. We believe the new approach provides a more precise measurement of service and interest costs by aligning the timing of the plan’s liability cash flows to the corresponding spot rates on the yield curve. We accounted for this change as a change in accounting estimate and accordingly, accounted for this prospectively.

The following table reflects the sensitivities that a change in certain actuarial assumptions would have had on the December 31, 2017 reported pension liability and our 2017 reported pension expense (in thousands):

<table>
<thead>
<tr>
<th>Actuarial Assumption</th>
<th>Impact on Pension Liability Increase (Decrease)</th>
<th>Impact on Pension Expense Increase (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>$ (48,577)</td>
<td>$ (3,751)</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>60,731</td>
<td>4,537</td>
</tr>
<tr>
<td>Expected long-term rate of return on plan assets:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>N/A</td>
<td>(2,742)</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>N/A</td>
<td>2,742</td>
</tr>
<tr>
<td>Compensation rate:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>10,044</td>
<td>1,318</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>(9,007)</td>
<td>(1,148)</td>
</tr>
</tbody>
</table>

30
The following chart reflects the sensitivities that a change in certain actuarial assumptions would have had on the December 31, 2017 other post-retirement benefit obligations and our 2017 reported other post-retirement benefit expense (in thousands):

<table>
<thead>
<tr>
<th>Actuarial Assumption</th>
<th>Impact on Other Post-retirement Benefit Obligation</th>
<th>Impact on Other Post-retirement Benefit Expense</th>
<th>Impact on Post-retirement Service and Interest Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>$ (9,582)</td>
<td>$ (1,212)</td>
<td>$(277)</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>12,444</td>
<td>1,383</td>
<td>359</td>
</tr>
<tr>
<td>Healthcare cost trend rate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>11,315</td>
<td>2,141</td>
<td>1,117</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>(8,828)</td>
<td>(1,666)</td>
<td>(848)</td>
</tr>
<tr>
<td>Expected long-term rate of return on plan assets:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase 1%</td>
<td>N/A</td>
<td>(391)</td>
<td>N/A</td>
</tr>
<tr>
<td>Decrease 1%</td>
<td>N/A</td>
<td>391</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Tax Accruals**

We use the asset and liability method of accounting for income taxes. Under this method, we recognize deferred tax assets and liabilities for the future tax consequences attributable to temporary differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities. The application of income tax law and regulations is complex and we make judgments regarding income tax exposures. Changes in these judgments, due to changes in law, regulation, interpretation or audit adjustments can materially affect amounts we recognize in our financial statements. On December 22, 2017, the TCJA was enacted. Substantially all of the provisions of the TCJA are effective for taxable years beginning after December 31, 2017. The TCJA includes significant changes to the IRC, including amendments which significantly change the taxation of business entities and includes specific provisions related to regulated public utilities. See Note J of the Notes to Financial Statements for more information.

When appropriate, we record a valuation allowance against deferred tax assets to reflect that these tax assets may not be realized. In assessing the likelihood of the realization of deferred tax assets, management considers the estimated amount and character of future taxable income. Significant changes in these judgments and estimates could have a material impact on the results of operations and financial position of the Company. There were no valuation allowances for deferred tax assets as of December 31, 2017.

We recognize tax benefits that are more likely than not to be sustained upon examination by tax authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50% likely to be realized upon settlement. The unrecognized tax benefits that do not meet the recognition and measurement standards were $3.2 million as of December 31, 2017.

**Overview**

The following is an overview of our results of operations for the years ended December 31, 2017, 2016 and 2015. Net income and basic earnings per share for the years ended December 31, 2017, 2016 and 2015 are shown below:

<table>
<thead>
<tr>
<th>Years Ended December 31,</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income (in thousands)</td>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
</tr>
<tr>
<td>Basic earnings per share</td>
<td>2.42</td>
<td>2.39</td>
<td>2.03</td>
</tr>
</tbody>
</table>
Financial Effect of the PUCT Final Order

On December 18, 2017, the PUCT issued the 2017 PUCT Final Order. See Part II, Item 8, "Financial Statements and Supplementary Data, Note C of Notes to Financial Statements."

The increase (decrease) on operations resulting from the 2017 PUCT Final Order is categorized in the following periods based on consumption (in thousands):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail non-fuel base rate increase:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relate back</td>
<td>$—</td>
<td>$—</td>
<td>$4,753</td>
<td>$4,023</td>
<td>$8,776</td>
</tr>
<tr>
<td>Depreciation and amortization expense</td>
<td>$—</td>
<td>$—</td>
<td>(278)</td>
<td>(435)</td>
<td>(713)</td>
</tr>
<tr>
<td>Rate case expense</td>
<td>$—</td>
<td>$—</td>
<td>$—</td>
<td>(58)</td>
<td>(58)</td>
</tr>
<tr>
<td>Pre-tax increase</td>
<td>$—</td>
<td>$—</td>
<td>$4,475</td>
<td>$3,530</td>
<td>$8,005</td>
</tr>
<tr>
<td>Income tax expense</td>
<td>$—</td>
<td>$—</td>
<td>1,566</td>
<td>1,236</td>
<td>2,802</td>
</tr>
<tr>
<td>After-tax increase</td>
<td>$—</td>
<td>$—</td>
<td>$2,909</td>
<td>$2,294</td>
<td>$5,203</td>
</tr>
</tbody>
</table>
The following table and accompanying explanations show the primary factors affecting the after-tax change in income between the calendar years ended December 31, 2017 and 2016, 2016 and 2015, and 2015 and 2014 (in thousands):

<table>
<thead>
<tr>
<th>Prior year December 31 net income</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>$96,768</td>
<td>$81,918</td>
<td>$91,428</td>
<td></td>
</tr>
</tbody>
</table>

Changes (net of tax):

- **Increased retail non-fuel base revenues**: $8,651 (a) 28,802 (b) 9,290 (c)
- **Effective tax rate**: 3,379 (d) (5,343) (e) 1,540 (f)
- **Increased (decreased) non-base revenue, net of energy expense**: 3,213 (g) 804 (5,370) (h)
- **Increased (decreased) investment and interest income**: 2,825 (i) (2,784) (ii) 3,084 (i)
- **Decreased allowance for funds used during construction**: (5,303) (j) (4,887) (k) (4,953) (l)
- **(Increased) decreased depreciation and amortization**: (4,242) (m) 3,580 (n) (4,214) (o)
- **Increased taxes other than income taxes**: (3,465) (p) (1,168) (q) (641)
- **Increased interest on long-term debt (net of capitalized interest)**: (927) (r) (3,700) (s) (4,516)
- **Other**: (2,638) (454) (3,730)

**Current year December 31 net income**

<table>
<thead>
<tr>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
</tr>
</tbody>
</table>

Footnotes reflect pre-tax amounts:

(a) Increased retail non-fuel base revenues primarily due to the non-fuel base rate increase approved in the 2017 PUCT Final Order. 2017 included approximately $8.8 million of retail non-fuel base revenues for the period from July 18, 2017 through December 31, 2017, which was recognized when the 2017 PUCT Final Order was approved in December 2017. Excluding the $8.8 million 2017 PUCT Final Order impact, retail non-fuel base revenues increased $4.5 million, or 0.7%, in 2017 compared to 2016.

(b) Increased retail non-fuel base revenues primarily due to the recognition of $40.9 million related to the 2016 PUCT Final Order.

(c) Retail non-fuel base revenues increased, primarily due to hotter weather in the third quarter of 2015 contributing to an increase in kWh sales and an increase in the average number of customers.

(d) The effective tax rate decreased primarily due to a reduction in state income taxes primarily due to audit settlements.

(e) The effective tax rate increased due to the change to normalize state income taxes in accordance with the 2016 PUCT Final Order and the NMPRC Final Order.

(f) The effective tax rate decreased due to a decrease in state income taxes and an increase in decommissioning income. These decreases were partially offset by a decrease in the allowance for equity funds used during construction ("AEFUDC") and the loss of the domestic production activities deduction in 2015.

(g) Non-base revenues, net of energy expenses increased due to: (i) the recognition of Palo Verde performance rewards of $5.0 million associated with the 2013 to 2015 performance periods, net of disallowed fuel and purchased power costs related to the resolution for the Texas fuel reconciliation proceeding designated as PUCT Docket No. 46308; (ii) an increase of $1.1 million in other revenues primarily due to an increase in Texas miscellaneous service revenues; (iii) an increase of $1.0 million in deregulated Palo Verde Unit 3 revenues; and (iv) an increase of $1.0 million in energy efficiency bonuses awarded. These increases were partially offset by a decrease of $3.9 million in transmission wheeling revenues due to the expiration of a contract.

(h) Non-base revenues, net of energy expenses decreased due to: (i) a decrease of $5.3 million in deregulated Palo Verde Unit 3 revenues; (ii) the recognition in 2014 of Palo Verde performance rewards of $2.2 million associated with the 2009 to 2012 performance periods, net of disallowed fuel and purchased power costs related to the resolution for the Texas fuel reconciliation proceeding designated as PUCT Docket No. 41852; and (iii) a decrease of $0.7 million in energy efficiency bonuses awarded. These decreases were partially offset by an increase of $1.7 million in transmission wheeling revenues.

(i) Investment and interest income increased in 2017, decreased in 2016 and increased in 2015, primarily due to changes in realized gains on securities sold from the Company’s Palo Verde decommissioning trust. Sales of such securities are primarily the result of the Company's efforts to re-balance and further diversify the trust fund investments.

(j) AFUDC decreased due to lower balances of construction work in progress ("CWIP"), primarily due to MPS Units 3 and 4 being placed in service in May and September 2016, respectively, and a reduction in the AFUDC rate effective January 2017.

(k) AFUDC decreased due to lower balances of CWIP, primarily due to the MPS units and the Eastside Operations Center ("EOC") being placed in service in 2015 and 2016, and a reduction in the AFUDC rate effective January 2016 as a result of the 2016 PUCT Final Order.
AFUDC decreased primarily due to lower balances of CWIP primarily due to MPS Units 1 and 2, and the EOC being placed in service during the first quarter of 2015 and a reduction in the AFUDC rate.

Depreciation and amortization increased primarily due to increases in plant, including MPS Units 3 and 4, which were placed in service in 2016. These increases were partially offset by the sale of the Company's interest in Four Corners in July 2016.

Depreciation and amortization decreased primarily due to (i) a reduction of approximately $10.9 million resulting from changes in depreciation rates approved in the 2016 PUCT Final Order and the NMPRC Final Order and (ii) the sale of the Company's interest in Four Corners in 2016. These decreases were partially offset by an increase in plant, primarily due to MPS Units 1 and 2 and the EOC each being placed in service in March 2015, and MPS Units 3 and 4 being placed in service in May 2016 and September 2016, respectively.

Depreciation and amortization increased due to increased depreciable plant balances including MPS Units 1 and 2 and the EOC which began commercial operation in the first quarter of 2015, partially offset by a change in the estimated useful life of certain large intangible software systems.

Depreciation and amortization decreased primarily due to (i) a reduction of approximately $10.9 million resulting from changes in depreciation rates approved in the 2016 PUCT Final Order and the NMPRC Final Order and (ii) the sale of the Company's interest in Four Corners in 2016. These decreases were partially offset by an increase in plant, primarily due to MPS Units 1 and 2 and the EOC each being placed in service in March 2015, and MPS Units 3 and 4 being placed in service in May 2016 and September 2016, respectively.

Taxes other than income taxes increased primarily due to increased property tax rates and valuations in Texas as a result of MPS Units 1 and 2 and the EOC being placed in service during the first quarter of 2015 and increased billed revenues for Texas revenue related taxes. These increases were partially offset by decreased property taxes in Arizona due to lower property values.

Interest on long-term debt increased, primarily due to the $150.0 million principal amount of senior notes issued in March 2016.

Interest on long-term debt increased, primarily due to the $150.0 million principal amount of senior notes issued in December 2014.
### Historical Results of Operations

The following discussion includes detailed descriptions of factors affecting individual line items in the results of operations. The amounts presented below are presented on a pre-tax basis.

#### Operating revenues

We realize revenue from the sale of electricity to retail customers at regulated rates and the sale of energy in the wholesale power market generally at market-based prices. Sales for resale (which are FERC regulated cost-based wholesale sales within our service territory), accounted for less than 1% of revenues in each of 2017, 2016 and 2015.

Revenues from the sale of electricity include fuel costs that are recovered from our customers through fuel adjustment mechanisms. Historically, a significant portion of fuel costs have been recovered through base rates in New Mexico. Effective July 1, 2016, with the implementation of the NMPRC Final Order, fuel costs are no longer recovered through base rates. Beginning July 1, 2016, all fuel costs are recovered through a fuel adjustment mechanism. We record deferred fuel revenues for the difference between actual fuel costs and recoverable fuel revenues until such amounts are collected from or refunded to customers. "Non-fuel base revenues" refers to our revenues from the sale of electricity excluding such fuel costs.

Retail non-fuel base revenue percentages by customer class are presented below:

<table>
<thead>
<tr>
<th>Years Ended December 31,</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>46%</td>
<td>46%</td>
<td>44%</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>32</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>6</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Total retail non-fuel base revenues</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

No retail customer accounted for more than 3% of our non-fuel base revenues during such periods. As shown in the table above, residential and small commercial customers represent approximately 78% of our non-fuel base revenues. While this customer base is more stable, it is also more sensitive to changes in weather conditions. The current rate structures in Texas and New Mexico reflect higher base rates during the peak summer season of May through October and lower base rates during November through April for our residential and small commercial and industrial customers. As a result, our business is seasonal, with higher kWh sales and revenues during the summer cooling season. The following table sets forth the percentage of our retail non-fuel base revenues derived during each quarter for the periods presented:

<table>
<thead>
<tr>
<th>Years Ended December 31,</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1 to March 31</td>
<td>18%</td>
<td>17%</td>
<td>18%</td>
</tr>
<tr>
<td>April 1 to June 30</td>
<td>27</td>
<td>25</td>
<td>26</td>
</tr>
<tr>
<td>July 1 to September 30</td>
<td>34</td>
<td>38</td>
<td>35</td>
</tr>
<tr>
<td>October 1 to December 31</td>
<td>21</td>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Weather significantly impacts our residential, small commercial and industrial customers, and to a lesser extent, our sales to public authorities. Heating and cooling degree days can be used to evaluate the effect of weather on energy use. For each degree the average outdoor temperature varies from a standard of 65 degrees Fahrenheit, a degree day is recorded. The table below shows heating and cooling degree days compared to a 10-year average for 2017, 2016 and 2015.

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>10-year Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooling degree days</td>
<td>2,917</td>
<td>2,811</td>
<td>2,839</td>
<td>2,773</td>
</tr>
<tr>
<td>Heating degree days</td>
<td>1,522</td>
<td>1,851</td>
<td>2,095</td>
<td>2,081</td>
</tr>
</tbody>
</table>
Customer growth is a key driver of the growth of retail sales. The average number of retail customers grew 1.7% and 1.5% in 2017 and 2016, respectively. See the tables presented on pages 38 and 39 which provide detail on the average number of retail customers and the related revenues and kWh sales.

**Retail non-fuel base revenues**. For the twelve months ended December 31, 2017, retail non-fuel base revenues increased primarily due to the recognition of $8.8 million in the 2017 PUCT Final Order. Excluding the $8.8 million 2017 PUCT Final Order impact, for the twelve months ended December 31, 2017, retail non-fuel base revenues increased $4.5 million, or 0.7%, compared to the twelve months ended December 31, 2016. This increase was primarily due to increased revenues from residential customers of $2.5 million driven by a 1.6% increase in the average number of residential customers served and increased revenues from small commercial and industrial customers of $2.1 million driven by a 2.4% increase in the average number of small commercial and industrial customers served. The Company experienced an overall 1.7% increase in the average number of customers served, partially offset by milder weather when compared to the twelve months ended December 31, 2016. Heating degree days decreased 17.8% in the twelve months ended December 31, 2017, when compared to the twelve months ended December 31, 2016. During our peak summer cooling season, cooling degree days in 2017 were comparable to the same period in 2016.

For the twelve months ended December 31, 2016, retail non-fuel base revenues increased primarily due to the recognition of $40.9 million related to the 2016 PUCT Final Order. Excluding the $40.9 million 2016 PUCT Final Order impact, for the twelve months ended December 31, 2016, retail non-fuel base revenues increased $3.4 million, or 0.6%, compared to the twelve months ended December 31, 2015. This increase was primarily due to increased revenues from residential customers of $3.5 million due to a 1.3% increase in kWh sales and increased revenues from small commercial and industrial customers of $2.5 million due to a 0.8% increase in kWh sales. Increased kWh sales from residential customers and small commercial and industrial customers were driven by a 1.4% and 1.9% increase in the average number of customers, respectively, offset in part by milder weather during the twelve months ended December 31, 2016 compared to the twelve months ended December 31, 2015. Revenues decreased $2.4 million from large commercial and industrial customers during the twelve months ended December 31, 2016 compared to the twelve months ended December 31, 2015 due to a 3.0% decrease in kWh sales, due primarily to reduced demand by the steel manufacturing industry, and a decrease in surcharges billed to a large customer in 2016 compared to 2015. Revenues decreased $0.2 million from public authority customers reflecting a 0.8% decrease in kWh sales. Cooling degree days were relatively consistent with 2015 and were 2.9% over the 10-year average. Heating degree days decreased 11.6% in 2016, compared to 2015, and were 14.2% below the 10-year average.

**Fuel revenues**. Fuel revenues consist of (i) revenues collected from customers under fuel recovery mechanisms approved by the state commissions and the FERC, (ii) deferred fuel revenues which are comprised of the difference between fuel costs and fuel revenues collected from customers and (iii) prior to July 1, 2016, fuel costs recovered in base rates in New Mexico. In New Mexico, effective July 1, 2016, with the implementation of the NMPRC Final Order, fuel and purchased power costs are no longer recovered through base rates, as it was historically, but are recovered through the FPPCAC. Fuel and purchased power costs are reconciled to actual costs on a monthly basis and recovered or refunded to customers the second succeeding month. In Texas, fuel costs are recovered through a fixed fuel factor. We can seek to revise our Texas fixed fuel factor based upon an approved formula at least four months after our last revision, except in the month of December. In addition, if we materially over-recover fuel costs, we must seek to refund the over-recovery, and if we materially under-recover fuel costs, we may seek a surcharge to recover those costs. Fuel over and under recoveries are defined as material when they exceed 4% of the previous twelve months' fuel costs.

In March 2017 and March 2016, $1.4 million and $1.6 million, respectively, were credited to customers through the applicable fuel adjustment clauses as the result of a reimbursement from the DOE related to spent nuclear fuel storage.

We over-recovered fuel costs by $17.1 million in the twelve months ended December 31, 2017. We under-recovered fuel costs by $14.9 million and over-recovered fuel costs by $13.3 million in the twelve months ended December 31, 2016 and 2015, respectively. At December 31, 2017, we had a net fuel over-recovery balance of $6.2 million, including an over-recovery of $5.8 million and $0.4 million in Texas and in New Mexico, respectively. On October 13, 2017, we filed a request to decrease our Texas fixed fuel factor by approximately 19.0% to reflect decreased fuel expenses primarily related to a decrease in the price of natural gas used to generate power. The decrease in our Texas fixed fuel factor became effective beginning with the November 2017 billing month and will continue thereafter until changed by the PUCT.

**Off-system sales.** Off-system sales are wholesale sales into markets outside our service territory. Off-system sales are primarily made in off-peak periods when we have competitive generation capacity available after meeting our regulated service obligations. We have shared 100% of margins on non-arbitrage sales (as defined by the settlement in PUCT Docket No. 41852) and 50% of margins on arbitrage sales with our Texas customers since April 1, 2014. For the period April 1, 2014 through June 30, 2015, our total share of margins assignable to the Texas retail jurisdiction, on arbitrage and non-arbitrage off-system sales, could not exceed 10% of the total margins assignable to the Texas retail jurisdiction on all off-system sales. We are currently sharing 90% of off-system sales margins with our New Mexico customers, and 25% of our off-system sales margins with our sales for resale customer under the terms of their contract.
Typically, we realize a significant portion of our off-system sales margins in the first quarter of each calendar year when our native load is lower than at other times of the year, allowing for the sale in the wholesale market of relatively larger amounts of off-system energy generated from lower cost generating resources. Palo Verde's availability is an important factor in realizing these off-system sales margins.

The table below shows MWhs, sales revenue, fuel cost, total margins and retained margins made on off-system sales for the twelve months ended December 31, 2017, 2016 and 2015 (in thousands, except for MWhs).

<table>
<thead>
<tr>
<th></th>
<th>Years Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
</tr>
<tr>
<td>MWh sales</td>
<td>2,042,884</td>
</tr>
<tr>
<td>Sales revenue</td>
<td>$58,986</td>
</tr>
<tr>
<td>Fuel cost</td>
<td>$46,258</td>
</tr>
<tr>
<td>Total margins</td>
<td>$12,728</td>
</tr>
<tr>
<td>Retained margins</td>
<td>$1,673</td>
</tr>
</tbody>
</table>

Off-system sales revenue increased $13.3 million, or 29.1%, and the related retained margins increased $0.5 million, or 47.1%, for the twelve months ended December 31, 2017 when compared to 2016 as a result of higher average market prices for power and a 6.0% increase in MWh sales. Off-system sales revenue decreased $19.1 million, or 29.5%, and the related retained margins decreased $0.2 million, or 16.5%, for the twelve months ended December 31, 2016 when compared to 2015 as a result of lower average market prices for power and a 22.9% decrease in MWh sales.
Comparisons of kWh sales and operating revenues are shown below:

<table>
<thead>
<tr>
<th>Years Ended December 31:</th>
<th>2017</th>
<th>2016</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>kWh sales (in thousands):</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>2,823,260</td>
<td>2,805,789</td>
<td>17,471</td>
<td>0.6 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>2,410,710</td>
<td>2,403,447</td>
<td>7,263</td>
<td>0.3 %</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>1,045,319</td>
<td>1,030,745</td>
<td>14,574</td>
<td>1.4 %</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>1,564,670</td>
<td>1,572,510</td>
<td>(7,840)</td>
<td>(0.5 %)</td>
</tr>
<tr>
<td>Total retail sales</td>
<td>7,843,959</td>
<td>7,812,491</td>
<td>31,468</td>
<td>0.4 %</td>
</tr>
<tr>
<td>Wholesale:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales for resale</td>
<td>62,887</td>
<td>62,086</td>
<td>801</td>
<td>1.3 %</td>
</tr>
<tr>
<td>Off-system sales</td>
<td>2,042,884</td>
<td>1,927,508</td>
<td>115,376</td>
<td>6.0 %</td>
</tr>
<tr>
<td>Total wholesale sales</td>
<td>2,105,771</td>
<td>1,989,594</td>
<td>116,177</td>
<td>5.8 %</td>
</tr>
<tr>
<td>Total kWh sales</td>
<td>9,949,730</td>
<td>9,802,085</td>
<td>147,645</td>
<td>1.5 %</td>
</tr>
</tbody>
</table>

Operating revenues (in thousands):

<table>
<thead>
<tr>
<th>Non-fuel base revenues:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>$ 287,884</td>
<td>$ 278,774</td>
<td>$ 9,110</td>
<td>3.3 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>198,799</td>
<td>194,942</td>
<td>3,857</td>
<td>2.0 %</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>38,403</td>
<td>39,070</td>
<td>(667)</td>
<td>(1.7 %)</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>97,890</td>
<td>96,881</td>
<td>1,009</td>
<td>1.0 %</td>
</tr>
<tr>
<td>Total retail non-fuel base revenues (1)</td>
<td>622,976</td>
<td>609,667</td>
<td>13,309</td>
<td>2.2 %</td>
</tr>
<tr>
<td>Wholesale:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales for resale</td>
<td>2,730</td>
<td>2,407</td>
<td>323</td>
<td>13.4 %</td>
</tr>
<tr>
<td>Total non-fuel base revenues</td>
<td>625,706</td>
<td>612,074</td>
<td>13,632</td>
<td>2.2 %</td>
</tr>
<tr>
<td>Fuel revenues:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recovered from customers during the period</td>
<td>218,380</td>
<td>148,397</td>
<td>69,983</td>
<td>47.2 %</td>
</tr>
<tr>
<td>Under (over) collection of fuel (2)</td>
<td>(17,133)</td>
<td>14,893</td>
<td>(32,026)</td>
<td>-</td>
</tr>
<tr>
<td>New Mexico fuel in base rates (3)</td>
<td>-</td>
<td>33,279</td>
<td>(33,279)</td>
<td>-</td>
</tr>
<tr>
<td>Total fuel revenues (4) (5)</td>
<td>201,247</td>
<td>196,569</td>
<td>4,678</td>
<td>2.4 %</td>
</tr>
<tr>
<td>Off-system sales:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel cost</td>
<td>46,258</td>
<td>38,933</td>
<td>7,325</td>
<td>18.8 %</td>
</tr>
<tr>
<td>Shared margins</td>
<td>11,055</td>
<td>5,632</td>
<td>5,423</td>
<td>96.3 %</td>
</tr>
<tr>
<td>Retained margins</td>
<td>1,673</td>
<td>1,137</td>
<td>536</td>
<td>47.1 %</td>
</tr>
<tr>
<td>Total off-system sales</td>
<td>58,986</td>
<td>45,702</td>
<td>13,284</td>
<td>29.1 %</td>
</tr>
<tr>
<td>Other (6)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wheeling revenues</td>
<td>18,114</td>
<td>21,966</td>
<td>(3,852)</td>
<td>(17.5 %)</td>
</tr>
<tr>
<td>Miscellaneous service revenues and other (7)</td>
<td>12,744</td>
<td>10,625</td>
<td>2,119</td>
<td>19.9 %</td>
</tr>
<tr>
<td>Total other</td>
<td>30,858</td>
<td>32,591</td>
<td>(1,733)</td>
<td>(5.3 %)</td>
</tr>
<tr>
<td>Total operating revenues</td>
<td>$ 916,797</td>
<td>$ 886,936</td>
<td>$ 29,861</td>
<td>3.4 %</td>
</tr>
</tbody>
</table>

Average number of retail customers (8):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>368,044</td>
<td>362,138</td>
<td>5,906</td>
<td>1.6 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>41,978</td>
<td>41,014</td>
<td>964</td>
<td>2.4 %</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>48</td>
<td>49</td>
<td>(1)</td>
<td>(2.0 %)</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>5,532</td>
<td>5,303</td>
<td>229</td>
<td>4.3 %</td>
</tr>
<tr>
<td>Total</td>
<td>415,602</td>
<td>408,504</td>
<td>7,098</td>
<td>1.7 %</td>
</tr>
</tbody>
</table>

(1) 2017 includes $8.8 million of relate back revenues in Texas from July 18, 2017 through December 31, 2017, which was recorded in the fourth quarter of 2017 related to the 2017 PUCT Final Order.
(2) Includes the portion of DOE refunds related to spent fuel storage of $1.4 million and $1.6 million in 2017 and 2016, respectively, that were credited to customers through the applicable fuel adjustment clauses.
(3) Historically, fuel and purchased power costs in the New Mexico jurisdiction were recorded through base rates and a FPPCAC that accounts for the changes in the costs of fuel relative to

___________________________

(1) 2017 includes $8.8 million of relate back revenues in Texas from July 18, 2017 through December 31, 2017, which was recorded in the fourth quarter of 2017 related to the 2017 PUCT Final Order.
(2) Includes the portion of DOE refunds related to spent fuel storage of $1.4 million and $1.6 million in 2017 and 2016, respectively, that were credited to customers through the applicable fuel adjustment clauses.
(3) Historically, fuel and purchased power costs in the New Mexico jurisdiction were recorded through base rates and a FPPCAC that accounts for the changes in the costs of fuel relative to
the amount included in base rates. Effective July 1, 2016, with the implementation of the NMPRC Final Order, these costs are no longer recovered through base rates but are recovered through the FPPCAC.

(4) 2017 includes $5.0 million related to the Palo Verde performance rewards, net.
(5) Includes deregulated Palo Verde Unit 3 revenues for the New Mexico jurisdiction of $9.8 million and $8.7 million in 2017 and 2016, respectively.
(6) Represents revenues with no related kWh sales.
(7) Includes an Energy Efficiency Bonus of $1.5 million and $0.5 million in 2017 and 2016, respectively.
(8) The number of retail customers presented is based on the number of service locations.
### Table of Contents

**KWh sales (in thousands):**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>2,805,789</td>
<td>2,771,138</td>
<td>34,651</td>
<td>1.3 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>2,403,447</td>
<td>2,384,514</td>
<td>18,933</td>
<td>0.8</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>1,030,745</td>
<td>1,062,662</td>
<td>(31,917)</td>
<td>(3.0)</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>1,572,510</td>
<td>1,585,568</td>
<td>(13,058)</td>
<td>(0.8)</td>
</tr>
<tr>
<td>Total retail sales</td>
<td>7,812,491</td>
<td>7,803,882</td>
<td>8,609</td>
<td>0.1</td>
</tr>
<tr>
<td>Wholesale</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales for resale</td>
<td>62,086</td>
<td>63,347</td>
<td>(1,261)</td>
<td>(2.0)</td>
</tr>
<tr>
<td>Off-system sales</td>
<td>1,927,508</td>
<td>2,500,947</td>
<td>(573,439)</td>
<td>(22.9)</td>
</tr>
<tr>
<td>Total wholesale sales</td>
<td>1,989,594</td>
<td>2,564,294</td>
<td>(574,700)</td>
<td>(22.4)</td>
</tr>
<tr>
<td>Total kWh sales</td>
<td>9,802,085</td>
<td>10,368,176</td>
<td>(566,091)</td>
<td>(5.5)</td>
</tr>
</tbody>
</table>

**Operating revenues (in thousands):**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-fuel base revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>$ 278,774</td>
<td>$ 246,265</td>
<td>$ 32,509</td>
<td>13.2 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>194,942</td>
<td>187,436</td>
<td>7,506</td>
<td>4.0</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>39,070</td>
<td>40,411</td>
<td>(1,341)</td>
<td>(3.3)</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>96,881</td>
<td>91,244</td>
<td>5,637</td>
<td>6.2</td>
</tr>
<tr>
<td>Total retail non-fuel base revenues (1)</td>
<td>609,667</td>
<td>565,356</td>
<td>44,311</td>
<td>7.8</td>
</tr>
<tr>
<td>Wholesale</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales for resale</td>
<td>2,407</td>
<td>2,455</td>
<td>(48)</td>
<td>(2.0)</td>
</tr>
<tr>
<td>Total non-fuel base revenues</td>
<td>612,074</td>
<td>567,811</td>
<td>44,263</td>
<td>7.8</td>
</tr>
<tr>
<td>Fuel revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recovered from customers during the period</td>
<td>148,397</td>
<td>127,765</td>
<td>20,632</td>
<td>16.1</td>
</tr>
<tr>
<td>Under (over) collection of fuel (2)</td>
<td>14,893</td>
<td>(13,342)</td>
<td>28,235</td>
<td>-</td>
</tr>
<tr>
<td>New Mexico fuel in base rates (3)</td>
<td>33,279</td>
<td>72,129</td>
<td>(38,850)</td>
<td>(53.9)</td>
</tr>
<tr>
<td>Total fuel revenues (4)</td>
<td>196,569</td>
<td>186,552</td>
<td>10,017</td>
<td>5.4</td>
</tr>
<tr>
<td>Off-system sales</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel cost</td>
<td>38,933</td>
<td>52,406</td>
<td>(13,473)</td>
<td>(25.7)</td>
</tr>
<tr>
<td>Shared margins</td>
<td>5,632</td>
<td>11,048</td>
<td>(5,416)</td>
<td>(49.0)</td>
</tr>
<tr>
<td>Retained margins</td>
<td>1,137</td>
<td>1,362</td>
<td>(225)</td>
<td>(16.5)</td>
</tr>
<tr>
<td>Total off-system sales</td>
<td>45,702</td>
<td>64,816</td>
<td>(19,114)</td>
<td>(29.5)</td>
</tr>
<tr>
<td>Other (5)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wheeling revenues</td>
<td>21,966</td>
<td>21,002</td>
<td>964</td>
<td>4.6</td>
</tr>
<tr>
<td>Miscellaneous service revenues and other (6) (7)</td>
<td>10,625</td>
<td>9,688</td>
<td>937</td>
<td>9.7</td>
</tr>
<tr>
<td>Total other</td>
<td>32,591</td>
<td>30,690</td>
<td>1,901</td>
<td>6.2</td>
</tr>
<tr>
<td>Total operating revenues</td>
<td>$ 886,936</td>
<td>$ 849,869</td>
<td>$ 37,067</td>
<td>4.4</td>
</tr>
</tbody>
</table>

**Average number of retail customers (8):**

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2015</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>362,138</td>
<td>356,969</td>
<td>5,169</td>
<td>1.4 %</td>
</tr>
<tr>
<td>Commercial and industrial, small</td>
<td>41,014</td>
<td>40,250</td>
<td>764</td>
<td>1.9</td>
</tr>
<tr>
<td>Commercial and industrial, large</td>
<td>49</td>
<td>49</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Sales to public authorities</td>
<td>5,303</td>
<td>5,250</td>
<td>53</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>408,504</td>
<td>402,518</td>
<td>5,986</td>
<td>1.5</td>
</tr>
</tbody>
</table>

---

(1) Includes a $40.9 million increase resulting from the 2016 PUCT Final Order.
(2) Includes the portion of DOE refunds related to spent fuel storage of $1.6 million and $5.8 million in 2016 and 2015, respectively, that were credited to customers through the applicable fuel adjustment clauses.
(3) Historically, fuel and purchased power costs in the New Mexico jurisdiction were recorded through base rates and a FPPCAC that accounts for the changes in the costs of fuel relative to the amount included in base rates. Effective July 1, 2016, with the implementation of the NMPRC Final Order, these costs are no longer recovered through base rates but are recovered through the FPPCAC.
(4) Includes deregulated Palo Verde Unit 3 revenues for the New Mexico jurisdiction of $8.7 million and $9.7 million in 2016 and 2015, respectively.
(5) Represents revenues with no related kWh sales.
(6) Includes $1.5 million increase resulting from the 2016 PUCT Final Order.
(7) Includes an Energy Efficiency Bonus of $0.5 million and $1.3 million in 2016 and 2015, respectively.
(8) The number of retail customers presented is based on the number of service locations.
Energy expenses

Our sources of energy include electricity generated from our nuclear and natural gas generating plants and purchased power. After adding natural gas generating units MPS Units 1 and 2 in March 2015 and MPS Units 3 and 4 in May 2016 and September 2016, respectively, into the Company's system generating resources, Palo Verde represents approximately 30% of our net dependable generating capacity and approximately 57% of our Company-generated energy for the twelve months ended December 31, 2017. Fluctuations in the price of natural gas, which is also the primary factor influencing the price of purchased power, have had a significant impact on our cost of energy.

Energy expenses increased $11.3 million, or 4.8%, for the twelve months ended December 31, 2017 compared to the twelve months ended December 31, 2016, primarily due to increased natural gas costs of $18.4 million due to an 8.2% increase in the MWhs generated with natural gas and a 6.2% increase in the average cost of MWhs generated. This increase in energy expenses was partially offset by decreased coal costs of $5.6 million as a result of the sale of our interest in Four Corners, a coal-fired generation station, in July 2016.

Energy expenses decreased $8.5 million, or 3.5%, for the twelve months ended December 31, 2016 compared to the twelve months ended December 31, 2015, primarily due to (i) decreased natural gas costs of $10.6 million due to a 6.3% decrease in the MWhs generated with natural gas and (ii) decreased coal costs of $7.8 million as a result of the sale of our interest in Four Corners, a coal-fired generation station, on July 6, 2016. These decreases in energy expenses were partially offset by (i) increased total purchased power of $6.2 million due to an 11.6% increase in the MWhs purchased and (ii) increased nuclear fuel expense of $3.7 million due to a $4.6 million reduction in the 2016 DOE refund compared to 2015.

The table below details the sources and costs of energy for 2017, 2016 and 2015.

<table>
<thead>
<tr>
<th>Fuel Type</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cost (in thousands)</td>
<td>MWh</td>
<td>Cost per MWh</td>
</tr>
<tr>
<td>Natural Gas</td>
<td>$142,227</td>
<td>3,841,550</td>
<td>$37.02</td>
</tr>
<tr>
<td>Coal</td>
<td>575 (a)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Nuclear</td>
<td>42,267 (b)</td>
<td>5,109,325</td>
<td>8.58</td>
</tr>
<tr>
<td>Total</td>
<td>185,069</td>
<td>8,950,875</td>
<td>20.85</td>
</tr>
</tbody>
</table>

Purchase Power:

<table>
<thead>
<tr>
<th>Fuel Type</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Photovoltaic</td>
<td>23,784</td>
<td>292,157</td>
<td>81.41</td>
</tr>
<tr>
<td>Other</td>
<td>35,898</td>
<td>1,248,684</td>
<td>28.75</td>
</tr>
<tr>
<td>Total purchased power</td>
<td>59,682</td>
<td>1,540,841</td>
<td>38.73</td>
</tr>
<tr>
<td>Total energy</td>
<td>$244,751</td>
<td>10,491,716</td>
<td>23.48</td>
</tr>
</tbody>
</table>

(a) The sale of our interest in Four Corners, a coal-fired generation station, closed on July 6, 2016. The cost includes the amortization of deferred coal mine reclamation obligations.
(b) Costs includes a DOE refund related to spent fuel storage of $1.6 million, $1.8 million, and $6.4 million recorded in 2017, 2016, and 2015, respectively. Cost per MWh excludes these refunds.
Other operations expense

Other operations expense increased $0.6 million, or 0.3%, in 2017 compared to 2016, primarily due to a $4.1 million increase in Palo Verde administrative and general ("A&G") expenses in 2017 compared to 2016, and a $3.0 million increase in various other operating costs. This increase was partially offset by a $6.5 million decrease in operating costs as a result of the sale of our interest in Four Corners in July 2016.

Other operations expense decreased $0.9 million, or 0.4%, in 2016 compared to 2015, primarily due to (i) a $2.7 million decrease in pension and benefits costs due to an amendment to the other post-retirement benefit plan and changes in actuarial assumptions used to calculate expenses for the post-retirement benefit plans, partially offset by higher medical and other employee benefit costs, (ii) decreased operations expense of $0.9 million at our fossil-fuel generating plants, primarily due to lower operating costs as a result of the sale of our interest in Four Corners in July 2016 offset by increased operating expenses at MPS, and (iii) decreased other A&G expenses of $0.5 million. These decreases were partially offset by (i) a $2.3 million increase in regulatory expenses, primarily related to the portion of the 2015 New Mexico and Texas rate cases that were expensed, and (ii) increased transmission and distribution expenses of $0.8 million.

Maintenance expense

Maintenance expense increased $2.7 million, or 4.1%, in 2017 compared to 2016, primarily due to a $7.1 million increase in maintenance outages at Newman Units 1, 3, & 4, and a $3.9 million increase in routine maintenance at Newman and MPS. These increases were offset by a $5.6 million decrease in maintenance costs as a result of the sale of our interest in Four Corners in July 2016 and a $1.7 million decrease in Palo Verde maintenance costs. Maintenance expense increased $1.5 million, or 2.3%, in 2016 compared to 2015, primarily due to an increase in the level of maintenance at Rio Grande and a planned outage at Four Corners, which was partially offset by a decrease in maintenance at Newman.

Depreciation and amortization expense

Depreciation and amortization expense increased $6.5 million or 7.7%, in 2017 compared to 2016, primarily due to increases in plant, including MPS Units 3 and 4, which were placed in service in May 2016 and September 2016, respectively. These increases were partially offset by the sale of the Company's interest in Four Corners in July 2016.

Depreciation and amortization expense decreased $5.5 million or 6.1%, in 2016 compared to 2015, primarily due to reductions of approximately $10.9 million resulting from changes in depreciation rates approved in the 2016 PUCT Final Order and the NMPRC Final Order, and the sale of the Company's interest in Four Corners in July 2016. These decreases were partially offset by an increase in plant, primarily due to MPS Units 1 and 2 and the EOC being placed in service in March 2015, and MPS Units 3 and 4 being placed in service in 2016.

Taxes other than income taxes

Taxes other than income taxes increased $5.3 million, or 8.1%, in 2017 compared to 2016, primarily due to increased property tax rates and valuations in Texas as a result of MPS Units 3 and 4 being placed in service in 2016 and increased billed revenues in Texas. Taxes other than income taxes increased $1.8 million, or 2.8%, in 2016 compared to 2015, primarily due to increased property tax rates and valuations in Texas as a result of MPS Units 1 and 2 and the EOC being placed in service during the first quarter of 2015 and increased billed revenues in Texas. These increases were partially offset by decreased property taxes in Arizona due to decreased property values.

Other income (deductions)

Other income (deductions) decreased $0.3 million, or 1.7%, in 2017 compared to 2016, primarily due to decreased AEFUDC resulting from lower average balances of CWIP and a reduction in the AEFUDC rate. This decrease was partially offset by increased investment and interest income due to higher realized gains in our decommissioning trust funds.

Other income (deductions) decreased $7.2 million, or 27.8%, in 2016 compared to 2015, primarily due to (i) decreased AEFUDC resulting from lower average balances of CWIP and a reduction in the AEFUDC rate, and (ii) decreased investment and interest income due to lower realized gains from our decommissioning trust funds.
Interest charges (credits)

Interest charges (credits) increased by $4.5 million, or 7.1%, in 2017 compared to 2016, primarily due to decreased allowance for borrowed funds used during construction ("ABFUDC") as a result of lower average balances of CWIP and a reduction in the ABFUDC rate and interest expense on the $150.0 million aggregate principal amount of 5.00% Senior Notes due 2044 issued in March 2016.

Interest charges (credits) increased by $7.6 million, or 13.8%, in 2016 compared to 2015 primarily due to interest expense on the $150.0 million aggregate principal amount of 5.00% Senior Notes due 2044 issued in March 2016 and decreased ABFUDC as a result of lower balances of CWIP and a reduction in the ABFUDC rate.

Income tax expense

Income tax expense decreased by $2.9 million, or 5.4%, in 2017 compared to 2016, primarily due to a decrease in state income tax due to audit settlements in Texas and Arizona. Income tax expense increased by $19.0 million, or 54.5%, in 2016 compared to 2015, primarily due to (i) an increase in the pre-tax income, (ii) an increase in state income taxes due to normalization as discussed in Note J of the Notes to Financial Statements and (iii) decreases in decommissioning trust income, which is taxed at a lower rate.

New accounting standards

In March 2016, the FASB issued ASU 2016-02, Leases (Topic 842) to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and requiring qualitative and quantitative disclosures on leasing agreements. ASU 2016-02 maintains a distinction between finance leases and operating leases similar to

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the distinction under previous leases guidance for capital leases and operating leases. The impact of leases reported in our operating results and statement of cash flows are expected to be similar to previous GAAP. ASU 2016-02 requires the recognition in the statement of financial position, by the lessee, of a liability to make lease payments (the lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. How leases are recorded in regard to financial position represents a significant change from previous GAAP guidance. The lessee is permitted to make an accounting policy election to not recognize lease assets and lease liabilities for short-term leases. Implementation of the standard will be required for reporting periods beginning after December 15, 2018. Adoption of the new lease accounting standard will require us to apply the new standard to the earliest period using a modified retrospective approach. We are currently in the process of evaluating the impact of the new standard, which includes continuing to monitor activities of the FASB, including the impact of the recently issued ASU 2018-01, and the proposed project to allow entities to adopt the standard with a cumulative effect adjustment as of the beginning of the adoption year, while maintaining prior year comparative financial information and disclosures as reported. ASU 2018-01, Land Easement Practical expedient for Transition to Topic 842, provides an optional practical expedient to not evaluate existing or expired land easements under Topic 842, if those land easements were not previously accounted for as leases under Accounting Standards Codification Topic 840. We currently anticipate that we will apply the practical expedient under ASU 2018-01 to our existing or expired land easements as part of our transition to Topic 842. Our evaluation process also includes evaluating the impact, if any, on changes to business processes, systems and controls to support recognition and disclosure under the new guidance; however, at this time we are unable to determine the impact this standard will have on the financial statements and related disclosures.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments - Credit Losses (Topic 326). ASU 2016-13 changes how companies measure and recognize credit impairment for many financial assets. The new current expected credit loss model will require companies to immediately recognize an estimate of credit losses expected to occur over the remaining life of the financial assets that are in the scope of the standard. The ASU also makes targeted amendments to the current impairment model for available-for-sale debt securities. The provisions of ASU 2016-13 will be required for reporting periods beginning after December 15, 2019. ASU 2016-13 will be applied in a modified retrospective approach through a cumulative-effect adjustment to retained earnings as of the beginning of the first reporting period in which the guidance is implemented. We are currently assessing the future impact of ASU 2016-13.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments to reduce diversity in practice in how certain cash receipts and cash payments are classified in the statement of cash flows. The provisions of ASU 2016-15 will be required for reporting periods beginning after December 15, 2017. ASU 2016-15 will be applied using a retrospective transition method to each period presented. If it is impracticable to apply ASU 2016-15 retrospectively for some of the issues, the amendments for those issues may be applied prospectively as of the earliest date practicable. We are currently assessing the future impact of this ASU.

In March 2017, the FASB issued ASU 2017-07, Compensation - Retirement Benefits (Topic 715) Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost. ASU 2017-07 amends Accounting Standards Codification 715, Compensation - Retirement Benefits, to require companies to present the service cost component of net benefit cost in the income statement line items where compensation cost is reported. Companies will present all other components of net benefit cost separately from the line item(s) that includes the service cost and outside of any subtotal of operating income. In addition, only the service cost component will be eligible for capitalization in assets. The amendments in ASU 2017-07 will be required for reporting periods beginning after December 15, 2017. The amendments in ASU 2017-07 should be applied prospectively for the income statement presentation of the service cost component and the other components of net benefit costs and prospectively, on and after the effective date, for the capitalization of the service cost component. We expect that the retrospective impact of implementing this ASU on the Statement of Operations for the twelve months ended December 31, 2017 would be an increase in (i) Other operations of $8.2 million , (ii) Other interest of $15.8 million , (iii) Miscellaneous non-operating income of $32.4 million , and (iv) Miscellaneous non-operating deductions of $8.4 million .

In May 2017, the FASB issued ASU 2017-09, Compensation - Stock Compensation (Topic 718), Scope of Modification Accounting, to provide guidance about when to account for a change to the terms or conditions of a share-based payment award as a modification. Under ASU 2017-09, modification accounting is required only if the fair value, the vesting conditions, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The amendments of ASU 2017-09 will be required for reporting periods beginning after December 15, 2017. ASU 2017-09 should be applied prospectively to an award modified on or after the adoption date. We are assessing the future impact of ASU 2017-09; however, we currently do not expect the impact of this ASU to be significant to our financial conditions, results of operations or cash flows.

In February 2018, the FASB issued ASU 2018-02, Income Statement - Reporting Comprehensive Income (Topic 220) as a result of concerns raised by stakeholders due to the TCJA. More specifically, the concerns raised are that because the adjustment due to the reduction of the historical corporate income tax rate of 35% to the newly enacted corporate income tax rate of 21% is required to be made for accumulated deferred income taxes, the tax effect of items within accumulated other comprehensive income ("AOCI") do not reflect the appropriate tax rate under current accounting standards which would result in "stranded taxes".
ASU 2018-02 allows companies to reclassify stranded taxes from AOCI to retained earnings. The amount of the reclassification would be the difference between the historical corporate income tax rate of 35% and the newly enacted 21% corporate income tax rate. The provisions of ASU 2018-02 are effective for fiscal years and interim periods within that reporting period beginning after December 15, 2018. Early adoption is permitted, including adoption in any interim periods for reporting periods for which financial statements have not been issued. We are currently in the process of evaluating the impact of ASU 2018-02 and its impact on regulated utilities. At December 31, 2017, we have $7.2 million in stranded taxes in AOCI.

Iflation

For the last several years, inflation has been relatively low and, therefore, has had little impact on our results of operations and financial condition.

Liquidity and Capital Resources

We continue to maintain a strong balance of common stock equity in our capital structure, which supports our bond ratings, allowing us to obtain financing from the capital markets at a reasonable cost. At December 31, 2017, our capital structure, including common stock, long-term debt, current maturities of long-term debt, and short-term borrowings under our RCF, consisted of 45.5% common stock equity and 54.5% debt. As of December 31, 2017, we had a balance of $7.0 million of cash and cash equivalents. Based on current projections, we believe that we will have adequate liquidity through the issuance of long-term debt, our current cash balances, cash from operations and available borrowings under our RCF to meet all of our anticipated cash requirements for the next twelve months.

Our principal liquidity requirements in the near-term are expected to consist of capital expenditures to expand and support electric service obligations, expenditures for nuclear fuel inventory, interest payments on our indebtedness, cash dividend payments, operating expenses including fuel costs, maintenance costs, security, compliance initiative and taxes.

Capital Requirements. During the twelve months ended December 31, 2017, our capital requirements primarily consisted of expenditures for the construction and purchase of electric utility plant, debt retirements, payments of common stock dividends, and purchases of nuclear fuel. Projected utility construction expenditures are to add new generation, expand and update our transmission and distribution systems, make capital improvements and replacements at Palo Verde and other generating facilities, and make investments in other property and equipment. Estimated cash construction expenditures for all capital projects for 2018 are expected to be approximately $236 million. See Part I, Item 1, "Business - Construction Program." Cash capital expenditures for new electric plant were $190.3 million, net of insurance proceeds, in the twelve months ended December 31, 2017 compared to $225.4 million in the twelve months ended December 31, 2016. Capital requirements for purchases of nuclear fuel were $38.5 million for the twelve months ended December 31, 2017, as compared to $42.4 million for the twelve months ended December 31, 2016.

On December 29, 2017, we paid a quarterly cash dividend of $0.335 per share, or $13.6 million, to shareholders of record as of the close of business on December 15, 2017. We paid a total of $53.3 million in cash dividends during the twelve months ended December 31, 2017. On February 1, 2018, our Board of Directors declared a quarterly cash dividend of $0.335 per share payable on March 30, 2018 to shareholders of record as of the close of business on March 16, 2018. Typically, the Board of Directors reviews the Company's dividend policy annually in the second quarter of each year. In addition, while we do not currently anticipate repurchasing shares of our common stock in 2018, we may repurchase shares of our common stock in the future. Under our repurchase program, purchases can be made at open market prices or in private transactions, and repurchased shares are available for issuance under employee benefit and stock incentive plans, or may be retired. No shares of common stock were repurchased during the twelve months ended December 31, 2017. As of December 31, 2017, a total of 393,816 shares remain eligible for repurchase under the repurchase program.

We expect to continue to maintain a prudent level of liquidity and monitor market conditions for debt and equity securities. We primarily utilize the distribution of dividends to maintain a balanced capital structure and supplement this effort with share repurchases when appropriate. Our liquidity needs can fluctuate quickly based on fuel prices and other factors and we are continuing to make investments in new electric plant and other assets in order to reliably serve our customers.

Our cash requirements for federal and state income taxes vary from year to year based on taxable income, which is influenced by the timing of revenues and expenses recognized for income tax purposes. The following summary describes the major impacts of the TCJA on our liquidity. We continue to evaluate the TCJA and have made assumptions based on information currently available.

The TCJA discontinued bonus depreciation for regulated utilities for property acquired and placed in service after September 27, 2017, which discontinuance will reduce the tax deductions previously available to us for 2017, 2018 and 2019. The decrease
in tax deductions will result in the utilization of our net operating loss carryforwards (“NOL carryforwards”) approximately two years earlier than anticipated and is expected to result in higher income tax payments beginning in 2019, after the full utilization of NOL carryforwards. However, due to the lower federal corporate income tax rate enacted by the TCJA, our future federal corporate income tax payments will be made at the reduced rate of 21% beginning in 2018. Due to NOL carryforwards, minimal tax payments are expected for 2018, which are mostly related to state income taxes.

However, we expect that the effect of the TCJA on our rates will be beneficial to our customers. Following the enactment of the TCJA and the reduction of the federal corporate income tax rate, revenues collected from our customers in 2018 will be reduced in an amount that approximates the savings in tax expense. This reduction in revenues is expected to negatively impact our cash flows by approximately $26 million to $31 million during 2018.

We continually evaluate our funding requirements related to our retirement plans, other post-retirement benefit plans, and decommissioning trust funds. We contributed $9.8 million and $9.2 million to our retirement plans during both the twelve months ended December 31, 2017 and 2016, respectively. We contributed $6.5 million and $1.7 million to our other post-retirement benefit plans during the twelve months ended December 31, 2017 and 2016, respectively. We contributed $3.8 million and $4.5 million to our decommissioning trust funds in 2017 and 2016, respectively. We are in compliance with the funding requirements of the federal government for our benefit plans. In addition, with respect to our nuclear plant decommissioning trust, we are in compliance with the funding requirements of the federal law and the ANPP Participation Agreement. We will continue to review our funding for these plans in order to meet our future obligations.

In 2010, we and the RGRT, a Texas grantor trust through which we finance our portion of fuel for Palo Verde, entered into a note purchase agreement with various institutional purchasers. Under the terms of the agreement, RGRT sold to the purchasers $110.0 million aggregate principal amount of senior notes. In August 2015 and 2017, $15.0 million and $50.0 million, respectively, of these senior notes matured and were paid with borrowings under the RCF.

Capital Resources. Cash provided by operations, $288.6 million for the twelve months ended December 31, 2017 and $231.2 million for the twelve months ended December 31, 2016, is a significant source for funding capital requirements. The primary factors affecting the change in cash flows from operations were the change in net over-collection and under-collection of fuel revenues and accounts receivable. Cash from operations has been impacted by the timing of the recovery of fuel costs through fuel recovery mechanisms in Texas and New Mexico, and our sales for resale customer. We recover actual fuel costs from customers through fuel adjustment mechanisms in Texas and New Mexico, and from our sales for resale customer. We record deferred fuel revenues for the under-recovery or over-recovery of fuel costs until they can be recovered from or refunded to customers. In Texas, fuel costs are recovered through a fixed fuel factor. We can seek to revise our fixed fuel factor at least four months after our last revision except in the month of December based upon our approved formula which allows us to adjust fuel rates to reflect changes in costs of natural gas. We are required to request to refund fuel costs in any month when the over-recovery balance exceeds a threshold material amount and we expect fuel costs to continue to be materially over-recovered. We are permitted to seek to surcharge fuel under-recoveries in any month the balance exceeds a threshold material amount that we expect fuel cost recovery to continue to be materially under-recovered. Fuel over and under-recoveries are considered material when they exceed 4% of the previous twelve months' fuel costs. On October 13, 2017, we filed a request to decrease our Texas fixed fuel factor by approximately 19% to reflect decreased fuel expenses primarily related to a decrease in the price of natural gas used to generate power. The decrease in our Texas fixed fuel factor became effective with the November 2017 billing month and will continue thereafter until changed by the PUCT. During the twelve months ended December 31, 2017, we had over-recoveries of fuel costs of $17.1 million compared to under-recoveries of fuel costs of $14.9 million during the twelve months ended December 31, 2016. At December 31, 2017, we had a net fuel over-recovery balance of $6.2 million, including an over-recovery of $5.8 million in the Texas jurisdiction and an over-recovery of $0.4 million in the New Mexico jurisdiction.

We maintain the RCF for working capital and general corporate purposes and financing nuclear fuel through RGRT. RGRT, the trust through which we finance our portion of nuclear fuel for Palo Verde, is consolidated in our financial statements. On January 9, 2017, we exercised our option to extend the maturity of the RCF by one year to January 14, 2020 and to increase the size of the facility by $50.0 million to $350.0 million. We still have the option to extend the facility by one additional year to January 2021 and to increase the RCF by up to $50.0 million (up to a total of $400.0 million) upon the satisfaction of certain conditions including obtaining commitments from lenders or third party financial institutions. In August 2017, RGRT's $50.0 million Series B 4.47% Senior Notes matured and were paid utilizing funds borrowed under the RCF. The total amount borrowed for nuclear fuel by RGRT, excluding debt issuance costs, was $133.5 million at December 31, 2017, of which $88.5 million had been borrowed under the RCF, and $45.0 million was borrowed through the issuance of senior notes. At December 31, 2016, the total amounts borrowed for nuclear fuel by RGRT, excluding debt issuance costs, were $132.6 million of which $37.6 million had been borrowed under the RCF and $95.0 million was borrowed through the issuance of senior notes. Interest costs on borrowings to finance nuclear fuel are accumulated by RGRT and charged to us as fuel is consumed and recovered through fuel recovery charges. In September 2017, the $33.3 million 2012 Series A 1.875% Pollution Control Bonds which were subject to mandatory tender for purchase were redeemed and retired utilizing funds borrowed under the RCF. The outstanding balance for working
capital and general corporate purposes was $85.0 million at December 31, 2017 and $44.0 million at December 31, 2016. Total aggregate borrowings under the RCF as of December 31, 2017 were $173.5 million with an additional $176.4 million available to borrow.

We received approval from the NMPRC on October 7, 2015, to guarantee the issuance of up to $65.0 million of long-term debt by the RGRT to finance future purchases of nuclear fuel and to refinance existing nuclear fuel debt obligations, which remains effective. We received additional approval from the NMPRC on October 4, 2017 to amend and extend the RCF, issue up to $350.0 million in long-term debt and to redeem and refinance the $63.5 million 2009 Series A 7.25% Pollution Control Bonds and the $37.1 million 2009 Series B 7.25% Pollution Control Bonds, which have optional redemptions in 2019. The NMPRC approval to issue up to $350.0 million in long-term debt supersedes its prior approval. We requested similar approval from the FERC on September 1, 2017 and received approval on October 31, 2017. The approval requested from the FERC also includes requests to guarantee the issuance of up to $65.0 million of long-term debt by the RGRT and to continue to utilize our existing RCF with the ability to amend and extend the RCF at a future date. The authorization approved by the FERC is effective from November 15, 2017 through November 14, 2019 and supersedes prior FERC approvals.
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*Contractual Obligations.* Our contractual obligations as of December 31, 2017 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Payments due by period</th>
<th>Total</th>
<th>2018</th>
<th>2019 and 2020</th>
<th>2021 and 2022</th>
<th>2023 and Beyond</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Long-term debt (including interest):</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senior notes (1)</td>
<td>$2,080,375</td>
<td>$55,200</td>
<td>$110,400</td>
<td>$260,400</td>
<td>$1,654,375</td>
</tr>
<tr>
<td>Pollution control bonds (2)</td>
<td>390,578</td>
<td>9,959</td>
<td>19,918</td>
<td>19,918</td>
<td>340,783</td>
</tr>
<tr>
<td>RGRT senior notes (3)</td>
<td>51,804</td>
<td>2,268</td>
<td>49,536</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Financing obligations (including interest):</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revolving credit facility (4)</td>
<td>178,061</td>
<td>178,061</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Purchase obligations:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Power contracts</td>
<td>17,282</td>
<td>17,282</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Fuel contracts:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gas (5)</td>
<td>373,814</td>
<td>43,519</td>
<td>68,875</td>
<td>71,474</td>
<td>189,946</td>
</tr>
<tr>
<td>Nuclear fuel (6)</td>
<td>77,554</td>
<td>19,228</td>
<td>22,485</td>
<td>16,581</td>
<td>19,260</td>
</tr>
<tr>
<td>Retirement plans and other post-retirement benefits (7)</td>
<td>9,904</td>
<td>9,904</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Nuclear Decommissioning Trust Funds (8)</td>
<td>59,701</td>
<td>2,132</td>
<td>4,264</td>
<td>4,264</td>
<td>49,041</td>
</tr>
<tr>
<td>Operating leases (9)</td>
<td>10,491</td>
<td>951</td>
<td>1,713</td>
<td>1,270</td>
<td>6,557</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$3,249,564</td>
<td>$338,504</td>
<td>$277,191</td>
<td>$373,907</td>
<td>$2,259,962</td>
</tr>
</tbody>
</table>

(1) We have four outstanding issuances of senior notes. In May 2005, we issued $400.0 million aggregate principal amount of 6% Senior Notes due May 15, 2035. In June 2008, we issued $150.0 million aggregate principal amount of 7.5% Senior Notes due March 15, 2038. In December 2012, we issued $150.0 million aggregate principal amount of 3.3% Senior Notes due December 15, 2022. In December 2014, we issued $150.0 million aggregate principal amount of 5.0% Senior Notes due December 1, 2044. In March 2016, we issued an additional $150.0 million aggregate principal amount of 5.0% Senior Notes due December 1, 2044, for a total principal amount outstanding of 5.0% Senior Notes due December 1, 2044 of $300.0 million.

(2) We have three series of pollution control bonds outstanding that are scheduled for remarketing and/or mandatory tender two in 2040, and one in 2042. In September 2017, the $33.3 million 2012 Series A 1.875% pollution control bonds, which were subject to mandatory tender for purchase, were redeemed and retired utilizing funds borrowed under the RCF.

(3) In 2010, the Company and RGRT entered into a note purchase agreement for $110.0 million aggregate principal amount of senior notes consisting of: (a) $15.0 million aggregate principal amount of 3.67% RGRT Senior Notes, Series A, which matured and were repaid on August 15, 2015; (b) $50.0 million aggregate principal amount of 4.47% RGRT Senior Notes, Series B, which matured and were repaid on August 15, 2017; and (c) $45.0 million aggregate principal amount of 5.04% RGRT Senior Notes, Series C, due August 15, 2020.

(4) This reflects obligations outstanding under the $350.0 million RCF. At December 31, 2017, $85.0 million was borrowed for working capital and general corporate purposes and $88.5 million was borrowed by RGRT for nuclear fuel. This balance includes interest based on actual interest rates at the end of 2017 and assumes this amount will be outstanding for the entire year of 2018.

(5) Amount is based on the minimum volumes per the contract and market and/or contract price at the end of 2017. Gas obligation includes a gas storage contract and a gas transportation contract.

(6) Some of the nuclear fuel contracts are based on a fixed price, adjusted for a market index. The index used here is the index at the end of 2017.

(7) This obligation is based on our expected contributions and includes our minimum contractual funding requirements for the non-qualified retirement income plan and the other post-retirement benefits for 2018. We have no minimum cash contractual funding requirement related to our retirement income plan or other post-retirement benefits for 2018. We are subject to minimum funding requirements of ERISA. We also may decide to fund at higher levels and expect to contribute $9.9 million to our retirement plans in 2018. Minimum funding requirements for 2019 and beyond are not included due to the uncertainty of the applicable interest rates and the related return on assets.

(8) This obligation is based on the decommissioning funding allowed in PUCT Docket No. 46831, effective August 1, 2017. We have no minimum funding obligation in the New Mexico jurisdiction effective July 1, 2016 with NMPRC Case No.
It is possible that our funding requirements could change based on the amounts allowed in future rate filings. We lease land in El Paso, Texas, adjacent to Newman under a lease that expires in June 2033, subject to a renewal option of 25 years. We also have several other leases for office, parking facilities and equipment that expire within the next five years.

**Off-Balance Sheet Arrangements**

We have no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.
Item 7A.  Quantitative and Qualitative Disclosures About Market Risk

The following discussion regarding our market-risk sensitive instruments contains forward-looking information involving risks and uncertainties. The statements regarding potential gains and losses are only estimates of what could occur in the future. Actual future results may differ materially from those estimates presented due to the characteristics of the risks and uncertainties involved.

We are exposed to market risk due to changes in interest rates, equity prices and commodity prices. Substantially all financial instruments and positions we hold are for purposes other than trading and are described below.

**Interest Rate Risk**

Our long-term debt obligations are all fixed-rate obligations, except for the RCF, which is based on floating rates.

To the extent the RCF is utilized for nuclear fuel purchases, interest rate risk, if any, related to the RCF is substantially mitigated through the operation of the PUCT and the NMPRC rules, which establish energy cost recovery clauses. Under these rules, actual energy costs, including interest expense on nuclear fuel financing, are recovered from our customers.

Our decommissioning trust funds consist of equity securities and fixed income instruments and are carried at fair value. We face interest rate risk on the fixed income instruments, which consist primarily of municipal, federal and corporate bonds and which were valued at $130.2 million and $119.9 million as of December 31, 2017 and 2016, respectively. A hypothetical 10% increase in interest rates would reduce the fair values of these funds by $1.6 million and $1.4 million at December 31, 2017 and 2016, respectively.

**Equity Price Risk**

Our decommissioning trust funds include marketable equity securities of approximately $149.8 million and $129.8 million at December 31, 2017 and 2016, respectively. A hypothetical 20% decrease in equity prices would have reduced the fair values of these funds by $30.0 million and $26.0 million based on their fair values at December 31, 2017 and 2016, respectively. Declines in market prices could require that additional amounts be contributed to our nuclear decommissioning trusts to maintain minimum funding requirements. We do not expect to expend monies held in trust before 2044 or a later period when decommissioning of Palo Verde begins.

**Commodity Price Risk**

We utilize contracts of various durations for the purchase of natural gas and uranium concentrates to effectively manage our available fuel portfolio. These agreements contain variable pricing provisions and are settled by physical delivery. The fuel contracts with variable pricing provisions, as well as substantially all of our purchased power requirements, are exposed to fluctuations in prices due to unpredictable factors, including weather and various other worldwide events, which impact supply and demand. However, our exposure to fuel and purchased power price risk is substantially mitigated through the operation of the PUCT and NMPRC rules and our fuel clauses, as discussed previously.

In the normal course of business, we enter into contracts of various durations for the forward sales and purchases of electricity to effectively manage our available generating capacity and supply needs. Such contracts include forward contracts for the sale of generating capacity and energy during periods when our available power resources are expected to exceed the requirements of our retail native load and sales for resale. We also enter into forward contracts for the purchase of wholesale capacity and energy during periods when the market price of electricity is below our expected incremental power production costs or to supplement our generating capacity when demand is anticipated to exceed such capacity. As of January 31, 2018, we had entered into forward sales and purchase contracts for energy as discussed in Part I, Item 1, "Business – Energy Sources – Purchased Power." These agreements are generally fixed-priced contracts that qualify for the "normal purchases and normal sales" exception provided in the FASB guidance for accounting for derivative instruments and hedging activities and are not recorded at their fair value in our financial statements. Because of the operation of the PUCT and the NMPRC rules and our fuel clauses, these contracts do not expose us to significant commodity price risk.
Management Report on Internal Control Over Financial Reporting

The Company’s management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rule 13a-15(f) or 15d-15(f) promulgated under the Securities Exchange Act of 1934 as a process designed by, or under the supervision of, the Company’s principal executive and principal financial officers and affected by the Company’s board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

• pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company;
• provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and the receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and
• provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The Company’s management assessed the effectiveness of the Company’s internal control over financial reporting as of December 31, 2017. In making this assessment, the Company’s management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission's 2013 Internal Control - Integrated Framework. Based on its assessment, management believes that, as of December 31, 2017, the Company’s internal control over financial reporting is effective based on those criteria.

The Company’s independent registered public accounting firm, KPMG LLP, has issued an audit report on the Company’s internal control over financial reporting. This report appears on page 52 of this report.
### INDEX TO FINANCIAL STATEMENTS

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<td>Statements of Operations for the years ended December 31, 2017, 2016 and 2015</td>
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<td>Statements of Comprehensive Operations for the years ended December 31, 2017, 2016 and 2015</td>
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Report of Independent Registered Public Accounting Firm

To the Shareholders and Board of Directors
El Paso Electric Company:

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying balance sheets of El Paso Electric Company (the "Company") as of December 31, 2017 and 2016, and the related statements of operations, comprehensive operations, changes in common stock equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes (collectively, the "financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2017, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2017 and 2016, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2017, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2017, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Basis for Opinions

The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's financial statements and an opinion on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the financial statements included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Our audits also include evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KPMG LLP
We have served as the Company’s auditor since 1983.
Houston, Texas
February 28, 2018

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### EL PASO ELECTRIC COMPANY
#### BALANCE SHEETS

**ASSETS**

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utility plant:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric plant in service</td>
<td>$3,982,095</td>
<td>$3,791,566</td>
</tr>
<tr>
<td>Less accumulated depreciation and amortization</td>
<td>(1,320,175)</td>
<td>(1,244,332)</td>
</tr>
<tr>
<td>Net plant in service</td>
<td>2,661,920</td>
<td>2,547,234</td>
</tr>
<tr>
<td>Construction work in progress</td>
<td>146,059</td>
<td>154,738</td>
</tr>
<tr>
<td>Nuclear fuel; includes fuel in process of $59,689</td>
<td>194,933</td>
<td>194,842</td>
</tr>
<tr>
<td>and $57,315, respectively</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less accumulated amortization</td>
<td>(74,475)</td>
<td>(75,602)</td>
</tr>
<tr>
<td>Net nuclear fuel</td>
<td>120,458</td>
<td>119,240</td>
</tr>
<tr>
<td><strong>Net utility plant</strong></td>
<td>2,928,437</td>
<td>2,821,212</td>
</tr>
<tr>
<td><strong>Current assets:</strong></td>
<td></td>
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<tr>
<td>Cash and cash equivalents</td>
<td>6,990</td>
<td>8,420</td>
</tr>
<tr>
<td>Accounts receivable, principally trade, net of</td>
<td>88,585</td>
<td>88,452</td>
</tr>
<tr>
<td>allowance for doubtful accounts of $2,300 and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$2,156, respectively</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inventories, at cost</td>
<td>50,910</td>
<td>47,216</td>
</tr>
<tr>
<td>Under-collection of fuel revenues</td>
<td>—</td>
<td>11,123</td>
</tr>
<tr>
<td>Prepayments and other</td>
<td>10,307</td>
<td>8,988</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>156,792</td>
<td>164,199</td>
</tr>
<tr>
<td><strong>Deferred charges and other assets:</strong></td>
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<td></td>
</tr>
<tr>
<td>Decommissioning trust funds</td>
<td>286,866</td>
<td>255,708</td>
</tr>
<tr>
<td>Regulatory assets</td>
<td>96,036</td>
<td>118,861</td>
</tr>
<tr>
<td>Other</td>
<td>16,232</td>
<td>16,298</td>
</tr>
<tr>
<td><strong>Total deferred charges and other assets:</strong></td>
<td>399,134</td>
<td>390,867</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$3,484,363</td>
<td>$3,376,278</td>
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</table>

See accompanying notes to financial statements.
EL PASO ELECTRIC COMPANY
BALANCE SHEETS (Continued)

<table>
<thead>
<tr>
<th>CAPITALIZATION AND LIABILITIES (In thousands except for share data)</th>
<th>December 31,</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2017</td>
<td>2016</td>
</tr>
<tr>
<td>Capitalization:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common stock, stated value $1 per share, 100,000,000 shares authorized, 65,694,829 and 65,685,615 shares issued, and 133,859 and 137,017 restricted shares, respectively</td>
<td>$65,829</td>
<td>$65,823</td>
</tr>
<tr>
<td>Capital in excess of stated value</td>
<td>326,117</td>
<td>322,643</td>
</tr>
<tr>
<td>Retained earnings</td>
<td>1,159,667</td>
<td>1,114,561</td>
</tr>
<tr>
<td>Accumulated other comprehensive income (loss), net of tax</td>
<td>11,058</td>
<td>(7,116)</td>
</tr>
<tr>
<td></td>
<td>1,562,671</td>
<td>1,495,911</td>
</tr>
<tr>
<td>Treasury stock, 25,244,350 and 25,304,914 shares, respectively, at cost</td>
<td>(420,506)</td>
<td>(421,515)</td>
</tr>
<tr>
<td>Common stock equity</td>
<td>1,142,165</td>
<td>1,074,396</td>
</tr>
<tr>
<td>Long-term debt, net of current portion</td>
<td>1,195,988</td>
<td>1,195,513</td>
</tr>
<tr>
<td>Total capitalization</td>
<td>2,338,153</td>
<td>2,269,909</td>
</tr>
<tr>
<td>Current liabilities:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current maturities of long-term debt</td>
<td>—</td>
<td>83,143</td>
</tr>
<tr>
<td>Short-term borrowings under the revolving credit facility</td>
<td>173,533</td>
<td>81,574</td>
</tr>
<tr>
<td>Accounts payable, principally trade</td>
<td>59,270</td>
<td>62,953</td>
</tr>
<tr>
<td>Taxes accrued</td>
<td>35,660</td>
<td>32,488</td>
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<td>Interest accrued</td>
<td>12,470</td>
<td>13,287</td>
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<td>Other</td>
<td>29,067</td>
<td>29,709</td>
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<td>Total current liabilities</td>
<td>316,225</td>
<td>303,409</td>
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<td>Deferred credits and other liabilities:</td>
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<tr>
<td>Accumulated deferred income taxes</td>
<td>305,023</td>
<td>555,066</td>
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<tr>
<td>Accrued pension liability</td>
<td>83,838</td>
<td>92,768</td>
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<td>Accrued post-retirement benefit liability</td>
<td>26,417</td>
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<td>Asset retirement obligation</td>
<td>93,029</td>
<td>81,800</td>
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<td>Regulatory liabilities</td>
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<td>18,435</td>
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<td>Other</td>
<td>24,993</td>
<td>20,491</td>
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<tr>
<td>Total deferred credits and other liabilities</td>
<td>829,985</td>
<td>802,960</td>
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<td>Commitments and contingencies</td>
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<td></td>
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<tr>
<td>Total capitalization and liabilities</td>
<td>$3,484,363</td>
<td>$3,376,278</td>
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</table>

See accompanying notes to financial statements.
EL PASO ELECTRIC COMPANY
STATEMENTS OF OPERATIONS
(In thousands except for share data)

<table>
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<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
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<tbody>
<tr>
<td>Operating revenues</td>
<td>$916,797</td>
<td>$886,936</td>
<td>$849,869</td>
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<td>Energy expenses:</td>
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<tr>
<td>Fuel</td>
<td>185,069</td>
<td>173,738</td>
<td>188,400</td>
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<td>Purchased and interchanged power</td>
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<td>59,727</td>
<td>53,545</td>
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<tr>
<td></td>
<td>244,751</td>
<td>233,465</td>
<td>241,945</td>
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<td>Operating revenues net of energy expenses</td>
<td>672,046</td>
<td>653,471</td>
<td>607,924</td>
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<td>Other operating expenses:</td>
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<td>Other operations</td>
<td>242,628</td>
<td>242,014</td>
<td>242,950</td>
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<td>Maintenance</td>
<td>69,458</td>
<td>66,746</td>
<td>65,223</td>
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<tr>
<td>Depreciation and amortization</td>
<td>90,843</td>
<td>84,317</td>
<td>89,824</td>
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<td>Taxes other than income taxes</td>
<td>70,863</td>
<td>65,533</td>
<td>63,736</td>
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<td></td>
<td>473,792</td>
<td>458,610</td>
<td>461,733</td>
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<tr>
<td>Operating income</td>
<td>198,254</td>
<td>194,861</td>
<td>146,191</td>
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<tr>
<td>Other income (deductions):</td>
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<tr>
<td>Allowance for equity funds used during construction</td>
<td>3,025</td>
<td>7,023</td>
<td>10,639</td>
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<tr>
<td>Investment and interest income, net</td>
<td>17,757</td>
<td>14,083</td>
<td>17,508</td>
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<tr>
<td>Miscellaneous non-operating income</td>
<td>715</td>
<td>1,292</td>
<td>2,062</td>
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<tr>
<td>Miscellaneous non-operating deductions</td>
<td>(3,125)</td>
<td>(3,699)</td>
<td>(4,328)</td>
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<tr>
<td></td>
<td>18,372</td>
<td>18,699</td>
<td>25,881</td>
</tr>
<tr>
<td>Interest charges (credits):</td>
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<tr>
<td>Interest on long-term debt and revolving credit facility</td>
<td>72,970</td>
<td>71,544</td>
<td>65,851</td>
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<tr>
<td>Other interest</td>
<td>2,388</td>
<td>1,303</td>
<td>1,313</td>
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<tr>
<td>Capitalized interest</td>
<td>(5,022)</td>
<td>(4,990)</td>
<td>(4,968)</td>
</tr>
<tr>
<td>Allowance for borrowed funds used during construction</td>
<td>(2,975)</td>
<td>(4,983)</td>
<td>(6,937)</td>
</tr>
<tr>
<td></td>
<td>67,361</td>
<td>62,874</td>
<td>55,259</td>
</tr>
<tr>
<td>Income before income taxes</td>
<td>149,265</td>
<td>150,686</td>
<td>116,813</td>
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<tr>
<td>Income tax expense</td>
<td>51,004</td>
<td>53,918</td>
<td>34,895</td>
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<tr>
<td></td>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
</tr>
<tr>
<td>Basic earnings per share</td>
<td>$2.42</td>
<td>$2.39</td>
<td>$2.03</td>
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<tr>
<td>Diluted earnings per share</td>
<td>$2.42</td>
<td>$2.39</td>
<td>$2.03</td>
</tr>
<tr>
<td>Dividends declared per share of common stock</td>
<td>$1.315</td>
<td>$1.225</td>
<td>$1.165</td>
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<tr>
<td>Weighted average number of shares outstanding</td>
<td>40,414,556</td>
<td>40,350,688</td>
<td>40,274,986</td>
</tr>
<tr>
<td>Weighted average number of shares and dilutive potential shares outstanding</td>
<td>40,535,191</td>
<td>40,408,033</td>
<td>40,308,562</td>
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</tbody>
</table>

See accompanying notes to financial statements.
<table>
<thead>
<tr>
<th>Net income</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income</td>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other comprehensive income (loss):</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unrecognized pension and post-retirement benefit costs:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net gain (loss) arising during period</td>
<td>12,634</td>
<td>(20,053)</td>
<td>5,429</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>—</td>
<td>32,697</td>
<td>824</td>
</tr>
<tr>
<td>Reclassification adjustments included in net income for amortization of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>(9,657)</td>
<td>(7,407)</td>
<td>(6,574)</td>
</tr>
<tr>
<td>Net loss</td>
<td>6,776</td>
<td>4,965</td>
<td>8,622</td>
</tr>
</tbody>
</table>

| Net unrealized gains/losses on marketable securities: |           |            |            |
| Net holding gains (losses) arising during period    | 25,275     | 8,444      | (2,906)    |
| Reclassification adjustments for net gains included in net income | (10,626) | (7,640)    | (11,114)   |

| Net losses on cash flow hedges: |           |            |            |
| Reclassification adjustment for interest expense included in net income | 532        | 498        | 467        |
| Total other comprehensive income (loss) before income taxes | 24,934     | 11,504     | (5,252)    |

| Income tax benefit (expense) related to items of other comprehensive income (loss): |           |            |            |
| Unrecognized pension and post-retirement benefit costs | (3,615)    | (4,261)    | (3,286)    |
| Net unrealized (gains) losses on marketable securities | (2,922)    | (106)      | 2,828      |
| Losses on cash flow hedges | (223)      | (339)      | (203)      |
| Total income tax expense | (6,760)    | (4,706)    | (661)      |

| Other comprehensive income (loss), net of tax | 18,174     | 6,798      | (5,913)    |
| Comprehensive income                  | $116,435   | $103,566   | $76,005    |

See accompanying notes to financial statements.
<table>
<thead>
<tr>
<th>Common Stock</th>
<th>Capital in Excess of Stated Value</th>
<th>Retained Earnings</th>
<th>Accumulated Other Comprehensive Income (Loss), Net of Tax</th>
<th>Treasury Stock</th>
<th>Common Stock Equity</th>
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<tbody>
<tr>
<td>Shares</td>
<td>Amount</td>
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<td></td>
<td>Shares</td>
<td>Amount</td>
</tr>
<tr>
<td><strong>Balances at December 31, 2014</strong></td>
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<td></td>
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<td></td>
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<tr>
<td>65,849,543</td>
<td>$65,850</td>
<td>$318,515</td>
<td>$1,032,537</td>
<td>$(8,001)</td>
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</tr>
<tr>
<td>6,356</td>
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</tr>
<tr>
<td><strong>Stock awards withheld for taxes</strong></td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(15,031)</td>
<td></td>
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<td><strong>Deferred restricted common stock</strong></td>
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<td>(12,215)</td>
<td></td>
<td></td>
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<tr>
<td><strong>Deferred taxes on stock incentive plan</strong></td>
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</tr>
<tr>
<td></td>
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<td>(475)</td>
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<tr>
<td><strong>Compensation paid in shares</strong></td>
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<td>323</td>
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</tr>
<tr>
<td><strong>Net income</strong></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>81,918</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dividends declared</strong></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(47,059)</td>
<td></td>
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<tr>
<td><strong>Balances at December 31, 2015</strong></td>
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</tr>
<tr>
<td>65,828,653</td>
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<td>320,073</td>
<td>1,067,396</td>
<td>(13,914)</td>
<td>25,384,834</td>
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<tr>
<td><strong>Restricted common stock grants and deferred compensation</strong></td>
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<td>3,017</td>
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<td><strong>Stock awards withheld for taxes</strong></td>
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</tr>
<tr>
<td>(5,723)</td>
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<tr>
<td><strong>Forfeited restricted common stock</strong></td>
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<td></td>
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</tr>
<tr>
<td>(298)</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td><strong>Deferred taxes on stock incentive plan</strong></td>
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</tr>
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<td></td>
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<td><strong>Compensation paid in shares</strong></td>
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<tr>
<td><strong>Net income</strong></td>
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</tr>
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<td></td>
<td></td>
<td></td>
<td>96,768</td>
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<td></td>
</tr>
<tr>
<td><strong>Dividends declared</strong></td>
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</tr>
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<td></td>
<td></td>
<td>(49,603)</td>
<td></td>
<td></td>
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<tr>
<td><strong>Balances at December 31, 2016</strong></td>
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</tr>
<tr>
<td>65,822,632</td>
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<td>322,643</td>
<td>1,114,561</td>
<td>(7,116)</td>
<td>25,304,914</td>
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<tr>
<td><strong>Restricted common stock grants and deferred compensation</strong></td>
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</tr>
<tr>
<td>2,989</td>
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<td><strong>Performance share awards vested</strong></td>
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<td>11,314</td>
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<tr>
<td><strong>Stock awards withheld for taxes</strong></td>
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</tr>
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<td>(5,258)</td>
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<td><strong>Forfeited restricted common stock</strong></td>
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<td>(4,961)</td>
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<td><strong>Compensation paid in shares</strong></td>
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</tr>
<tr>
<td>132</td>
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</tr>
<tr>
<td><strong>Cumulative effect adjustment for stock compensation</strong></td>
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<td></td>
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<td></td>
<td></td>
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<td>182</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Net income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>98,261</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other comprehensive income (loss)</strong></td>
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<td></td>
<td></td>
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<td></td>
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<td>18,174</td>
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<td><strong>Dividends declared</strong></td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(53,337)</td>
<td></td>
<td></td>
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<tr>
<td><strong>Balances at December 31, 2017</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>65,828,688</td>
<td>65,829</td>
<td>326,117</td>
<td>1,159,667</td>
<td>11,058</td>
<td>25,244,350</td>
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</table>

See accompanying notes to financial statements.
# EL PASO ELECTRIC COMPANY
## STATEMENTS OF CASH FLOWS
(In thousands)

### Years Ended December 31,

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash Flows From Operating Activities:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income</td>
<td>$98,261</td>
<td>$96,768</td>
<td>$81,918</td>
</tr>
<tr>
<td>Adjustments to reconcile net income to net cash provided by operating activities:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization of electric plant in service</td>
<td>90,843</td>
<td>84,317</td>
<td>89,824</td>
</tr>
<tr>
<td>Amortization of nuclear fuel</td>
<td>42,476</td>
<td>43,748</td>
<td>43,099</td>
</tr>
<tr>
<td>Deferred income taxes, net</td>
<td>49,394</td>
<td>50,510</td>
<td>30,846</td>
</tr>
<tr>
<td>Allowance for equity funds used during construction</td>
<td>(3,025)</td>
<td>(7,023)</td>
<td>(10,639)</td>
</tr>
<tr>
<td>Other amortization and accretion</td>
<td>18,954</td>
<td>17,295</td>
<td>17,707</td>
</tr>
<tr>
<td>Gain on sale of property, plant and equipment</td>
<td>—</td>
<td>(545)</td>
<td>(658)</td>
</tr>
<tr>
<td>Net gains on sale of decommissioning trust funds</td>
<td>(10,626)</td>
<td>(7,640)</td>
<td>(11,114)</td>
</tr>
<tr>
<td>Other operating activities</td>
<td>(692)</td>
<td>1,279</td>
<td>517</td>
</tr>
<tr>
<td>Change in:</td>
<td></td>
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</tr>
<tr>
<td>Accounts receivable</td>
<td>(138)</td>
<td>(17,511)</td>
<td>4,839</td>
</tr>
<tr>
<td>Inventories</td>
<td>(3,073)</td>
<td>265</td>
<td>(2,859)</td>
</tr>
<tr>
<td>Net over-collection (under-collection) of fuel revenues</td>
<td>17,093</td>
<td>(14,891)</td>
<td>13,344</td>
</tr>
<tr>
<td>Prepayments and other</td>
<td>(692)</td>
<td>(1,184)</td>
<td>(3,984)</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>1,407</td>
<td>(2,140)</td>
<td>(11,235)</td>
</tr>
<tr>
<td>Taxes accrued</td>
<td>1,840</td>
<td>1,945</td>
<td>4,512</td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>(917)</td>
<td>2,022</td>
<td>3,719</td>
</tr>
<tr>
<td>Deferred charges and credits</td>
<td>(12,544)</td>
<td>(16,065)</td>
<td>(3,165)</td>
</tr>
<tr>
<td><strong>Net cash provided by operating activities</strong></td>
<td>288,561</td>
<td>231,150</td>
<td>246,671</td>
</tr>
</tbody>
</table>

### Cash Flows From Investing Activities:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash additions to utility property, plant and equipment</td>
<td>(190,305)</td>
<td>(225,361)</td>
<td>(281,458)</td>
</tr>
<tr>
<td>Cash additions to nuclear fuel</td>
<td>(38,481)</td>
<td>(42,383)</td>
<td>(41,966)</td>
</tr>
<tr>
<td>Capitalized interest and AFUDC:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utility property, plant and equipment</td>
<td>(6,000)</td>
<td>(12,006)</td>
<td>(17,576)</td>
</tr>
<tr>
<td>Nuclear fuel and other</td>
<td>(5,022)</td>
<td>(4,990)</td>
<td>(4,968)</td>
</tr>
<tr>
<td>Allowance for equity funds used during construction</td>
<td>3,025</td>
<td>7,023</td>
<td>10,639</td>
</tr>
<tr>
<td>Decommissioning trust funds:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchases, including funding of $3.8 million, $4.5 million and $4.5 million, respectively</td>
<td>(102,920)</td>
<td>(99,497)</td>
<td>(110,223)</td>
</tr>
<tr>
<td>Sales and maturities</td>
<td>97,037</td>
<td>91,268</td>
<td>102,567</td>
</tr>
<tr>
<td>Proceeds from sale of property, plant and equipment</td>
<td>281</td>
<td>4,841</td>
<td>721</td>
</tr>
<tr>
<td>Other investing activities</td>
<td>(1,559)</td>
<td>5,373</td>
<td>(470)</td>
</tr>
<tr>
<td><strong>Net cash used for investing activities</strong></td>
<td>(243,944)</td>
<td>(275,732)</td>
<td>(342,734)</td>
</tr>
</tbody>
</table>

### Cash Flows From Financing Activities:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividends paid</td>
<td>(53,337)</td>
<td>(49,603)</td>
<td>(47,059)</td>
</tr>
<tr>
<td>Borrowings under the revolving credit facility:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds</td>
<td>638,458</td>
<td>355,607</td>
<td>344,398</td>
</tr>
<tr>
<td>Payments</td>
<td>(546,499)</td>
<td>(415,771)</td>
<td>(217,192)</td>
</tr>
<tr>
<td>Payment on maturing RGRT senior notes</td>
<td>(50,000)</td>
<td>—</td>
<td>(15,000)</td>
</tr>
<tr>
<td>Payment on maturing pollution control bonds</td>
<td>(33,300)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Proceeds from issuance of senior notes</td>
<td>—</td>
<td>157,052</td>
<td>—</td>
</tr>
<tr>
<td>Other financing activities</td>
<td>(1,369)</td>
<td>(2,432)</td>
<td>(1,439)</td>
</tr>
<tr>
<td><strong>Net cash provided by (used for) financing activities</strong></td>
<td>(46,047)</td>
<td>44,853</td>
<td>63,708</td>
</tr>
</tbody>
</table>

### Net increase (decrease) in cash and cash equivalents

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1,430)</td>
<td>271</td>
<td>(32,355)</td>
<td></td>
</tr>
<tr>
<td><strong>Cash and cash equivalents at beginning of period</strong></td>
<td>8,420</td>
<td>8,149</td>
<td>40,504</td>
</tr>
<tr>
<td><strong>Cash and cash equivalents at end of period</strong></td>
<td>$6,990</td>
<td>$8,420</td>
<td>$8,149</td>
</tr>
</tbody>
</table>

See accompanying notes to financial statements.
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<td>C. Regulation</td>
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<td>E. Utility Plant, Palo Verde and Other Jointly-Owned Utility Plant</td>
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<td>H. Accumulated Other Comprehensive Income (Loss)</td>
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<td>I. Long-Term Debt and Financing Obligations</td>
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<td>O. Financial Instruments and Investments</td>
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<td>Q. Selected Quarterly Financial Data (Unaudited)</td>
<td>111</td>
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A. Summary of Significant Accounting Policies

General. El Paso Electric Company is a public utility engaged in the generation, transmission and distribution of electricity in an area of approximately 10,000 square miles in west Texas and southern New Mexico. The Company also serves a full requirements wholesale customer in Texas.

Basis of Presentation. The Company maintains its accounts in accordance with the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission (the "FERC").

Use of Estimates. The preparation of financial statements in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company evaluates its estimates on an ongoing basis, including those related to depreciation, unbilled revenue, income taxes, fuel costs, pension and other post-retirement obligations and asset retirement obligations ("ARO"). Actual results could differ from those estimates.

Application of the Financial Accounting Standards Board (the "FASB") Guidance for Regulated Operations. Regulated electric utilities typically prepare their financial statements in accordance with the FASB guidance for regulated operations. The FASB guidance for regulated operations requires the Company to include an allowance for equity and borrowed funds used during construction ("AEFUDC" and "ABFUDC") as a cost of construction of electric plant in service. AEFUDC is recognized as income and ABFUDC is shown as capitalized interest charges in the Company's statements of operations. The FASB guidance for regulated operations also requires the Company to show certain recoverable costs as either assets or liabilities on a utility's balance sheet if the regulator provides assurance that these costs will be charged to and collected from the utility's customers (or has already permitted such cost recovery) or will be credited or refunded to the utility's customers. The resulting regulatory assets or liabilities are amortized in subsequent periods based upon the respective amortization periods reflected in a utility's regulated rates. See Part II, Item 8, Financial Statements and Supplementary Data, Note D. The Company applies the FASB guidance for regulated operations for all three of the jurisdictions in which it operates.

Comprehensive Income. Certain gains and losses that are not recognized currently in the statements of operations are reported as other comprehensive income in accordance with the FASB guidance for reporting comprehensive income.

Utility Plant. Utility plant is generally reported at cost. The cost of renewals and betterments are capitalized and the costs of repairs and minor replacements are charged to the appropriate operating expense accounts. Depreciation is provided on a straight-line basis over the estimated remaining lives of the assets (ranging in average from 5 to 48 years). The average composite depreciation rate utilized in 2017, 2016 and 2015 was 2.27%, 2.28%, and 2.64%, respectively. When property subject to composite depreciation is retired or otherwise disposed of in the normal course of business, its cost together with the cost of removal, less salvage is charged to accumulated depreciation. For other property dispositions, the applicable cost and accumulated depreciation is removed from the balance sheet accounts and a gain or loss is recognized. During 2016, depreciation and amortization decreased due to changes in depreciation rates approved by the Public Utility Commission of Texas ("PUCT") in the final order in Docket No. 44941 ("2016 PUCT Final Order") and the New Mexico Public Regulation Commission ("NMPRC") in the final order in Case No. 15-00127-UT ("NMPRC Final Order") and changes in the estimated life of certain intangible software assets.

The cost of nuclear fuel is amortized to fuel expense on a units-of-production basis. The Company is also amortizing its share of costs associated with on-site spent fuel storage casks at Palo Verde Generating Station ("Palo Verde") over the burn period of the fuel that will necessitate the use of the storage casks. See Part II, Item 8, Financial Statements and Supplementary Data, Note E.

Impairment of Long-Lived Assets. Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated undiscounted future cash flows, an impairment charge is recognized for the amount by which the carrying amount of the asset exceeds the fair value of the asset.

Allowance for Funds Used During Construction ("AFUDC") and Capitalized Interest. The Company capitalizes interest (ABFUDC) and common equity (AEFUDC) costs to construction work in progress and capitalizes interest to nuclear fuel in process in accordance with the FERC Uniform System of Accounts as provided for in the FASB guidance. AFUDC is a non-cash component of income and is calculated monthly and charged to all new eligible construction and capital improvement projects.
The allowance for doubtful accounts represents the Company’s estimate of existing accounts receivable that will ultimately be uncollectible. The allowance is calculated by applying estimated write-off factors to various classes of outstanding receivables. The write-off factors used to estimate uncollectible accounts are based upon consideration of both historical collections experience and management’s best estimate of future collections success given the existing collections environment. Additions, deductions and balances for allowance for doubtful accounts for 2017, 2016 and 2015 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Additions</th>
<th>Deductions</th>
<th>Balances</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Income Taxes. The Company accounts for federal and state income taxes under the asset and liability method of accounting for income taxes. Deferred income taxes are recognized for the estimated future tax consequences of "temporary differences" by applying enacted statutory tax rates for each taxable jurisdiction applicable to future years to differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities. Certain temporary differences are accorded flow-through treatment by the Company's regulators and impact the Company's effective tax rate. The FASB guidance requires that rate-regulated companies record deferred income taxes for temporary differences accorded flow-through treatment at the direction of the regulatory commission. The resulting deferred tax assets and liabilities are recorded at the expected cash flow to be reflected in future rates. Because the Company's regulators have consistently permitted the recovery of tax effects previously flowed-through earnings, the Company has recorded regulatory liabilities and assets offsetting such deferred tax assets and liabilities. During the third quarter of 2016, the Company changed its accounting for state income taxes from the flow-through method to the normalization method in accordance with the final orders from the PUCT and the NMPRC in its 2015 rate cases, effective January 1, 2016. See Part II, Item 8, Financial Statements and Supplementary Data, Note J for further discussion. The effect on deferred tax assets and liabilities of a change in tax rate is recognized to the normalizing method in accordance with the final orders from the PUCT and the NMPRC in its 2015 rate cases, effective January 1, 2016. See Part II, Item 8, Financial Statements and Supplementary Data, Note J. The Company recognizes tax assets and liabilities for uncertain tax positions in accordance with the recognition and measurement criteria of the FASB guidance for uncertainty in income taxes. See Part II, Item 8, Financial Statements and Supplementary Data, Note J. The Company recognizes tax assets and liabilities for uncertain tax positions in accordance with the recognition and measurement criteria of the FASB guidance for uncertainty in income taxes. See Part II, Item 8, Financial Statements and Supplementary Data, Note J. The Company accounts for federal and state income taxes under the asset and liability method of accounting for income taxes. Deferred income taxes are recognized for the estimated future tax consequences of "temporary differences" by applying enacted statutory tax rates for each taxable jurisdiction applicable to future years to differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities. Certain temporary differences are accorded flow-through treatment by the Company's regulators and impact the Company's effective tax rate. The FASB guidance requires that rate-regulated companies record deferred income taxes for temporary differences accorded flow-through treatment at the direction of the regulatory commission. The resulting deferred tax assets and liabilities are recorded at the expected cash flow to be reflected in future rates. Because the Company's regulators have consistently permitted the recovery of tax effects previously flowed-through earnings, the Company has recorded regulatory liabilities and assets offsetting such deferred tax assets and liabilities. During the third quarter of 2016, the Company changed its accounting for state income taxes from the flow-through method to the normalization method in accordance with the final orders from the PUCT and the NMPRC in its 2015 rate cases, effective January 1, 2016. The TCJA includes significant changes to the Internal Revenue Code of 1986 (as amended, the "IRC"), including amendments which significantly changed the taxation of business entities and includes specific provisions related to regulated public utilities. The more significant changes that impact the Company included in the TCJA are reductions in the corporate federal income tax rate from 35% to 21%, elimination of the corporate alternative minimum tax provisions, additional limitations on deductions of executive compensation, and limiting the utilization of net operating losses ("NOL") arising after December 31, 2017 to 80% of taxable income with no carryback but with an indefinite carryforward. The specific provisions related to regulated public utilities in the TCJA generally provide for the continued deductibility of interest expense, the elimination of bonus depreciation for property acquired and placed into service after September 27, 2017 and the continuance of rate normalization requirements for accelerated depreciation benefits and changes to deferred tax balances as a result of the change in corporate federal income tax rate.

The tax effects of changes in tax laws must be recognized in the period in which the law is enacted. GAAP also requires deferred tax assets and liabilities to be measured at the enacted tax rate expected to apply when temporary differences are to be realized or settled. Thus, at the date of enactment of the TCJA, the Company’s deferred taxes were re-measured based upon the new corporate federal income tax rate. The decrease in deferred taxes was recorded as a regulatory liability as it will be subject to refund to customers and is recorded at the expected cash flow to be reflected in future rates. See Part II, Item 8, Financial Statements and Supplementary Data, Note J for further discussion.

Earnings per Share. The Company’s restricted stock awards are participating securities and earnings per share must be calculated using the two-class method in both the basic and diluted earnings per share calculations. For the basic earnings per share calculation, net income is allocated to the weighted average number of restricted stock awards and to the weighted average number of shares outstanding. The net income allocated to the weighted average number of shares outstanding is then divided by the weighted average number of shares outstanding to derive the basic earnings per share. For the diluted earnings per share, net income is allocated to the weighted average number of restricted stock awards and to the weighted average number of shares and dilutive potential shares outstanding. The Company’s dilutive potential shares outstanding amount is calculated using the treasury stock method for the unvested performance shares. Net income allocated to the weighted average number of shares and dilutive
potential shares is then divided by the weighted average number of shares and dilutive potential shares outstanding to derive the diluted earnings per share. See Part II, Item 8, Financial Statements and Supplementary Data, Note G.

Stock-Based Compensation. The Company has a stock-based long-term incentive plan. The Company is required under the FASB guidance to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award. Such costs are recognized over the period during which an employee is required to provide service in exchange for the award (the "requisite service period") which typically is the vesting period. Compensation cost is not recognized for anticipated forfeitures prior to vesting of equity instruments. See Part II, Item 8, Financial Statements and Supplementary Data, Note G.

Pension and Post-retirement Benefit Accounting. See Part II, Item 8, Financial Statements and Supplementary Data, Note M for a discussion of the Company's accounting policies for its employee benefits.
B. New Accounting Standards

In March 2016, the FASB issued Accounting Standards Update (“ASU”) 2016-09, Compensation - Stock Compensation (Topic 718) Improvements to Employee Share-Based Payment Accounting to simplify the accounting for share-based payment transactions, including the income tax consequences, classification of awards either as equity or liabilities, and classification on the statements of cash flows. The Company adopted the new standard effective January 1, 2017. The adoption of the new standard did not have a material impact on the Company's financial condition, results of operations or cash flows. The cumulative effect of the adoption of the new standard was to increase net operating loss carryforward deferred tax assets and retained earnings by $0.2 million on January 1, 2017.

In May 2014, the FASB issued ASU 2014-09, Revenue from Contracts with Customers (Topic 606) to provide a framework that replaces the existing revenue recognition guidance, and has since modified the standard with several ASUs. The standard provides that an entity should recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. More specifically, the standard requires entities to recognize revenue through the application of a five-step model, which includes the: (i) identification of the contract; (ii) identification of the performance obligations; (iii) determination of the transaction price; (iv) allocation of the transaction price to the performance obligations; and (v) the recognition of revenue as the entity satisfies the performance obligations. The Company will adopt the new standard for reporting periods beginning on January 1, 2018, and intends use the modified retrospective approach.

The Company has analyzed the impact of the new standard on its various revenue and cash flow streams, and the impact on changes to business processes, systems and controls to support recognition under the new guidance. Tariff sales to customers are determined to be in the scope of the new standard and represent a significant portion of the Company’s total operating revenues. The Company has determined that the timing or pattern of revenue recognition from tariff sales will not change. Implementation of the new standard will also not significantly change the timing or pattern of revenue recognition from other revenue streams. Upon adoption of the standard, the Company expects its disclosures to disaggregate revenues primarily by tariff based categories and off-system sales.

In January 2016, the FASB issued ASU 2016-01, Financial Instruments - Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Liabilities to enhance the reporting model for financial instruments by addressing certain aspects of recognition, measurement, presentation, and disclosure. ASU 2016-01 generally requires entities to measure equity investments that do not result in consolidation and are not accounted for under the equity method at fair value and recognize any changes in fair value in net income. The guidance for classifying and measuring investments in debt securities and loans is not changed by this ASU, but requires entities to record changes in other comprehensive income. Financial assets and financial liabilities must be separately presented by measurement category on the balance sheet or in the accompanying notes to the financial statements. ASU 2016-01 clarifies the need for a valuation allowance on a deferred tax asset related to available-for-sale securities in combination with the entity's other deferred tax assets. The provisions of this ASU become effective for reporting periods beginning after December 15, 2017. Upon adoption of the new standard, the Company expects to record the cumulative effects as of January 1, 2018 which will result in a net reduction to accumulated other comprehensive income of $41.0 million, net of tax, and a corresponding increase in retained earnings for unrealized gains (losses) related to equity securities owned by the Company.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842) to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and requiring qualitative and quantitative disclosures on leasing agreements. ASU 2016-02 maintains a distinction between finance leases and operating leases similar to the distinction under previous leases guidance for capital leases and operating leases. The impact of leases reported in the Company's operating results and statement of cash flows are expected to be similar to previous GAAP. ASU 2016-02 requires the recognition in the statement of financial position, by the lessee, of a liability to make lease payments (the lease liability) and a right-of-use asset representing its right to use the underlying asset for the lease term. How leases are recorded in regard to financial position represents a significant change from previous GAAP guidance. The lessee is permitted to make an accounting policy election to not recognize lease assets and lease liabilities for short-term leases. Implementation of the standard will be required for reporting periods beginning after December 15, 2018. Adoption of the new lease accounting standard will require the Company to apply the new standard to the earliest period using a modified retrospective approach. The Company is currently in the process of evaluating the impact of the new standard, which includes continuing to monitor activities of the FASB, including the impact of the recently issued ASU 2018-01, and the proposed project to allow entities to adopt the standard with a cumulative effect adjustment as of the beginning of the adoption year, while maintaining prior year comparative financial information and disclosures as reported. ASU 2018-01, Land Easement Practical expedient for Transition to Topic 842, provides an optional practical expedient to not evaluate existing or expired land easements under Topic 842, if those land easements were not previously accounted for as leases under Accounting Standards Codification (“ASC”) Topic 840. The Company currently anticipate s that it will apply the practical
expedient under ASU 2018-01 to its existing or expired land easements as part of its transition to Topic 842. The Company's evaluation process also includes evaluating the impact, if any, on changes to business processes, systems and controls to support recognition and disclosure under the new guidance; however, at this time the Company is unable to determine the impact this standard will have on the financial statements and related disclosures.

In June 2016, the FASB issued ASU 2016-13, Financial Instruments - Credit Losses (Topic 326). ASU 2016-13 changes how companies measure and recognize credit impairment for many financial assets. The new current expected credit loss model will require companies to immediately recognize an estimate of credit losses expected to occur over the remaining life of the financial assets that are in the scope of the standard. The ASU also makes targeted amendments to the current impairment model for available-for-sale debt securities. The provisions of ASU 2016-13 will be required for reporting periods beginning after December 15, 2019. ASU 2016-13 will be applied in a modified retrospective approach through a cumulative-effect adjustment to retained earnings as of the beginning of the first reporting period in which the guidance is implemented. The Company is currently assessing the future impact of ASU 2016-13.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments to reduce diversity in practice in how certain cash receipts and cash payments are classified in the statement of cash flows. The provisions of ASU 2016-15 will be required for reporting periods beginning after December 15, 2017. ASU 2016-15 will be applied using a retrospective transition method to each period presented. If it is impracticable to apply ASU 2016-15 retrospectively for some of the issues, the amendments for those issues may be applied prospectively as of the earliest date practicable. The Company is currently assessing the future impact of this ASU.

In March 2017, the FASB issued ASU 2017-07, Compensation - Retirement Benefits (Topic 715) Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost. ASU 2017-07 amends Accounting Standards Codification 715, Compensation - Retirement Benefits, to require companies to present the service cost component of net benefit cost in the income statement line items where compensation cost is reported. Companies will present all other components of benefit cost separately from the line item(s) that includes the service cost and outside of any subtotal of operating income. In addition, only the service cost component will be eligible for capitalization in assets. The amendments in ASU 2017-07 will be required for reporting periods beginning after December 15, 2017. The amendments in ASU 2017-07 should be applied retrospectively for the income statement presentation of the service cost component and the other components of benefit costs and prospectively, on and after the effective date, for the capitalization of the service cost component. The Company expects that the retrospective impact of implementing this ASU on the Statement of Operations for the twelve months ended December 31, 2017 would be an increase in (i) Other operations of $8.2 million, (ii) Other interest of $15.8 million, (iii) Miscellaneous non-operating income of $32.4 million, and (iv) Miscellaneous non-operating deductions of $8.4 million.

In May 2017, the FASB issued ASU 2017-09, Compensation - Stock Compensation (Topic 718), Scope of Modification Accounting, to provide guidance about when to account for a change to the terms or conditions of a share-based payment award as a modification. Under ASU 2017-09, modification accounting is required only if the fair value, the vesting conditions, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The amendments of ASU 2017-09 will be required for reporting periods beginning after December 15, 2017. ASU 2017-09 should be applied prospectively to an award modified on or after the adoption date. The Company is assessing the future impact of ASU 2017-09; however, it currently do not expect the impact of this ASU to be significant to the Company's financial conditions, results of operations or cash flows.

In February 2018, the FASB issued ASU 2018-02, Income Statement - Reporting Comprehensive Income (Topic 220) as a result of concerns raised by stakeholders due to the TCJA. More specifically, the concerns raised are that because the adjustment due to the reduction of the historical corporate income tax rate of 35% to the newly enacted corporate income tax rate of 21% is required to be made for accumulated deferred income taxes, the tax effect of items within accumulated other comprehensive income (“AOCI”) do not reflect the appropriate tax rate under current accounting standards which would result in "stranded taxes". ASU 2018-02 allows companies to reclassify stranded taxes from AOCI to retained earnings. The amount of the reclassification would be the difference between the historical corporate income tax rate of 35% and the newly enacted 21% corporate income tax rate. The provisions of ASU 2018-02 are effective for fiscal years and interim periods within that reporting period beginning after December 15, 2018. Early adoption is permitted, including adoption in any interim periods for reporting periods for which financial statements have not been issued. The Company is currently in the process of evaluating the impact of ASU 2018-02 and its impact on regulated utilities. At December 31, 2017, the Company has $7.2 million in stranded taxes in AOCI.
C. Regulation

General

The rates and services of the Company are regulated by incorporated municipalities in Texas, the PUCT, the NMPRC and the FERC. Municipal orders, ordinances and other agreements regarding rates and services adopted by Texas municipalities are subject to review and approval by the PUCT. The FERC has jurisdiction over the Company's wholesale (sales for resale) transactions, transmission service and compliance with federally-mandated reliability standards. The decisions of the PUCT, the NMPRC and the FERC are subject to judicial review.

Texas Regulatory Matters

2015 Texas Retail Rate Case Filing. On August 10, 2015, the Company filed with the City of El Paso, other municipalities incorporated in its Texas service territory, and the PUCT in Docket No. 44941, a request for an annual increase in non-fuel base revenues ("2015 Texas Retail Rate Case").

On July 21, 2016, the parties to PUCT Docket No. 44941 filed the Joint Motion to Implement Uncontested Amended and Restated Stipulation and Agreement which was unopposed by the parties (the "2016 Unopposed Settlement"). On August 25, 2016, the PUCT approved the 2016 Unopposed Settlement and issued the 2016 PUCT Final Order, as proposed. The 2016 PUCT Final Order provided for: (i) an annual non-fuel base rate increase, lower annual depreciation expense, a revised return on equity for AFUDC purposes, and the inclusion of substantially all new plant in service in rate base; (ii) an additional annual non-fuel base rate increase of $3.7 million related to Four Corners Generating Station ("Four Corners") costs, which was collected through a surcharge that terminated on July 11, 2017; (iii) removing the separate rate treatment for residential customers with solar systems that the Company had proposed in its August 10, 2015 filing; (iv) allowing the Company to recover $3.1 million in rate case expenses through a separate surcharge; and (v) allowing the Company to recover revenues associated with the relate back of rates to consumption on and after January 12, 2016 through March 31, 2016 through a separate surcharge.

Interim rates associated with the annual non-fuel base rate increase became effective on April 1, 2016. The additional surcharges associated with the incremental Four Corners costs, rate case expenses and the relate back of rates to consumption on and after January 12, 2016 through March 31, 2016 were implemented on October 1, 2016.

For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2015 Texas Retail Rate Case until it received the 2016 PUCT Final Order on August 25, 2016. Accordingly, it reported in the third quarter of 2016 the cumulative effect of the 2016 PUCT Final Order, which related back to January 12, 2016.

2017 Texas Retail Rate Case Filing. On February 13, 2017, the Company filed with the City of El Paso, other municipalities incorporated in the Company's Texas service territory and the PUCT in Docket No. 46831, a request for an increase in non-fuel base revenues ("2017 Texas Retail Rate Case"). On November 2, 2017, the Company filed the Joint Motion to Implement Uncontested Stipulation and Agreement with the Administrative Law Judges for the 2017 Texas Retail Rate Case.

On December 18, 2017, the PUCT issued its final order in the Company's rate case pending in Docket No. 46831 ("2017 PUCT Final Order"), which provides, among other things, for the following: (i) an annual non-fuel base rate increase of $14.5 million; (ii) a return on equity of 9.65%; (iii) all new plant in service as filed in the Company's rate filing package was prudent and used and useful and therefore is included in rate base; (iv) recovery of the costs of decommissioning Four Corners in the amount of $5.5 million over a seven year period beginning August 1, 2017; (v) the Company to recover reasonable rate case expenses of approximately $3.4 million through a separate surcharge over a three year period; and (vi) a requirement that the Company file a refund tariff if the federal statutory income tax rate, as it relates to the Company, is decreased before the Company files its next rate case. The 2017 PUCT Final Order also establishes baseline revenue requirements for recovery of future transmission and distribution investment costs, and includes a minimum monthly bill of $30.00 for new residential customers with distributed generation, such as private rooftop solar. Additionally, the 2017 PUCT Final Order allows for the annual recovery of $2.1 million of nuclear decommissioning funding and establishes annual depreciation expense that is approximately $1.9 million lower than the annual amount requested by the Company in its initial filing. Finally, the 2017 PUCT Final Order allows for the Company to recover revenues associated with the relate back of rates to consumption on and after July 18, 2017 through a separate surcharge.

New base rates, including additional surcharges associated with rate case expenses and the relate back of rates to consumption on and after July 18, 2017 through December 31, 2017 were implemented in January 2018.
For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2017 Texas Retail Rate Case until it received the 2017 PUCT Final Order on December 18, 2017. Accordingly, it reported in the fourth quarter of 2017 the cumulative effect of the 2017 PUCT Final Order, which related back to July 18, 2017.

The 2017 PUCT Final Order requires the Company to file a refund tariff if the federal statutory income tax rate, as it relates to the Company, is decreased before the Company files its next rate case. Following the enactment of the TCJA on December 22, 2017, and in compliance with the 2017 PUCT Final Order, the Company will reduce the recognition of Texas jurisdictional revenues beginning January 1, 2018, to approximate the tax savings resulting from the TCJA and will file a refund tariff which the Company will ask to be implemented in the first half of 2018. The refund tariff is expected to be reflected in rates over a period of a year and will be updated annually until new base rates are implemented pursuant to the Company's next rate case filing. See Part II, Item 8, Financial Statements and Supplementary Data, Note J for further details.

Energy Efficiency Cost Recovery Factor. On May 1, 2017, the Company filed its annual application, which was assigned PUCT Docket No. 47125, to establish its energy efficiency cost recovery factor ("EECRF") for 2018. In addition to projected energy efficiency costs for 2018 and a true-up to prior year actual costs, the Company requested approval of an incentive bonus for the 2016 energy efficiency program results in accordance with PUCT rules. Interim rates were approved effective January 1, 2018. The Company, the staff of the PUCT, and the City of El Paso reached an agreement that includes an incentive bonus of $0.8 million. The agreement was filed on January 25, 2018, and was approved by the PUCT on February 15, 2018.

Fuel and Purchased Power Costs. The Company's actual fuel costs, including purchased power energy costs, are recovered from customers through a fixed fuel factor. The PUCT has adopted a fuel cost recovery rule (the "Texas Fuel Rule") that allows the Company to seek periodic adjustments to its fixed fuel factor. The Company can seek to revise its fixed fuel factor based upon the approved formula at least four months after its last revision except in the month of December. The Texas Fuel Rule requires the Company to request to refund fuel costs in any month when the over-recovery balance exceeds a threshold material amount and it expects fuel costs to continue to be materially over-recovered. The Texas Fuel Rule also permits the Company to seek to surcharge fuel under-recoveries in any month the balance exceeds a threshold material amount and it expects fuel cost recovery to continue to be materially under-recovered. Fuel over- and under-recoveries are considered material when they exceed 4% of the previous twelve months' fuel costs. All such fuel revenue and expense activities are subject to periodic final review by the PUCT in fuel reconciliation proceedings.

On November 30, 2016, the Company filed a request, which was assigned PUCT Docket No. 46610, to increase its fixed fuel factor by approximately 28.8% to reflect increased fuel expenses primarily related to an increase in the price of natural gas used to generate power. The increase in the fixed fuel factor was effective on an interim basis January 1, 2017 and approved by the PUCT on January 10, 2017. As of September 30, 2017, the Company had over-recovered fuel costs in the amount of $1.1 million for the Texas jurisdiction. On October 13, 2017, the Company filed a request, which was assigned PUCT Docket No. 47692, to decrease the Texas fixed fuel factor by approximately 19% to reflect decreased fuel expenses primarily related to a decrease in the price of natural gas used to generate power. The decrease in the Texas fixed fuel factor became effective beginning with the November 2017 billing month and will continue thereafter until changed by the PUCT. At December 31, 2017, the Company had a net fuel over-recovery balance of approximately $5.8 million in Texas.

Fuel Reconciliation Proceeding. On September 27, 2016, the Company filed an application with the PUCT, designated as PUCT Docket No. 46308, to reconcile $436.6 million of Texas fuel and purchased power expenses incurred during the period of April 1, 2013 through March 31, 2016. On June 29, 2017, the PUCT approved a settlement in this proceeding. The settlement provides for the reconciliation of fuel and purchased power costs incurred from April 1, 2013 through March 31, 2016. Additionally, the settlement modifies and tightens the Palo Verde performance rewards measurement bands beginning with the 2018 performance period. The financial results for the twelve months ended December 31, 2017 include a $5.0 million, pre-tax increase to income reflecting the settlement of the Texas fuel reconciliation proceeding. This amount represents Palo Verde performance rewards associated with the 2013 to 2015 performance periods net of disallowed fuel and purchased power costs as approved in the settlement. Texas jurisdictional fuel and purchased power costs subject to prudence review are costs from April 1, 2016 through December 31, 2017 that total approximately $250.9 million.

Community Solar. On June 8, 2015, the Company filed a petition with the PUCT to initiate a community solar program that includes the construction and ownership of a 3 MW solar photovoltaic system located at the Company's Montana Power Station ("MPS"). Participation is on a voluntary basis, and customers contract for a set capacity (kW) amount and receive all energy produced. This case was assigned PUCT Docket No. 44800. The Company filed a settlement agreement among all parties on July 1, 2016 approving the program, and the PUCT approved the settlement agreement and program on September 1, 2016. On April 19,
2017, the Company announced that the entire 3 MW program was fully subscribed by approximately 1,500 Texas customers. The Community Solar facility began commercial operation on May 31, 2017.

Four Corners Generating Station. On February 17, 2015, the Company and Arizona Public Service Company ("APS") entered into an asset purchase agreement (the "Purchase and Sale Agreement") providing for the sale of the Company's interest in Four Corners to APS. The sale of the Company's interest in Four Corners closed on June 7, 2016. See Part II, Item 8, Financial Statements and Supplementary Data, Note E for further details on the sale of Four Corners.

On June 10, 2015, the Company filed an application in Texas requesting reasonableness and public interest findings and certain rate and accounting findings related to the Purchase and Sale Agreement. This case was assigned PUCT Docket No. 44805. Subsequent to the filing of the application, the case was subject to numerous procedural matters, including a March 23, 2016 order in which the PUCT determined not to dismiss the reasonableness and public interest issues in this docket but to consider the requested rate and accounting findings, including coal mine reclamation costs, in a rate case proceeding. On September 1, 2016, a motion by parties in the proceeding to suspend the procedural schedule in order to pursue settlement was approved. On March 3, 2017, the Company filed a Joint Motion to Implement Stipulation and Agreement (the "Stipulation and Agreement"), and PUCT Staff filed its recommendation that the Company's disposition of its interest in Four Corners was reasonable and consistent with the public interest. Additionally, the signatories of the Stipulation and Agreement agreed to support the recovery of the Company's Four Corners decommissioning costs in the 2017 Texas Retail Rate Case. A final order approving the Stipulation and Agreement was adopted by the PUCT on March 30, 2017. The approval to recover Four Corners decommissioning costs was included in the 2017 PUCT Final Order.

Other Required Approvals. The Company has obtained other required approvals for tariffs and other approvals required by the Texas Public Utility Regulatory Act and the PUCT.

New Mexico Regulatory Matters

2015 New Mexico Rate Case Filing. On May 11, 2015, the Company filed a request with the NMPRC, in Case No. 15-00127-UT, for an annual increase in non-fuel base rates. On June 8, 2016, the NMPRC issued the NMPRC Final Order which approved an annual increase in non-fuel base rates of approximately $0.6 million, an increase of approximately $0.5 million in other service fees and a decrease in the Company's allowed return on equity to 9.48%. The NMPRC Final Order concluded that all of the Company's new plant in service was reasonable and necessary and therefore would be recoverable in rates. The Company's rates were approved by the NMPRC effective July 1, 2016 and implemented at such time.

Future New Mexico Rate Case Filing. NMPRC Case No. 15-00109-UT required the Company to make a rate filing in New Mexico in the second quarter of 2017 using a historical test year ended December 31, 2016. On March 24, 2017, the Company, NMPRC Utility Division Staff and the New Mexico Attorney General filed a Joint Motion to Modify Filing Date Stated in Final Order requesting that the rate filing date be changed to no later than July 31, 2019, using the appropriate historical test year period. The joint request was approved by the NMPRC on April 12, 2017. The NMPRC has initiated an investigation into the impact of the TCJA on utility customers that may require earlier action by the Company. The Company is evaluating possible approaches to begin providing a refund credit for the TCJA income tax rate decrease to New Mexico customers.

Fuel and Purchased Power Costs. Historically, fuel and purchased power costs were recovered through base rates and a Fuel and Purchased Power Cost Adjustment Clause (the "FPPCAC") that accounts for changes in the costs of fuel relative to the amount included in base rates. Effective July 1, 2016, with the implementation of the NMPRC Final Order, fuel and purchased power costs are no longer recovered through base rates but are recovered through the FPPCAC. The Company's request to reconcile its fuel and purchased power costs for the period January 1, 2013 through December 31, 2014 was approved in Case No. 15-00127-UT. New Mexico jurisdictional costs subject to prudence review are costs from January 1, 2015 through December 31, 2017 that total approximately $173.1 million. As of December 31, 2017, the Company had a net fuel over-recovery balance of approximately $0.4 million in New Mexico. As required, the Company filed a request to continue use of its FPPCAC with the NMPRC on January 5, 2018 which was assigned NMPRC Case No. 18-00006-UT.

5 MW Holloman Air Force Base ("HAFB") Facility Certificate of Convenience and Necessity ("CCN"). On October 7, 2015, in NMPRC Case No. 15-00185-UT, the NMPRC issued a final order approving a CCN for a 5 MW solar power generation facility located on HAFB in the Company's service territory in New Mexico. The Company and HAFB negotiated a retail contract, which includes a power sales agreement for the facility, to replace the existing load retention agreement which was approved by final order issued October 5, 2016 in NMPRC Case No. 16-00224-UT. Construction of the solar generation facility is expected to be completed in the third quarter of 2018.

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**New Mexico Efficient Use of Energy Recovery Factor.** On July 1, 2016, the Company filed its annual application requesting approval of its 2017 Energy Efficiency and Load Management Plan and to establish energy efficiency cost recovery factors for 2017. In addition to projected energy efficiency costs for 2017, the Company requested approval of a $0.4 million incentive for 2017 energy efficiency programs in accordance with NMPRC rules. This case was assigned Case No. 16-00185-UT. On February 22, 2017, the NMPRC issued a Final Order approving the Company’s 2017 Energy Efficiency and Load Management Plan and authorizing recovery in 2017 of a base incentive of $0.4 million. The Company’s energy efficiency cost recovery factors were approved and effective in customer bills beginning on March 1, 2017.

On July 1, 2016, the Company filed its 2015 Annual Report for Energy Efficiency Programs, which included an incentive for verified 2015 program performance of $0.3 million, which was approved in Case No. 13-00176-UT. The Company recorded the $0.3 million approved incentive in operating revenues in the first quarter of 2017. In addition, on June 30, 2017, the Company filed its 2016 Annual Report for Energy Efficiency Programs, which included an incentive for verified 2016 program performance of $0.4 million that was approved in Case No. 13-00176-UT. The Company recorded the $0.4 million approved incentive in operating revenues in the third quarter of 2017.

**Revolving Credit Facility, Issuance of Long-Term Debt, and Securities Financing.** On October 7, 2015, the Company received approval in NMPRC Case No. 15-00280-UT to guarantee the issuance of up to $65.0 million of long-term debt by the Rio Grande Resources Trust ("RGRT") to finance future purchases of nuclear fuel and to refinance existing nuclear fuel debt obligations, which remains effective. On October 4, 2017, the Company received additional approval in NMPRC Case No. 17-00217-UT to amend and extend its Revolving Credit Facility ("RCF"), issue up to $350.0 million in long-term debt and to redeem and refinance the $63.5 million 2009 Series A 7.25% Pollution Control Bonds and the $37.1 million 2009 Series B 7.25% Pollution Control Bonds, which have optional redemptions beginning in 2019. The NMPRC approval to issue $350.0 million in long-term debt supersedes its prior approval.

**Other Required Approvals.** The Company has obtained other required approvals for tariffs and other approvals as required by the New Mexico Public Utility Act and the NMPRC.

**Federal Regulatory Matters**

**Revolving Credit Facility; Issuance of Long-Term Debt, Securities Financing, and Guarantee of Debt.** On October 31, 2017, the FERC issued an order in Docket No. ES17-54-000 approving the Company’s filing to (i) amend and extend the RCF; (ii) issue up to $350.0 million in long-term debt; (iii) guarantee the issuance of up to $65.0 million of long-term debt by the RGRT; and (iv) redeem and refinance the $63.5 million 2009 Series A 7.25% Pollution Control Bonds and the $37.1 million 2009 Series B 7.25% Pollution Control Bonds, which have optional redemptions beginning in 2019. The order also approves the Company's request to continue to utilize the Company's existing RCF with the ability to amend and extend at a future date. The authorization is effective from November 15, 2017 through November 14, 2019 and supersedes prior FERC approvals.

**Other Required Approvals.** The Company has obtained required approvals for rates, tariffs and other approvals as required by the FERC.

**United States Department of Energy ("DOE").** The DOE regulates the Company's exports of power to Mexico pursuant to a DOE grant of export authorization. In addition, the Company is the holder of two presidential permits issued by the DOE under which the Company constructed and operates border facilities crossing the United States/Mexico border. The DOE is authorized to assess operators of nuclear generating facilities a share of the costs of decommissioning the DOE's uranium enrichment facilities and for the ultimate costs of disposal of spent nuclear fuel. See Part II, Item 8, Financial Statements and Supplementary Data, Note E for discussion of spent fuel storage and disposal costs.

**Sales for Resale and Network Transmission Service to Rio Grande Electric Cooperative**

The Company provides firm capacity and associated energy to the Rio Grande Electric Cooperative ("RGEC") pursuant to an ongoing contract with a two-year notice to terminate provision. The Company also provides network integrated transmission service to the RGEC pursuant to the Company's Open Access Transmission Tariff ("OATT"). The contract includes a formula-based rate that is updated annually to recover non-fuel generation costs and a fuel adjustment clause designed to recover all eligible fuel and purchased power costs allocable to the RGEC. The Company's service to RGEC is regulated by FERC.


## D. Regulatory Assets and Liabilities

The Company's operations are regulated by the PUCT, the NMPRC and the FERC. Regulatory assets represent probable future recovery of previously incurred costs, which will be collected from customers through the ratemaking process. Regulatory liabilities represent probable future reductions in revenues associated with amounts that are to be credited to customers through the ratemaking process. Regulatory assets and liabilities reflected in the Company's balance sheet are presented below (in thousands):

### Regulatory assets

<table>
<thead>
<tr>
<th>Description</th>
<th>Amortization Period Ends</th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory tax assets</td>
<td>(a)</td>
<td>$40,512</td>
<td>$66,670</td>
</tr>
<tr>
<td>Loss on reacquired debt (b)</td>
<td>May 2035</td>
<td>14,926</td>
<td>15,780</td>
</tr>
<tr>
<td>Final coal reclamation</td>
<td>(c)(d)</td>
<td>4,726</td>
<td>8,181</td>
</tr>
<tr>
<td>Four Corners decommissioning</td>
<td>(e)</td>
<td>6,604</td>
<td>1,400</td>
</tr>
<tr>
<td>Nuclear fuel postload daily financing charge</td>
<td>(d)</td>
<td>3,536</td>
<td>3,831</td>
</tr>
<tr>
<td>Unrecovered issuance costs due to reissuance of PCBs (b)</td>
<td>August 2042</td>
<td>761</td>
<td>794</td>
</tr>
<tr>
<td>Texas 2015 rate case costs (f)</td>
<td>January 2021</td>
<td>1,144</td>
<td>2,670</td>
</tr>
<tr>
<td>Texas 2017 rate case costs</td>
<td>January 2021</td>
<td>3,642</td>
<td>246</td>
</tr>
<tr>
<td>Texas relate back surcharge (g)</td>
<td>January 2019</td>
<td>8,591</td>
<td>6,455</td>
</tr>
<tr>
<td>Texas demand response program</td>
<td>(h)</td>
<td>133</td>
<td>—</td>
</tr>
<tr>
<td>Texas military base discount and recovery factor</td>
<td>(i)</td>
<td>213</td>
<td>—</td>
</tr>
<tr>
<td>New Mexico renewable energy credits and related costs (j)</td>
<td>June 2022</td>
<td>5,823</td>
<td>6,937</td>
</tr>
<tr>
<td>New Mexico 2010 FPPCAC audit</td>
<td>June 2019</td>
<td>326</td>
<td>398</td>
</tr>
<tr>
<td>New Mexico Palo Verde deferred depreciation</td>
<td>(k)</td>
<td>4,263</td>
<td>4,415</td>
</tr>
<tr>
<td>New Mexico 2015 rate case costs</td>
<td>June 2019</td>
<td>644</td>
<td>1,074</td>
</tr>
<tr>
<td>New Mexico 2017 rate case costs</td>
<td>—</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>New Mexico demand response program</td>
<td>(l)</td>
<td>192</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total regulatory assets</strong></td>
<td></td>
<td><strong>$96,036</strong></td>
<td><strong>$118,861</strong></td>
</tr>
</tbody>
</table>

### Regulatory liabilities

<table>
<thead>
<tr>
<th>Description</th>
<th>Amortization Period Ends</th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory tax liabilities</td>
<td>(m)</td>
<td>$289,013</td>
<td>$10,648</td>
</tr>
<tr>
<td>Accumulated deferred investment tax credit</td>
<td>(n)</td>
<td>4,816</td>
<td>3,328</td>
</tr>
<tr>
<td>Texas energy efficiency</td>
<td>(o)</td>
<td>895</td>
<td>1,288</td>
</tr>
<tr>
<td>New Mexico energy efficiency</td>
<td>(o)</td>
<td>1,394</td>
<td>2,159</td>
</tr>
<tr>
<td>Texas military base discount and recovery factor</td>
<td>(i)</td>
<td>—</td>
<td>184</td>
</tr>
<tr>
<td>New Mexico gain on sale of assets (p)</td>
<td>June 2019</td>
<td>567</td>
<td>828</td>
</tr>
<tr>
<td><strong>Total regulatory liabilities</strong></td>
<td></td>
<td><strong>$296,685</strong></td>
<td><strong>$18,435</strong></td>
</tr>
</tbody>
</table>

(a) This item relates to (i) the regulatory treatment of the equity portion of AFUDC which is recovered in rate base by an offset with the related accumulated deferred income tax liability, and (ii) excess deferred state income taxes which are recovered through amortization to tax expense in cost of service. The amortization period for the excess deferred state income taxes is 15 years as established in the 2016 PUCT Final Order and the NMPRC Final Order.

(b) This item is recovered as a component of the weighted cost of debt and amortized over the life of the related debt issuance.

(c) This item relates to coal reclamation costs associated with Four Corners. The Texas portion was approved for recovery in the 2016 Texas Fuel Reconciliation and will be recovered over seven years through June 2023. The New Mexico amortization period is anticipated to be established in the next general rate case.

(d) This item is recovered through fuel recovery mechanisms established by tariffs.

(e) This item relates to the decommissioning of Four Corners. The Texas portion was approved for recovery in the 2017 PUCT Final Order and will be recovered over seven years through July 2024. The New Mexico amortization period is anticipated to be established in the next general rate case.

(f) The 2017 PUCT Final Order approved a new recovery period for these costs, beginning January 10, 2018.
(g) This item relates to the recovery of revenues through two separate surcharges; one for the 2015 Texas Retail Rate Case relate back revenues beginning October 1, 2016 and ending September 30, 2017, and a second surcharge for the 2017 Texas Retail Rate Case relate back revenues beginning January 10, 2018 and ending January 9, 2019. See Part II, Item 8, Financial Statements and Supplementary Data, Note C.
(h) Recovery of this item will be addressed in the next EECRF filing.
(i) This item represents the net asset/net liability related to the military discount which is recovered from non-military customers through a recovery factor that is set annually.
(j) This item relates to renewable energy credits and procurement plan costs, of which a component has been approved for recovery in the NMPRC Final Order. The remaining balance will be requested for recovery in the next general rate case.
(k) The amortization period for this item is based upon the Nuclear Regulatory Commission license life for each unit at Palo Verde.
(l) Amortization period is anticipated to be established in next general rate case.
(m) This item primarily relates to the reduction in the federal corporate income tax rate from 35% to 21% as enacted by the TCJA. The amortization period for the recovery on this item will be addressed in the next base rate filings in all jurisdictions. See Part II, Item 8, Financial Statements and Supplementary Data, Note J for further details.
(n) The amortization period is based upon the life of the associated assets.
(o) This item is recovered or credited through a recovery factor that is set annually.
(p) This item relates to the gains on the sales of assets the Company shares with its New Mexico customers over a three year period.
E. Utility Plant, Palo Verde and Other Jointly-Owned Utility Plant

The table below presents the balance of each major class of depreciable assets at December 31, 2017 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Gross Plant</th>
<th>Accumulated Depreciation</th>
<th>Net Plant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nuclear production</td>
<td>$994,075</td>
<td>$(338,699)</td>
<td>$655,376</td>
</tr>
<tr>
<td>Steam and other</td>
<td>952,672</td>
<td>(214,551)</td>
<td>738,121</td>
</tr>
<tr>
<td><strong>Total production</strong></td>
<td><strong>1,946,747</strong></td>
<td><strong>(553,250)</strong></td>
<td><strong>1,393,497</strong></td>
</tr>
<tr>
<td>Transmission</td>
<td>520,126</td>
<td>(264,480)</td>
<td>255,646</td>
</tr>
<tr>
<td>Distribution</td>
<td>1,183,289</td>
<td>(374,438)</td>
<td>808,851</td>
</tr>
<tr>
<td>General</td>
<td>226,325</td>
<td>(66,347)</td>
<td>159,978</td>
</tr>
<tr>
<td>Intangible</td>
<td>105,608</td>
<td>(61,660)</td>
<td>43,948</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$3,982,095</td>
<td>$(1,320,175)</td>
<td>$2,661,920</td>
</tr>
</tbody>
</table>

The Company owns a 15.8% interest in each of the three nuclear generating units and common facilities at Palo Verde, in Wintersburg, Arizona. The Palo Verde Participants include the Company and six other utilities: APS, Southern California Edison Company ("SCE"), PNM, Southern California Public Power Authority, Salt River Project Agricultural Improvement and Power District ("SRP") and the Los Angeles Department of Water and Power.

A summary of the Company’s investment in jointly-owned utility plant, excluding fuel inventories, at December 31, 2017 and 2016 is as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Palo Verde</td>
<td>Other (a)</td>
</tr>
<tr>
<td>Electric plant in service</td>
<td>$994,075</td>
<td>$97,603</td>
</tr>
<tr>
<td>Accumulated depreciation</td>
<td>(338,699)</td>
<td>(72,822)</td>
</tr>
<tr>
<td>Construction work in progress</td>
<td>40,946</td>
<td>1,014</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$696,322</td>
<td>$25,795</td>
</tr>
</tbody>
</table>

(a) Includes three jointly-owned transmission lines.

Amortization of intangible plant (software) is provided on a straight-line basis over the estimated useful life of the asset (ranging from 3 to 15 years). The table below presents the actual and estimated amortization expense for intangible plant for the previous three years and for the next five years (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018 (estimated)</th>
<th>2019 (estimated)</th>
<th>2020 (estimated)</th>
<th>2021 (estimated)</th>
<th>2022 (estimated)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$6,482</td>
<td>5,302</td>
<td>6,409</td>
<td>6,835</td>
<td>6,485</td>
<td>6,048</td>
<td>5,128</td>
<td>4,328</td>
</tr>
</tbody>
</table>
Palo Verde

The operation of Palo Verde and the relationship among the Palo Verde Participants is governed by the Arizona Nuclear Power Project Participation Agreement (the "ANPP Participation Agreement"). APS serves as operating agent for Palo Verde, and under the ANPP Participation Agreement, the Company has limited ability to influence operations and costs at Palo Verde. Pursuant to the ANPP Participation Agreement, the Palo Verde Participants share costs and generating entitlements in the same proportion as their percentage interests in the generating units, and each participant is required to fund its share of fuel, other operations, maintenance and capital costs. The Company’s share of direct expenses in Palo Verde and other jointly-owned utility plants is reflected in fuel expense, other operations expense, maintenance expense, miscellaneous other deductions, and taxes other than income taxes in the Company’s statements of operations. The ANPP Participation Agreement provides that if a participant fails to meet its payment obligations, each non-defaulting participant shall pay its proportionate share of the payments owed by the defaulting participant. Because it is impracticable to predict defaulting participants, the Company cannot estimate the maximum potential amount of future payment, if any, which could be required under this provision.

Nuclear Regulatory Commission. The Nuclear Regulatory Commission ("NRC") regulates the operation of all commercial nuclear power reactors in the United States, including Palo Verde. The NRC periodically conducts inspections of nuclear facilities and monitors performance indicators to enable the agency to arrive at objective conclusions about a licensee’s safety performance.

Palo Verde Operating Licenses. Operation of each of the three Palo Verde Units requires an operating license from the NRC. The NRC issued full power operating licenses for Unit 1 in June 1985, Unit 2 in April 1986 and Unit 3 in November 1987 and issued renewed operating licenses for each of the three units in April 2011, which extended the licenses for Units 1, 2 and 3 to June 2045, April 2046 and November 2047, respectively.

Decommissioning. Pursuant to the ANPP Participation Agreement and federal law, the Company funds its share of the estimated costs to decommission Palo Verde Units 1, 2 and 3, including the Common Facilities, through the term of their respective operating licenses and is required to maintain a minimum accumulation and funding level in its decommissioning account at the end of each annual reporting period during the life of the plant. The Company has established external trusts with an independent trustee, which enables the Company to record a current deduction for federal income tax purposes for most of the amounts funded. At December 31, 2017, the Company’s decommissioning trust fund had a balance of $286.9 million, which is above its minimum funding level. The Company monitors the status of its decommissioning funds and adjusts deposits, if necessary.

Decommissioning costs are estimated every three years based upon engineering cost studies performed by outside engineers retained by APS. In April 2017, the Palo Verde Participants approved the 2016 Palo Verde decommissioning study ("2016 Study"). The 2016 Study estimated that the Company must fund approximately $432.8 million (stated in 2016 dollars) to cover its share of decommissioning costs which was an increase in decommissioning costs of $52.1 million (stated in 2016 dollars) from the 2013 Palo Verde decommissioning study. The effect of this change increased the ARO by $3.5 million, which was recorded during the second quarter of 2017, and increased annual expenses starting in April 2017. Although the 2016 Study was based on the latest available information, there can be no assurance that decommissioning cost estimates will not increase in the future or that regulatory requirements will not change. In addition, until a new low-level radioactive waste repository opens and operates for a number of years, estimates of the cost to dispose of low-level radioactive waste are subject to uncertainty. As provided in the ANPP Participation Agreement, the participants are required to conduct a new decommissioning study every three years. While the Company attempts to seek amounts in rates to meet its decommissioning obligations, it is not able to conclude given the evidence available to it now that it is probable these costs will continue to be collected over the period until decommissioning begins in 2044. The Company is ultimately responsible for these costs and its future actions combined with future decisions from regulators will determine how successful the Company is in this effort.

Spent Fuel and Waste Disposal. Pursuant to the Nuclear Waste Policy Act of 1982, as amended in 1987 (the "NWPA"), the DOE is legally obligated to accept and dispose of all spent nuclear fuel and other high-level radioactive waste generated by all domestic power reactors by 1998. The DOE's obligations are reflected in a contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (the "Standard Contract") with each nuclear power plant. The DOE failed to begin accepting spent nuclear fuel by 1998. On December 19, 2012, APS, acting on behalf of itself and the Palo Verde Participants, filed a second breach of contract lawsuit against the DOE. This lawsuit sought to recover damages incurred due to the DOE’s failure to accept Palo Verde’s spent nuclear fuel for the period beginning January 1, 2007 through June 30, 2011. On August 18, 2014, APS and the DOE entered into a settlement agreement stipulating to a dismissal of the lawsuit. Pursuant to the terms of the August 18, 2014 settlement agreement, APS files annual claims for the period July 1 of the then-previous year to June 30 of the then-current year. The settlement agreement, as amended, provides APS with a method for submitting claims and receiving recovery for costs incurred through December 31, 2016, which has been extended to December 31, 2019. The Company's share of costs recovered are presented.
below (in thousands):

<table>
<thead>
<tr>
<th>Costs Recovery Period</th>
<th>Amount Credited to Customers through Fuel Adjustment Clauses</th>
<th>Period Credited to Customers</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2007 - June 2011</td>
<td>$9,076</td>
<td>$7,944</td>
</tr>
<tr>
<td>July 2011 - June 2014</td>
<td>6,643</td>
<td>5,759</td>
</tr>
<tr>
<td>July 2014 - June 2015</td>
<td>1,884</td>
<td>1,581</td>
</tr>
<tr>
<td>July 2015 - June 2016</td>
<td>1,779</td>
<td>1,432</td>
</tr>
</tbody>
</table>

On October 31, 2017, APS filed an $8.9 million claim for the period July 1, 2016 through June 30, 2017. The Company's share of this claim is approximately $1.4 million. In February 2018, the DOE approved this claim. Any reimbursement is anticipated to be received in the first half of 2018, and the majority of the reimbursement received by the Company is expected to be credited to customers through the applicable fuel adjustment clauses.

**DOE’s Construction Authorization Application for Yucca Mountain.** The DOE had planned to meet its disposal obligations by designing, licensing, constructing and operating a permanent geologic repository in Yucca Mountain, Nevada. In March 2010, the DOE filed a motion to dismiss with prejudice its Yucca Mountain construction authorization application that was pending before the NRC. Several interested parties have intervened in the NRC proceeding. The Company cannot predict when spent fuel shipments to the DOE will commence.

Palo Verde has sufficient capacity at its on-site independent spent fuel storage installation (“ISFSI”) to store all of the nuclear fuel that will be irradiated during the initial operating license period, which ends in December 2027. Additionally, Palo Verde has sufficient capacity at its on-site ISFSI to store a portion of the fuel that will be irradiated during the period of extended operation, which ends in November 2047. If uncertainties regarding the United States government’s obligation to accept and store spent fuel are not favorably resolved, APS will evaluate alternative storage solutions that may obviate the need to expand the ISFSI to accommodate all of the fuel that will be irradiated during the period of extended operation.

**Liability and Insurance Matters.** The Palo Verde Participants have insurance for public liability resulting from nuclear energy hazards to the full limit of liability under federal law, which is currently at $13.4 billion. This potential liability is covered by primary liability insurance provided by commercial insurance carriers in the amount of $450.0 million, and the balance is covered by an industry-wide retrospective assessment program. If a loss at a nuclear power plant covered by the programs exceeds the accumulated funds in the primary level of protection, the Company could be assessed retrospective premium adjustments on a per incident basis. Under federal law, the maximum assessment per reactor under the program for each nuclear incident is approximately $127.3 million, subject to an annual limit of $19.0 million. Based upon the Company's 15.8% interest in the three Palo Verde units, the Company's maximum potential assessment per incident for all three units is approximately $60.4 million, with an annual payment limitation of approximately $9.0 million.

The Palo Verde Participants maintain $2.75 billion of “all risk” nuclear property insurance. The insurance provides coverage for property damage and decontamination at Palo Verde. For covered incidents involving property damage not accompanied by a release of radioactive material, the policy's coverage limit is $2.25 billion. The Company has also secured insurance against portions of any increased cost of generation or purchased power and business interruption resulting from a sudden and unforeseen outage of any of the three units. The insurance coverage discussed in this and the previous paragraph is subject to certain policy conditions and exclusions. A mutual insurance company whose members are utilities with nuclear facilities issues these policies. If losses at any nuclear facility covered by this mutual insurance company were to exceed the accumulated funds for these insurance programs, the Company could be assessed retrospective premium adjustments of up to $13.0 million for the current policy period.

**Palo Verde Operations and Maintenance Expense.** Included in other operations and maintenance expenses are expenses associated with Palo Verde as follows (in thousands):

<table>
<thead>
<tr>
<th>Years Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
</tr>
<tr>
<td>$99,364</td>
</tr>
</tbody>
</table>

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Four Corners

On July 6, 2016, the Company sold its interests in Four Corners for $32.0 million to 4C Acquisition, LLC, an affiliate of APS ("APS's affiliate"), and Pinnacle West Capital Corporation ("Pinnacle West"), the parent company of APS and APS's affiliate. No significant gain or loss was recorded for this sale. APS's affiliate assumed responsibility for all Four Corners capital expenditures made after July 6, 2016, which assumption is guaranteed by Pinnacle West. In addition, APS's affiliate will indemnify the Company against certain liabilities and costs related to the future operation of Four Corners, which indemnification is guaranteed by Pinnacle West. See Part II, Item 8, Financial Statements and Supplementary Data, Note C for a discussion of regulatory filings associated with Four Corners.

F.    Accounting for Asset Retirement Obligation

The Company records its ARO in accordance with the FASB guidance. This guidance affects the accounting for the decommissioning of Palo Verde and the method used to report the decommissioning obligation. The Company also complies with the FASB guidance for conditional ARO which primarily affects the accounting for the disposal obligations of the Company's fuel oil storage tanks, water wells, evaporative ponds and asbestos found at the Company's gas-fired generating plants. The Company's ARO are subject to various assumptions and determinations such as: (i) whether a legal obligation exists to remove assets; (ii) estimation of the fair value of the costs of removal; (iii) when final removal will occur; (iv) future changes in decommissioning cost escalation rates; and (v) the credit-adjusted interest rates to be utilized in discounting future liabilities. Changes that may arise over time with regard to these assumptions and determinations will change amounts recorded in the future as an expense for ARO. If the Company incurs or assumes any liability in retiring any asset at the end of its useful life without a legal obligation to do so, it will record such retirement costs as incurred.

The ARO liability for Palo Verde is based upon the estimated cost of decommissioning the plant from the 2016 Palo Verde decommissioning study. See Part II, Item 8, Financial Statements and Supplementary Data, Note E. The ARO liability is calculated by adjusting the estimated decommissioning costs for spent fuel storage and a profit margin and market-risk premium factor. The resulting costs are escalated over the remaining life of the plant and finally discounted using a credit-risk adjusted discount rate. As Palo Verde approaches the end of its estimated useful life, the difference between the ARO liability and future current cost estimates will narrow over time due to the accretion of the ARO liability. Because the DOE is obligated to assume responsibility for the permanent disposal of spent fuel, such costs have not been included in the ARO calculation. The Company maintains six external trust funds with an independent trustee that are legally restricted to settling its ARO at Palo Verde. The fair value of the funds at December 31, 2017 is $286.9 million.

The FASB guidance requires the Company to revise its previously recorded ARO for any changes in estimated cash flows including changes in estimated probabilities related to timing of settlements. Any changes that result in an upward revision to estimated cash flows shall be treated as a new liability. Any downward revisions to the estimated cash flows result in a reduction to the previously recorded ARO. The 2013 Study resulted in a downward revision of $1.9 million. In the second quarter of 2017, the Company implemented the results of the 2016 Palo Verde decommissioning study and revised its ARO related to Palo Verde to increase its estimated cash flows from the 2013 Study to the 2016 Study. See Part II, Item 8, Financial Statements and Supplementary Data, Note E. The assumptions used to calculate the increases to the Palo Verde ARO liability are as follows:

<table>
<thead>
<tr>
<th>Escalation Rate</th>
<th>Credit-Risk Adjusted Discount Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original ARO liability</td>
<td>3.60%</td>
</tr>
<tr>
<td>Incremental ARO liability (2010)</td>
<td>3.60%</td>
</tr>
<tr>
<td>Incremental ARO liability (2016)</td>
<td>3.25%</td>
</tr>
</tbody>
</table>

An analysis of the activity of the Company's total ARO liability from January 1, 2015 through December 31, 2017, including the effects of each year’s estimate revisions, is presented below (in thousands). In 2017, the estimate revision reflects increases in the estimated cash flows related to Palo Verde's decommissioning due to implementing the 2016 Palo Verde decommissioning study. In 2016, the settled liabilities reflect the sale of the Company's interest in Four Corners including the related ARO.
EL PASO ELECTRIC COMPANY
NOTES TO FINANCIAL STATEMENTS

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ARO liability at beginning of year  2017  2016  2015
$ 81,800  $ 81,621  $ 74,577
Liabilities incurred  138 — 189
Liabilities settled  (19) (6,993) —
Revisions to estimate  3,461 — —
Accretion expense  7,649  7,172  6,855
ARO liability at end of year  $ 93,029  $ 81,800  $ 81,621

The Company has transmission and distribution lines which are operated under various land rights agreements. Upon the expiration of any non-perpetual land rights agreement, the Company may have a legal obligation to remove the lines; however, the Company has assessed the likelihood of this occurring as remote. The majority of these agreements are perpetual or include renewal options which the Company routinely exercises. The amount of cost of removal collected in rates for non-legal liabilities has not been material.

G. Common Stock

Overview

The Company’s common stock has a stated value of $1 per share, with no cumulative voting rights or preemptive rights. Holders of the common stock have the right to elect the Company’s directors and to vote on other matters.

Long-Term Incentive Plan

On May 29, 2014, the Company’s shareholders approved an amended and restated stock-based long-term incentive plan (the "Amended and Restated 2007 LTIP") and authorized the issuance of up to 1.7 million shares of the Company's common stock for the benefit of directors and employees. Under the Amended and Restated 2007 LTIP, shares of the Company's common stock may be issued through the award or grant of non-statutory stock options, incentive stock options, stock appreciation rights, restricted stock, bonus stock, performance stock, cash-based awards and other stock-based awards. The Company may issue new shares, purchase shares on the open market, or issue shares from shares of the Company's common stock the Company has repurchased to meet the share requirements of the Amended and Restated 2007 LTIP. Beginning in 2015, shares of the Company's common stock issued for employee benefit and stock incentive plans have been issued from the shares repurchased and held in treasury stock. As discussed in Part II, Item 8, Financial Statements and Supplementary Data, Note A, the Company accounts for its stock-based long-term incentive plan under the FASB guidance for stock-based compensation.

Restricted Stock with Service Condition and Other Stock-Based Awards. The Company has awarded restricted stock and other stock-based awards under its long-term incentive plan. Restrictions from resale on restricted stock awards generally lapse and awards vest over periods of one to three years, subject to continuous service requirements. The market value of the unvested restricted stock at the date of grant is amortized to expense over the restriction period net of anticipated forfeitures. Other stock-based awards, granted to directors in lieu of cash for retainers and meeting fees, are fully vested and are expensed at fair value on the date of grant and are not included in the tables below.

The expense, deferred tax benefit, and current tax expense recognized related to restricted stock and other stock-based awards in 2017, 2016 and 2015 is presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expense (a)</td>
<td>$2,997</td>
<td>$2,594</td>
<td>$2,755</td>
</tr>
<tr>
<td>Deferred tax benefit</td>
<td>1,049</td>
<td>908</td>
<td>964</td>
</tr>
<tr>
<td>Current tax benefit recognized</td>
<td>318</td>
<td>183</td>
<td>43</td>
</tr>
</tbody>
</table>

(a) Any capitalized costs related to these expenses is less than $0.3 million for all years.
The aggregate intrinsic value and fair value at grant date of restricted stock and other stock-based awards which vested in 2017, 2016 and 2015 is presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggregated intrinsic value</td>
<td>$3,711</td>
<td>$2,515</td>
<td>$3,451</td>
</tr>
<tr>
<td>Fair value at grant date</td>
<td>2,803</td>
<td>1,993</td>
<td>3,327</td>
</tr>
</tbody>
</table>

The unvested restricted stock transactions for 2017 are presented below:

<table>
<thead>
<tr>
<th></th>
<th>Total Shares</th>
<th>Weighted Average Grant Date Fair Value</th>
<th>Unrecognized Compensation Expense (a)</th>
<th>Aggregate Intrinsic Value (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restricted shares outstanding at December 31, 2016 (b)</td>
<td>109,393</td>
<td>$39.90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stock awards</td>
<td>70,273</td>
<td>49.78</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vested</td>
<td>(68,470)</td>
<td>40.93</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forfeitures</td>
<td>(4,961)</td>
<td>40.18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restricted shares outstanding at December 31, 2017 (b)</td>
<td>106,235</td>
<td>45.76</td>
<td>$2,005</td>
<td>$5,880</td>
</tr>
</tbody>
</table>

(a) The unrecognized compensation expense is expected to be recognized over the weighted average remaining contractual term of the outstanding restricted stock of approximately one year.

(b) Excludes the stock based retention grant to the President and Chief Executive Officer ("CEO") of 27,624 shares. See "Restricted Stock with a Market Condition (Performance Shares)" section below for further details.

The holder of a restricted stock award has rights as a shareholder of the Company, including the right to vote and receive cash dividends on restricted stock.
Restricted Stock with a Market Condition (Performance Shares) . The Company has granted performance share awards to certain officers under the Company’s Amended and Restated 2007 LTIP, which provides for issuance of Company stock based on the achievement of certain performance criteria over a three-year period. The payout varies between 0% to 200% of performance share awards.

Detail of performance shares vested follows:

<table>
<thead>
<tr>
<th>Date Vested</th>
<th>Payout Ratio</th>
<th>Performance Shares Awarded</th>
<th>Compensation Costs Expensed (In thousands)</th>
<th>Period Compensation Costs Expensed</th>
<th>Aggregated Intrinsic Value (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 31, 2018</td>
<td>175%</td>
<td>68,379</td>
<td>$1,499</td>
<td>2015-2017</td>
<td>$3,569</td>
</tr>
<tr>
<td>January 25, 2017</td>
<td>32%</td>
<td>11,314</td>
<td>932</td>
<td>2014-2016</td>
<td>512</td>
</tr>
<tr>
<td>January 27, 2016</td>
<td>0%</td>
<td>0</td>
<td>851</td>
<td>2013-2015</td>
<td>—</td>
</tr>
<tr>
<td>February 20, 2015</td>
<td>0%</td>
<td>0</td>
<td>1,502</td>
<td>2012-2014</td>
<td>—</td>
</tr>
</tbody>
</table>

In 2018, 2019 and 2020, subject to meeting certain performance criteria and continuous service requirements, additional performance shares could vest. In accordance with the FASB guidance related to stock-based compensation, the Company recognizes the related compensation expense by ratably amortizing the grant date fair value of awards over the requisite service period and the compensation expense is only adjusted for forfeitures. As of December 31, 2017, the maximum number of shares that can be issued under the plan are 280,159 shares.

The fair value at the date of each separate grant of performance shares was based upon a Monte Carlo simulation. The Monte Carlo simulation reflected the structure of the performance plan which calculates the share payout on performance of the Company relative to a defined peer group over a three-year performance period based upon total return to shareholders. The fair value was determined as the average payout of one million simulation paths discounted to the grant date using a risk-free interest rate based upon the constant maturity treasury rate yield curve at the grant date. The expected volatility of total return to shareholders is calculated in accordance with the performance shares’ term structure and includes the volatilities of all members of the defined peer group.

The outstanding performance share awards at the 100% performance level is summarized below:

<table>
<thead>
<tr>
<th>Number Outstanding</th>
<th>Weighted Average Grant Date Fair Value (In thousands)</th>
<th>Unrecognized Compensation Expense (b) (In thousands)</th>
<th>Aggregate Intrinsic Value (In thousands)</th>
</tr>
</thead>
</table>

Performance shares outstanding at December 31, 2016 (a) | 166,444 | $34.40 |
Performance share awards | 51,493 | 42.62 |
Performance shares vested | (11,314) | 26.36 |
Performance shares expired | (24,057) | 26.36 |
Performance shares forfeited | (9,975) | 39.53 |
Performance shares outstanding at December 31, 2017 (a) | 172,591 | 38.21 | $2,048 | $9,553 |

(a) On December 15, 2015, the Company issued a stock based retention grant to the President and CEO of 27,624 shares in accordance with the Amended and Restated 2007 LTIP that is eligible for vesting based on the achievement of certain performance conditions and a five-year service period, as stated in the CEO's employment agreement. The performance condition was met as of November 2016 as determined by the Compensation Committee, and has been included in the beginning and ending balance in the table above.
(b) The unrecognized compensation expense is expected to be recognized over the weighted average remaining contractual term of the awards of approximately one year, except for the CEO retention grant.

A summary of information related to performance shares for 2017, 2016 and 2015 is presented below:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weighted average per share grant date fair value per share of performance shares awarded</td>
<td>$42.62</td>
<td>$38.11</td>
<td>$35.72</td>
</tr>
<tr>
<td>Fair value of performance shares vested (in thousands)</td>
<td>298</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Intrinsic value of performance shares vested (in thousands) (a)</td>
<td>512</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Compensation expense (in thousands) (b) (c)</td>
<td>2,012</td>
<td>1,655</td>
<td>1,042</td>
</tr>
<tr>
<td>Deferred tax benefit related to compensation expense (in thousands) (b)</td>
<td>704</td>
<td>579</td>
<td>365</td>
</tr>
</tbody>
</table>

(a) Based on a 100% performance level.
(b) Includes adjustments for estimated forfeitures.
(c) Includes CEO retention grant.

Repurchase Program

No shares of the Company's common stock were repurchased during the twelve months ended December 31, 2017. Detail regarding the Company's stock repurchase program are presented below:

<table>
<thead>
<tr>
<th></th>
<th>Since 1999</th>
<th>Authorized Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shares repurchased (b)</td>
<td>25,406,184</td>
<td>393,816</td>
</tr>
<tr>
<td>Cost, including commission (in thousands)</td>
<td>$423,647</td>
<td></td>
</tr>
</tbody>
</table>

Total remaining shares available for repurchase at December 31, 2017

(a) Represents repurchased shares and cost since inception of the stock repurchase program in 1999.
(b) Shares repurchased does not include 86,735 treasury shares related to employee compensation arrangements outside of the Company's repurchase programs.

Beginning in 2015, shares of the Company's common stock issued for employee benefit and stock incentive plans have been issued from the shares repurchased and held in treasury stock. The Company awarded 256,929 shares, net of shares withheld for taxes, out of treasury stock during 2017.

The Company may in the future make purchases of shares of its common stock pursuant to its authorized program in open market transactions at prevailing prices and may engage in private transactions where appropriate. The repurchased shares will be available for issuance under employee benefit and stock incentive plans, or may be retired.

Dividend Policy

On December 29, 2017, the Company paid $13.6 million in quarterly cash dividends to shareholders. The Company paid a total of $53.3 million, $49.6 million and $47.1 million in cash dividends during the twelve months ended December 31, 2017, 2016 and 2015, respectively. On February 1, 2018, the Board of Directors declared a quarterly cash dividend of $0.335 per share payable on March 30, 2018 to shareholders of record as of the close of business on March 16, 2018.
Basic and Diluted Earnings Per Share

The FASB guidance requires the Company to include share-based compensation awards that qualify as participating securities in both basic and diluted earnings per share to the extent they are dilutive. A share-based compensation award is considered a participating security if it receives non-forfeitable dividends or may participate in undistributed earnings with common stock. The Company awards unvested restricted stock which qualifies as a participating security. The basic and diluted earnings per share are presented below:

<table>
<thead>
<tr>
<th>Years Ended December 31,</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weighted average number of common shares outstanding:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic number of common shares outstanding</td>
<td>40,414,556</td>
<td>40,350,688</td>
<td>40,274,986</td>
</tr>
<tr>
<td>Dilutive effect of unvested performance awards</td>
<td>120,635</td>
<td>57,345</td>
<td>33,576</td>
</tr>
<tr>
<td>Diluted number of common shares outstanding</td>
<td>40,535,191</td>
<td>40,408,033</td>
<td>40,308,562</td>
</tr>
</tbody>
</table>

Basic net income per common share:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income</td>
<td>98,261</td>
<td>96,768</td>
<td>81,918</td>
</tr>
<tr>
<td>Income allocated to participating restricted stock</td>
<td>(368)</td>
<td>(321)</td>
<td>(243)</td>
</tr>
<tr>
<td>Net income available to common shareholders</td>
<td>97,893</td>
<td>96,447</td>
<td>81,675</td>
</tr>
</tbody>
</table>

Diluted net income per common share:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net income</td>
<td>98,261</td>
<td>96,768</td>
<td>81,918</td>
</tr>
<tr>
<td>Income reallocated to participating restricted stock</td>
<td>(368)</td>
<td>(321)</td>
<td>(243)</td>
</tr>
<tr>
<td>Net income available to common shareholders</td>
<td>97,893</td>
<td>96,447</td>
<td>81,675</td>
</tr>
</tbody>
</table>

Basic net income per common share:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distributed earnings</td>
<td>1.315</td>
<td>1.225</td>
<td>1.165</td>
</tr>
<tr>
<td>Undistributed earnings</td>
<td>1.105</td>
<td>1.165</td>
<td>0.865</td>
</tr>
<tr>
<td>Basic net income per common share</td>
<td>2.420</td>
<td>2.390</td>
<td>2.030</td>
</tr>
</tbody>
</table>

Diluted net income per common share:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distributed earnings</td>
<td>1.315</td>
<td>1.225</td>
<td>1.165</td>
</tr>
<tr>
<td>Undistributed earnings</td>
<td>1.105</td>
<td>1.165</td>
<td>0.865</td>
</tr>
<tr>
<td>Diluted net income per common share</td>
<td>2.420</td>
<td>2.390</td>
<td>2.030</td>
</tr>
</tbody>
</table>

The amount of restricted stock awards and performance shares at 100% performance level excluded from the calculation of the diluted number of common shares outstanding because their effect was antidilutive is presented below:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restricted stock awards</td>
<td>67,739</td>
<td>53,703</td>
<td>56,375</td>
</tr>
<tr>
<td>Performance shares (a)</td>
<td>—</td>
<td>47,246</td>
<td>66,804</td>
</tr>
</tbody>
</table>

(a) Certain performance shares were excluded from the computation of diluted earnings per share as no payouts would have been required based upon performance at the end of each corresponding period.
H. Accumulated Other Comprehensive Income (Loss)

Changes in Accumulated Other Comprehensive Income (Loss) (net of tax) by component are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Unrecognized Pension and Post-retirement Benefit Costs</th>
<th>Net Unrealized Gains (Losses) on Marketable Securities</th>
<th>Net Losses on Cash Flow Hedges</th>
<th>Accumulated Other Comprehensive Income (Loss)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at December 31, 2014</td>
<td>$34,884</td>
<td>$38,957</td>
<td>$(12,074)</td>
<td>$(8,001)</td>
</tr>
<tr>
<td>Other comprehensive income (loss) before reclassifications</td>
<td>3,777</td>
<td>(2,255)</td>
<td>—</td>
<td>1,522</td>
</tr>
<tr>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td>1,238</td>
<td>(8,937)</td>
<td>264</td>
<td>(7,435)</td>
</tr>
<tr>
<td>Balance at December 31, 2015</td>
<td>(29,869)</td>
<td>27,765</td>
<td>(11,810)</td>
<td>(13,914)</td>
</tr>
<tr>
<td>Other comprehensive income before reclassifications</td>
<td>7,363</td>
<td>6,904</td>
<td>—</td>
<td>14,267</td>
</tr>
<tr>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td>(1,422)</td>
<td>(6,206)</td>
<td>159</td>
<td>(7,469)</td>
</tr>
<tr>
<td>Balance at December 31, 2016</td>
<td>(23,928)</td>
<td>28,463</td>
<td>(11,651)</td>
<td>(7,116)</td>
</tr>
<tr>
<td>Other comprehensive income before reclassifications</td>
<td>7,951</td>
<td>20,251</td>
<td>—</td>
<td>28,202</td>
</tr>
<tr>
<td>Amounts reclassified from accumulated other comprehensive income (loss)</td>
<td>(1,813)</td>
<td>(8,524)</td>
<td>309</td>
<td>(10,028)</td>
</tr>
<tr>
<td>Balance at December 31, 2017</td>
<td>$17,790</td>
<td>$40,190</td>
<td>$(11,342)</td>
<td>$11,058</td>
</tr>
</tbody>
</table>

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Amounts reclassified from Accumulated Other Comprehensive Income (Loss) for the twelve months ended December 31, 2017, 2016 and 2015 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Details about Accumulated Other Comprehensive Income (Loss) Components</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>Affected Line Item in the Statements of Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amortization of pension and post-retirement benefit costs:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>$9,657</td>
<td>$7,407</td>
<td>$6,574</td>
<td>(a)</td>
</tr>
<tr>
<td>Net loss</td>
<td>(6,776)</td>
<td>(4,965)</td>
<td>(8,622)</td>
<td>(a)</td>
</tr>
<tr>
<td></td>
<td>2,881</td>
<td>2,442</td>
<td>(2,048)</td>
<td>(a)</td>
</tr>
<tr>
<td>Income tax effect</td>
<td>(1,068)</td>
<td>(1,020)</td>
<td>810</td>
<td>Income tax expense</td>
</tr>
<tr>
<td></td>
<td>1,813</td>
<td>1,422</td>
<td>(1,238)</td>
<td>Net income</td>
</tr>
<tr>
<td>Marketable securities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net realized gain on sale of securities</td>
<td>10,626</td>
<td>7,640</td>
<td>11,114</td>
<td>Investment and interest income, net</td>
</tr>
<tr>
<td></td>
<td>10,626</td>
<td>7,640</td>
<td>11,114</td>
<td>Income before income taxes</td>
</tr>
<tr>
<td>Income tax effect</td>
<td>(2,102)</td>
<td>(1,434)</td>
<td>(2,177)</td>
<td>Income tax expense</td>
</tr>
<tr>
<td></td>
<td>8,524</td>
<td>6,206</td>
<td>8,937</td>
<td>Net income</td>
</tr>
<tr>
<td>Loss on cash flow hedge:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amortization of loss</td>
<td>(532)</td>
<td>(498)</td>
<td>(467)</td>
<td>Interest on long-term debt and revolving credit facility</td>
</tr>
<tr>
<td></td>
<td>(532)</td>
<td>(498)</td>
<td>(467)</td>
<td>Income before income taxes</td>
</tr>
<tr>
<td>Income tax effect</td>
<td>223</td>
<td>339</td>
<td>203</td>
<td>Income tax expense</td>
</tr>
<tr>
<td></td>
<td>(309)</td>
<td>(159)</td>
<td>(264)</td>
<td>Net income</td>
</tr>
<tr>
<td>Total reclassifications</td>
<td>$10,028</td>
<td>$7,469</td>
<td>$7,435</td>
<td></td>
</tr>
</tbody>
</table>

(a) These items are included in the computation of net periodic benefit cost. See Part II, Item 8, Financial Statements and Supplementary Data, Note M for additional information.
I. Long-Term Debt and Financing Obligations

Outstanding long-term debt and financing obligations, net of issuance costs, are as follows:

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017 (In thousands)</th>
<th>December 31, 2016 (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Long-Term Debt:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pollution Control Bonds (1):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.25% 2009 Series A refunding bonds, due 2040 (7.46% effective interest rate)</td>
<td>$62,657</td>
<td>$62,619</td>
</tr>
<tr>
<td>4.50% 2012 Series A refunding bonds, due 2042 (4.63% effective interest rate)</td>
<td>58,501</td>
<td>58,471</td>
</tr>
<tr>
<td>7.25% 2009 Series B refunding bonds, due 2040 (7.49% effective interest rate)</td>
<td>36,518</td>
<td>36,492</td>
</tr>
<tr>
<td>1.875% 2012 Series A refunding bonds, due 2032 (2.35% effective interest rate)</td>
<td>—</td>
<td>33,193</td>
</tr>
<tr>
<td><strong>Total Pollution Control Bonds</strong></td>
<td>157,676</td>
<td>190,775</td>
</tr>
<tr>
<td>Senior Notes (2):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.00% Senior Notes, net of discount, due 2035 (6.58% effective interest rate)</td>
<td>394,040</td>
<td>393,861</td>
</tr>
<tr>
<td>7.50% Senior Notes, net of discount, due 2038 (7.67% effective interest rate)</td>
<td>147,384</td>
<td>147,331</td>
</tr>
<tr>
<td>3.30% Senior Notes, net of discount, due 2022 (3.43% effective interest rate)</td>
<td>149,101</td>
<td>148,939</td>
</tr>
<tr>
<td>5.00% Senior Notes, net of discount, due 2044 (4.93% effective interest rate)</td>
<td>302,901</td>
<td>302,955</td>
</tr>
<tr>
<td><strong>Total Senior Notes</strong></td>
<td>993,426</td>
<td>993,086</td>
</tr>
<tr>
<td>RGRT Senior Notes (3):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.47% Senior Notes, Series B, due 2017 (4.62% effective interest rate)</td>
<td>—</td>
<td>49,950</td>
</tr>
<tr>
<td>5.04% Senior Notes, Series C, due 2020 (5.16% effective interest rate)</td>
<td>44,886</td>
<td>44,845</td>
</tr>
<tr>
<td><strong>Total RGRT Senior Notes</strong></td>
<td>44,886</td>
<td>94,795</td>
</tr>
<tr>
<td><strong>Total long-term debt</strong></td>
<td>1,195,988</td>
<td>1,278,656</td>
</tr>
</tbody>
</table>

**Financing Obligations:**

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017 (In thousands)</th>
<th>December 31, 2016 (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revolving Credit Facility (4)</td>
<td>173,533</td>
<td>81,574</td>
</tr>
<tr>
<td><strong>Total long-term debt and financing obligations</strong></td>
<td>1,369,521</td>
<td>1,360,230</td>
</tr>
</tbody>
</table>

**Current Portion** (amount due within one year):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017 (In thousands)</th>
<th>December 31, 2016 (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current maturities of long term debt</td>
<td>—</td>
<td>(83,143)</td>
</tr>
<tr>
<td>Short-term borrowings under the revolving credit facility</td>
<td>(173,533)</td>
<td>(81,574)</td>
</tr>
<tr>
<td><strong>Total current</strong></td>
<td>$1,195,988</td>
<td>$1,195,513</td>
</tr>
</tbody>
</table>

(1) Pollution Control Bonds ("PCBs")

The Company had four series of tax exempt unsecured PCBs in aggregate principal amount of $193.1 million. In September 2017, the $33.3 million 2012 Series A 1.875% PCBs, which were subject to mandatory tender for purchase, were redeemed and retired utilizing funds borrowed under the RCF. As of December 31, 2017, the Company's aggregate principal amount on PCBs was $159.8 million. The 7.25% 2009 Series A and the 7.25% 2009 Series B PCBs with an aggregate principal amount, together, of $100.6 million have optional redemptions beginning in February 2019 and April 2019, respectively.

(2) Senior Notes

The Senior Notes are unsecured obligations of the Company. They were issued pursuant to bond covenants that provide limitations on the Company’s ability to enter into certain transactions. The 6.00% Senior Notes have an aggregate principal amount of $400.0 million and were issued in May 2005. The proceeds, net of a $2.3 million discount, were used to fund the retirement of the Company's first mortgage bonds. The Company amortizes the loss associated with a cash flow hedge recorded in accumulated other comprehensive income to earnings as interest expense over the life of the 6.00% Senior Notes. See Part II, Item 8, Financial Statements and Supplementary Data, Note O. This amortization is included in the effective interest rate of the 6.00% Senior Notes.
The 7.50% Senior Notes have an aggregate principal amount of $150.0 million and were issued in June 2008. The proceeds, net of a $1.3 million discount, were used to repay short-term borrowings of $44.0 million, fund capital expenditures and for other general corporate purposes.

The 3.30% Senior Notes have an aggregate principal amount of $150.0 million and were issued in December 2012. The proceeds, net of a $0.3 million discount, were used to fund construction expenditures and for working capital and general corporate purposes.

In December 2014, the Company issued 5.00% Senior Notes with an aggregate principal amount of $150.0 million. The proceeds, net of a $0.5 million discount, were used to fund construction expenditures and for working capital and general corporate purposes. In March 2016, the Company issued additional 5.00% Senior Notes with an aggregate principal amount of $150.0 million. The proceeds from this issuance, after deducting the underwriters' commission, were $158.1 million. These proceeds included accrued interest of $2.4 million and a $7.1 million premium before expenses. The net proceeds, from the sale of these senior notes were used to repay outstanding short-term borrowings under the RCF. After the March 2016 issuance, the Company's 5.00% Senior Notes due 2044 had a total principal amount outstanding of $300.0 million.

(3) RGRT Senior Notes

In 2010, the Company and RGRT, a Texas grantor trust through which the Company finances its portion of fuel for Palo Verde, entered into a note purchase agreement with various institutional purchasers. Under the terms of the agreement, RGRT sold to the purchasers $110 million aggregate principal amount of Senior Notes ("RGRT Notes"). In August 2015 and 2017, $15.0 million and $50.0 million of these RGRT Notes, respectively, matured and were paid with borrowings from the RCF. The Company guarantees the payment of principal and interest on the RGRT Notes. In the Company's financial statements, the assets and liabilities of RGRT are reported as assets and liabilities of the Company.

RGRT pays interest on the RGRT Notes on February 15, and August 15 of each year until maturity. RGRT may redeem the RGRT Notes, in whole or in part, at any time at a redemption price equal to 100% of the principal amount to be redeemed together with the interest on such principal amount accrued to the date of redemption, plus a make-whole amount based on the prevailing market interest rates. The agreement requires compliance with certain covenants, including a total debt to capitalization ratio. The Company was in compliance with these requirements throughout 2017.

The sale of the RGRT Notes was made by RGRT in reliance on a private placement exemption from registration under the Securities Act of 1933, as amended. The proceeds of $109.4 million, net of issuance costs, from the sale of the RGRT Notes was used by RGRT to repay amounts borrowed under the RCF and will enable future nuclear fuel financing requirements of RGRT to be met with a combination of the RGRT Notes and amounts borrowed from the RCF.

(4) Revolving Credit Facility

On January 14, 2014, the Company and RGRT entered into a second amended and restated credit agreement related to the RCF with JP Morgan Chase Bank, N.A., as administrative agent and issuing bank, and Union Bank, N.A., as syndication agent, and various lending banks party thereto. As of December 31, 2016, the Company had available $300 million and the ability to increase the RCF by up to $100 million with a term ending January 2019. On January 9, 2017, the Company exercised its option to extend the maturity of the RCF by one year to January 14, 2020 and to increase the size of the facility by $50 million to $350 million. The Company still has the option to extend the facility by one additional year to January 2021 and to increase the RCF by up to $50 million (up to a total of $400 million) upon the satisfaction of certain conditions, more fully set forth in the agreement, including obtaining commitments from lenders or third party financial institutions.

The RCF provides that amounts borrowed by the Company may be used for, among other things, working capital and general corporate purposes. Any amounts borrowed by RGRT may be used, among other things, to finance the acquisition and processing of nuclear fuel. Amounts borrowed by RGRT are guaranteed by the Company and the balance borrowed under the RCF is recorded as short-term borrowings on the balance sheet. The RCF is unsecured. The RCF requires compliance with certain covenants, including a total debt to capitalization ratio. The Company was in compliance with these requirements throughout 2017. In August 2015 and 2017, $15.0 million aggregate principal amount of Series A 3.67% Senior Notes and $50.0 million aggregate principal amount of Series B 4.47% Senior Notes of RGRT, respectively, matured and were paid with borrowings from the RCF. As of December 31, 2017, the total amount borrowed by RGRT was $88.5 million for nuclear fuel.

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under the RCF. As of December 31, 2017, $85.0 million of borrowings were outstanding under this facility for working capital and general corporate purposes. The weighted average interest rate on the RCF was 2.7% as of December 31, 2017.

As of December 31, 2017, the principal amount of scheduled maturities for the next five years of long-term debt are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$ —</td>
</tr>
<tr>
<td>2019</td>
<td>$ —</td>
</tr>
<tr>
<td>2020</td>
<td>$45,000</td>
</tr>
<tr>
<td>2021</td>
<td>$ —</td>
</tr>
<tr>
<td>2022</td>
<td>$ —</td>
</tr>
</tbody>
</table>

J. Income Taxes

On December 22, 2017, the TCJA was enacted. The TCJA includes significant changes to the IRC, including amendments which significantly changed the taxation of business entities and includes specific provisions related to regulated public utilities. The more significant changes that impact the Company included in the TCJA are reductions in the corporate federal income tax rate from 35% to 21%, elimination of the corporate alternative minimum tax provision, additional limitations on deductions of executive compensation, and limitations on the utilization of NOLs arising after December 31, 2017, to 80% of taxable income with no carryback but with an indefinite carryforward. The specific provisions related to regulated public utilities in the TCJA generally provide for the continued deductability of interest expense, the elimination of bonus depreciation for property acquired and placed into service after September 27, 2017, and the continuance of rate normalization requirements for accelerated depreciation benefits and changes to deferred tax balances as a result of the change in the corporate federal income tax rate.

The results for the twelve months ended December 31, 2017 contain provisional estimates of the impact of the TCJA. These amounts are considered provisional because they use estimates for which tax returns have not yet been filed and because estimated amounts may be impacted by future regulatory and accounting guidance if and when issued. The Company will adjust these provisional amounts as further information becomes available and as we refine our calculations. As permitted by recent guidance issued by the Securities and Exchange Commission, these adjustments will occur during a reasonable “measurement period” not to exceed twelve months from the date of enactment.

Provisional reductions in accumulated deferred federal income taxes ("ADFIT") due to the reduction in the corporate income tax rate to 21% under the provisions of the TCJA will result in amounts previously collected from utility customers for these deferred taxes to be refundable to such customers, generally through reductions in future rates. The TCJA includes provisions that stipulate how these excess deferred taxes are to be returned to customers for certain accelerated depreciation benefits. Potential refunds of other deferred taxes will be determined by the Company’s regulators. The December 31, 2017 balance sheet reflects the impact of the TCJA which reduced ADFIT by $298.9 million, reduced regulatory assets by $23.6 million and increased regulatory liabilities by $275.3 million. The changes in deferred taxes were recorded at the amount of the reduced future cash flow expected to be included in rates, as required in ASC 740. These adjustments had no impact on the Company’s cash flows for the year ended December 31, 2017.

In February 2018, the FASB issued ASU 2018-02, as a result of concerns raised by stakeholders due to the TCJA. ASU 2018-02 addresses concerns that the tax reduction due to the change in the corporate tax rate from 35% to 21% would be “stranded” in AOCI. ASU 2018-02 allows companies to reclassify stranded taxes from AOCI to retained earnings. The Company is currently in the process of evaluating the impact of ASU 2018-02 and its impact on regulated utilities. As of December 31, 2017, the Company has $7.2 million in stranded taxes in AOCI.

The provisional tax effects of temporary differences that give rise to significant portions of the deferred tax assets and liabilities at December 31, 2017 and 2016 are presented below (in thousands):

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Deferred tax assets:

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefit of tax loss carryforwards</td>
<td>$24,035</td>
<td>$60,749</td>
</tr>
<tr>
<td>Alternative minimum tax credit carryforward</td>
<td>16,620</td>
<td>16,620</td>
</tr>
<tr>
<td>Pensions and benefits</td>
<td>32,606</td>
<td>57,756</td>
</tr>
<tr>
<td>Asset retirement obligation</td>
<td>19,530</td>
<td>26,929</td>
</tr>
<tr>
<td>Regulatory liabilities related to income taxes</td>
<td>63,794</td>
<td>—</td>
</tr>
<tr>
<td>Deferred fuel</td>
<td>1,405</td>
<td>—</td>
</tr>
<tr>
<td>Total gross deferred tax assets</td>
<td>157,990</td>
<td>162,054</td>
</tr>
</tbody>
</table>

Deferred tax liabilities:

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant, principally due to depreciation and basis differences</td>
<td>(426,077)</td>
<td>(668,303)</td>
</tr>
<tr>
<td>Decommissioning</td>
<td>(34,520)</td>
<td>(43,463)</td>
</tr>
<tr>
<td>Deferred fuel</td>
<td>—</td>
<td>(3,962)</td>
</tr>
<tr>
<td>Other</td>
<td>(2,416)</td>
<td>(1,392)</td>
</tr>
<tr>
<td>Total gross deferred tax liabilities</td>
<td>(463,013)</td>
<td>(717,120)</td>
</tr>
</tbody>
</table>

Net accumulated deferred income taxes

<table>
<thead>
<tr>
<th>Description</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ (305,023)</td>
<td>$ (555,066)</td>
<td></td>
</tr>
</tbody>
</table>

Based on the average annual earnings before taxes for the prior three years, and excluding the effects of unusual or infrequent items, the Company believes that the deferred tax assets will be fully realized.

The Company recognized income tax expense for 2017, 2016 and 2015 as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td>$2,507</td>
<td>$2,642</td>
<td>$2,319</td>
</tr>
<tr>
<td>Deferred</td>
<td>46,089</td>
<td>47,909</td>
<td>32,819</td>
</tr>
<tr>
<td>Total federal income tax</td>
<td>48,596</td>
<td>50,551</td>
<td>35,138</td>
</tr>
<tr>
<td>State:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td>(897)</td>
<td>766</td>
<td>1,730</td>
</tr>
<tr>
<td>Deferred</td>
<td>1,816</td>
<td>3,285</td>
<td>(1,650)</td>
</tr>
<tr>
<td>Total state income tax</td>
<td>919</td>
<td>4,051</td>
<td>80</td>
</tr>
<tr>
<td>Generation (amortization) of accumulated investment tax credits</td>
<td>1,489</td>
<td>(684)</td>
<td>(323)</td>
</tr>
<tr>
<td>Total income tax expense</td>
<td>$51,004</td>
<td>$53,918</td>
<td>$34,895</td>
</tr>
</tbody>
</table>

As of December 31, 2017, the Company had $16.6 million of AMT credit carryforwards. Based on the TCJA provisions, the Company may claim a refund of 50% of the remaining AMT credits (to the extent the credits exceed the Company’s regular tax liability for the year) in 2018, 2019, and 2020. Any AMT credits remaining after 2020 will be refunded in 2021. As of December 31, 2017, the Company had $23.0 million of federal and $1.4 million of state tax loss carryforwards. Under the TCJA, NOLs arising in tax years ending after 2017 cannot be carried back but can be carried forward indefinitely. The use of NOLs generated after 2017 to offset taxable income is limited to 80% of taxable income. Federal NOLs generated prior to 2018 are able to offset 100% of future taxable income to the extent available but have lives of only 20 years.

Income tax provisions differ from amounts computed by applying the statutory federal income tax rate of 35% to book income before federal income tax as follows (in thousands):

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EL PASO ELECTRIC COMPANY
NOTES TO FINANCIAL STATEMENTS

Years Ended December 31,

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal income tax expense computed on income at statutory rate</td>
<td>$52,243</td>
<td>$52,740</td>
<td>$40,885</td>
</tr>
<tr>
<td>Difference due to:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State taxes, net of federal benefit</td>
<td>597</td>
<td>2,633</td>
<td>52</td>
</tr>
<tr>
<td>AEFUDC</td>
<td>450</td>
<td>(475)</td>
<td>(2,345)</td>
</tr>
<tr>
<td>Permanent tax differences</td>
<td>(2,562)</td>
<td>(2,369)</td>
<td>(2,898)</td>
</tr>
<tr>
<td>Other</td>
<td>276</td>
<td>1,389</td>
<td>(799)</td>
</tr>
<tr>
<td>Total income tax expense</td>
<td>$51,004</td>
<td>$53,918</td>
<td>$34,895</td>
</tr>
<tr>
<td>Effective income tax rate</td>
<td>34.2%</td>
<td>35.8%</td>
<td>29.9%</td>
</tr>
</tbody>
</table>

The Company files income tax returns in the United States federal jurisdiction and in the states of Texas, New Mexico and Arizona. The Company is no longer subject to tax examination by the taxing authorities in the federal, Arizona and New Mexico jurisdictions for years prior to 2013. In August 2017, the Company reached an agreement with the Texas Comptroller of Public Accounts and settled audits in Texas for tax years 2007 through 2011.

In the third quarter of 2016, the Company changed its accounting for state income taxes from the flow-through method to the normalization method in accordance with the 2016 PUCT Final Order and the NMPRC Final Order. Under the flow-through method, the Company previously recorded deferred state income taxes and regulatory liabilities and assets offsetting such deferred state income taxes at the expected cash flow to be reflected in future rates. Upon implementation of normalization, the Company began amortizing the net regulatory asset for deferred state income taxes to deferred income tax expense over a 15 year period as allowed by the regulators. In the third quarter of 2016, the Company began recording deferred state income tax expense as required by normalization, retroactive to January 2016 as provided in the final orders. The impact of the change was additional income tax expense of $1.9 million and $5.1 million for the years ended December 31, 2017 and 2016, respectively.

The FASB guidance prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The Company recorded a decrease of $1.2 million (net of an increase of $0.5 million), a decrease of $0.4 million (net of an increase of $0.3 million), and an unrecognized tax position of $0.8 million, in 2017, 2016, and 2015 respectively, related to transmission and distribution costs and other amounts deducted in current and prior year Texas franchise tax returns. The Company recorded an unrecognized tax position of $0.1 million in 2017 and a decrease of $0.3 million in 2016 related to tax credits taken and apportionment factors used in prior year Arizona income tax returns, which have been settled through audit. A reconciliation of the December 31, 2017, 2016 and 2015 amounts of unrecognized tax benefits are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at January 1</td>
<td>$5,300</td>
<td>$6,000</td>
<td>$5,200</td>
</tr>
<tr>
<td>Additions for tax positions related to the current year</td>
<td>200</td>
<td>400</td>
<td>500</td>
</tr>
<tr>
<td>Reductions for tax positions related to the current year</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Additions for tax positions of prior years</td>
<td>400</td>
<td>100</td>
<td>300</td>
</tr>
<tr>
<td>Reductions for tax positions of prior years</td>
<td>(1,700)</td>
<td>(1,200)</td>
<td>—</td>
</tr>
<tr>
<td>Balance at December 31</td>
<td>$4,200</td>
<td>$5,300</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

If recognized, $1.1 million of the unrecognized tax position at December 31, 2017, would reduce the effective tax rate. The Company recognized an income tax benefit for the decrease in unrecognized tax positions of $1.1 million for the year ended December 31, 2017.

The Company recognizes in tax expense interest and penalties related to tax benefits that have not been recognized. For the year ended December 31, 2017, the Company recognized a benefit of $0.2 million. For the years ended December 31, 2016, and 2015 the Company recognized interest expense of $0.1 million, and $0.2 million, respectively. The Company had approximately $0.7 million and $0.8 million accrued for the payment of interest and penalties at December 31, 2017 and 2016, respectively.
K. Commitments, Contingencies and Uncertainties

Power Purchase and Sale Contracts

To supplement its own generation and operating reserve requirements and to meet required renewable portfolio standards, the Company engages in power purchase arrangements that may vary in duration and amount based on an evaluation of the Company’s resource needs, the economics of the transactions and specific renewable portfolio requirements. The Company has entered into the following significant agreements with various counterparties for the purchase and sale of electricity:

<table>
<thead>
<tr>
<th>Type of Contract</th>
<th>Counterparty</th>
<th>Quantity</th>
<th>Term</th>
<th>Commercial Operation Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Purchase and Sale Agreement</td>
<td>Freeport</td>
<td>25 MW</td>
<td>December 2008 through December 2018</td>
<td>N/A</td>
</tr>
<tr>
<td>Power Purchase and Sale Agreement</td>
<td>Freeport</td>
<td>100 MW</td>
<td>June 2006 through December 2021</td>
<td>N/A</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>Hatch Solar Energy Center I, LLC</td>
<td>5 MW</td>
<td>July 2011 through July 2036</td>
<td>July 2011</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>NRG</td>
<td>20 MW</td>
<td>August 2011 through August 2031</td>
<td>August 2011</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>SunE EPE1, LLC</td>
<td>10 MW</td>
<td>June 2012 through June 2037</td>
<td>June 2012</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>SunE EPE2, LLC</td>
<td>12 MW</td>
<td>May 2012 through May 2037</td>
<td>May 2012</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>Macho Springs Solar, LLC</td>
<td>50 MW</td>
<td>May 2014 through May 2034</td>
<td>May 2014</td>
</tr>
<tr>
<td>Power Purchase Agreement</td>
<td>Newman Solar LLC</td>
<td>10 MW</td>
<td>December 2014 through December 2044</td>
<td>December 2014</td>
</tr>
</tbody>
</table>

The Company has a firm Power Purchase and Sale Agreement with Freeport-McMoran Copper & Gold Energy Services LLC ("Freeport") that provides for Freeport to deliver energy to the Company from the Luna Energy Facility (a natural gas-fired combined cycle generation facility located in Luna County, New Mexico) and for the Company to deliver a like amount of energy at Greenlee, Arizona. The Company may purchase the quantities noted in the table above at a specified price at times when energy is not exchanged under the Power Purchase and Sale Agreement. The agreement was approved by the FERC and will continue through an initial term ending December 31, 2021, with subsequent rollovers until terminated. Upon mutual agreement, the Power Purchase and Sale Agreement allows the parties to increase the amount of energy that is purchased and sold under the agreement. The parties have agreed to increase the amount up to 125 MW through December 2018.

The Company has entered into several power purchase agreements to help meet its renewable portfolio requirements. Namely, the Company has a 25 -year purchase power agreement with Hatch Solar Energy Center I, LLC to purchase all of the output from a solar photovoltaic plant located in southern New Mexico which began commercial operation in July 2011. In June 2015, the Company entered into a consent agreement with Hatch Solar Energy Center 1, LLC to provide for additional or replacement photovoltaic modules. The Company also entered into a 20 -year contract with NRG Solar Roadrunner LLC ("NRG") to purchase all of the output of a solar photovoltaic plant built in southern New Mexico which began commercial operation in August 2011. In addition, the Company has 25 -year purchase power agreements to purchase all of the output of two additional solar photovoltaic plants located in southern New Mexico, SunE EPE1, LLC and SunE EPE2, LLC which began commercial operation in June 2012 and May 2012, respectively. In September 2017, Longroad Solar Portfolio Holdings, LLC purchased SunE EPE1, LLC and in October 2017, Silicon Ranch Corporation purchased SunE EPE2, LLC with the Company's consent per the terms of both purchase power agreements.

Furthermore, the Company has a 20 -year purchase power agreement with Macho Springs Solar, LLC to purchase the entire generation output delivered from the 50 MW Macho Springs solar photovoltaic plant located in Luna County, New Mexico which began commercial operation in May 2014. Finally, the Company has a 30 -year purchase power agreement with Newman Solar LLC to purchase the total output of approximately 10 MW from a solar photovoltaic plant on land subleased from the Company in proximity to its Newman Power Station ("Newman"). This solar photovoltaic plant began commercial operation in December 2014.
Environmental Matters

General. The Company is subject to extensive laws, regulations and permit requirements with respect to air and greenhouse gas ("GHG") emissions, water discharges, soil and water quality, waste management and disposal, natural resources and other environmental matters by federal, state, regional, tribal and local authorities. Failure to comply with such laws, regulations and requirements can result in actions by authorities or other third parties that might seek to impose on the Company administrative, civil and/or criminal penalties or other sanctions. In addition, releases of pollutants or contaminants into the environment can result in costly cleanup liabilities. These laws, regulations and requirements are subject to change through modification or reinterpretation, or the introduction of new laws and regulations and, as a result, the Company may face additional capital and operating costs to comply.

Environmental Litigation and Investigations. Since July 2011, the U.S. Department of Justice (the "DOJ"), on behalf of the EPA, and APS have been engaged in substantive settlement negotiations in an effort to resolve certain of the pending matters. The allegations being addressed through settlement negotiations are that APS failed to obtain the necessary permits and install the controls necessary under the CAA to reduce sulfur dioxide ("SO2"), nitrogen oxides ("NOx"), and particulate matter ("PM"), and that defendants failed to obtain an operating permit under Title V of the CAA that reflects applicable requirements imposed by law. On June 24, 2015, the parties filed with the U.S. District Court for New Mexico a settlement agreement ("CAA Settlement Agreement") resolving this matter. On August 17, 2015, the U.S. District Court for New Mexico entered the CAA Settlement Agreement. The agreement imposes a total civil penalty payable by the co-owners of Four Corners collectively in the amount of $1.5 million, and it requires the co-owners to pay $6.7 million for environmental mitigation projects. At December 31, 2017, the Company has accrued its remaining unpaid share of approximately $0.2 million related to this matter.

Lease Agreements

The Company leases land in El Paso, Texas, adjacent to Newman under a lease which expires in June 2033 with a renewal option of 25 years. The Company also has several other leases for office, parking facilities and equipment which expire within the next 5 years. The Company has transmission and distribution lines which are operated under various land rights agreements, including easements, leases, permits and franchises. The majority of these agreements include renewal options which the Company routinely exercises. These agreements generally do not impose any restrictions relating to issuance of additional debt, payment of dividends or entering into other lease arrangements. The Company has no significant capital lease agreements.

The Company's total annual rental expense related to operating leases was $2.4 million, $1.7 million and $1.9 million for 2017, 2016 and 2015, respectively. As of December 31, 2017, the Company’s minimum future rental payments for the next five years are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>951</td>
</tr>
<tr>
<td>2019</td>
<td>893</td>
</tr>
<tr>
<td>2020</td>
<td>820</td>
</tr>
<tr>
<td>2021</td>
<td>675</td>
</tr>
<tr>
<td>2022</td>
<td>595</td>
</tr>
</tbody>
</table>

Union Matters

The Company has approximately 1,100 employees, about 38% of whom are covered by a collective bargaining agreement. The International Brotherhood of Electrical Workers Local 960 ("Local 960") represents the Company's employees working primarily in the power plants, substations, line crews, meter reading and collection, facilities services, and customer service. The Company entered into a new collective bargaining agreement effective September 3, 2016, with Local 960 for a three-year term ending September 3, 2019. The agreement provides for pay increases of 3% on September 3, 2016, September 3, 2017 and on September 3, 2018, respectively.
L. Litigation

The Company is involved in various legal, environmental, tax and regulatory proceedings before various courts, regulatory commissions and governmental agencies regarding matters arising in the ordinary course of business. In many of these matters, the Company has excess casualty liability insurance that covers the various claims, actions and complaints. The Company regularly analyzes current information and, as necessary, makes provisions in its financial statements for probable liabilities for the eventual disposition of these matters. While the outcome of these matters cannot be predicted with certainty, based upon a review of the matters and applicable insurance coverage, the Company believes that none of these matters will have a material adverse effect on the financial position, results of operations or cash flows of the Company. The Company expenses legal costs, including expenses related to loss contingencies, as they are incurred.

See Part II, Item 8, Financial Statements and Supplementary Data, Note C and Note K for discussion of the effects of government legislation and regulation on the Company as well as certain pending legal proceedings.
M. Employee Benefits

Retirement Plans

The Company’s Retirement Income Plan (the "Retirement Plan") is a qualified noncontributory defined benefit plan. Upon retirement or death of a vested plan participant, assets of the Retirement Plan are used to pay benefit obligations under the Retirement Plan. Contributions from the Company are based on various factors, such as the minimum funding amounts required by the Internal Revenue Service ("IRS"), state and federal regulatory requirements, amounts requested from customers in the Company’s Texas and New Mexico jurisdictions, and the annual net periodic benefit cost of the Retirement Plan, as actuarially calculated. The assets of the Retirement Plan are primarily invested in common collective trusts which hold equity securities, debt securities and cash equivalents and are managed by a professional investment manager appointed by the Company.

The Company has two non-qualified retirement plans that are non-funded defined benefit plans. The Company’s Supplemental Retirement Plan covers certain former employees and directors of the Company. The Excess Benefit Plan was adopted in 2004 and covers certain active and former employees of the Company. The net periodic benefit cost for the non-qualified retirement plans are based on substantially the same actuarial methods and economic assumptions as those used for the Retirement Plan.

The Retirement Plan was amended effective April 1, 2014 to offer a cash balance pension benefit as an alternative to its existing final average pay pension benefit for employees hired prior to January 1, 2014. Employees hired after January 1, 2014 are automatically enrolled in the cash balance pension benefit.

Prior to December 31, 2013, employees who completed one year of service with the Company and worked at least a minimum number of hours each year were covered by the final average pay formula of the plan. For participants that continue to be covered by the final average pay formula, retirement benefits are based on the employee’s final average pay and years of service. The cash balance pension benefit covers employees beginning on their employment commencement date or re-employment commencement date. Retirement benefits under the cash balance pension benefit are based on the employee’s cash balance account, consisting of pay credits and interest credits.

The obligations and funded status of the plans are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>Non-Qualified Retirement Plans</th>
<th>December 31, 2016</th>
<th>Non-Qualified Retirement Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Change in projected benefit obligation:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Benefit obligation at end of prior year</td>
<td>$337,768</td>
<td>$27,462</td>
<td>$325,706</td>
<td>$26,958</td>
</tr>
<tr>
<td>Service cost</td>
<td>8,156</td>
<td>362</td>
<td>7,705</td>
<td>296</td>
</tr>
<tr>
<td>Interest cost</td>
<td>12,196</td>
<td>863</td>
<td>12,161</td>
<td>878</td>
</tr>
<tr>
<td>Actuarial loss</td>
<td>20,829</td>
<td>2,217</td>
<td>7,988</td>
<td>1,267</td>
</tr>
<tr>
<td>Benefits paid</td>
<td>(16,960)</td>
<td>(2,512)</td>
<td>(15,792)</td>
<td>(1,937)</td>
</tr>
<tr>
<td><strong>Benefit obligation at end of year</strong></td>
<td>$361,989</td>
<td>$28,392</td>
<td>$337,768</td>
<td>$27,462</td>
</tr>
<tr>
<td><strong>Change in plan assets:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fair value of plan assets at end of prior year</td>
<td>269,766</td>
<td>—</td>
<td>260,035</td>
<td>—</td>
</tr>
<tr>
<td>Actual return on plan assets</td>
<td>44,283</td>
<td>—</td>
<td>18,223</td>
<td>—</td>
</tr>
<tr>
<td>Employer contribution</td>
<td>7,300</td>
<td>2,512</td>
<td>7,300</td>
<td>1,937</td>
</tr>
<tr>
<td>Benefits paid</td>
<td>(16,960)</td>
<td>(2,512)</td>
<td>(15,792)</td>
<td>(1,937)</td>
</tr>
<tr>
<td><strong>Fair value of plan assets at end of year</strong></td>
<td>304,389</td>
<td>—</td>
<td>269,766</td>
<td>—</td>
</tr>
<tr>
<td><strong>Funded status at end of year</strong></td>
<td>$ (57,600)</td>
<td>$ (28,392)</td>
<td>$ (68,002)</td>
<td>$ (27,462)</td>
</tr>
</tbody>
</table>
Amounts recognized in the Company's balance sheets consist of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current liabilities</td>
<td>$ —</td>
<td>$ (2,154)</td>
</tr>
<tr>
<td>Noncurrent liabilities</td>
<td>(57,600)</td>
<td>(26,238)</td>
</tr>
<tr>
<td>Total</td>
<td>(57,600)</td>
<td>(28,392)</td>
</tr>
<tr>
<td>Non-Qualified Retirement Plans</td>
<td>$ (2,154)</td>
<td>$ (2,696)</td>
</tr>
<tr>
<td>Total</td>
<td>(28,392)</td>
<td>(27,462)</td>
</tr>
</tbody>
</table>

The accumulated benefit obligation in excess of plan assets is as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected benefit obligation</td>
<td>$ (361,989)</td>
<td>$ (337,768)</td>
</tr>
<tr>
<td>Accumulated benefit obligation</td>
<td>(329,279)</td>
<td>(314,071)</td>
</tr>
<tr>
<td>Fair value of plan assets</td>
<td>304,389</td>
<td>269,766</td>
</tr>
</tbody>
</table>

Pre-tax amounts recognized in accumulated other comprehensive income consist of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Years Ended December 31, 2017</th>
<th>Years Ended December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>$ 109,215</td>
<td>$ 121,052</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>(20,410)</td>
<td>(23,877)</td>
</tr>
<tr>
<td>Total</td>
<td>$ 88,805</td>
<td>$ 97,175</td>
</tr>
</tbody>
</table>

The following are the weighted-average actuarial assumptions used to determine the benefit obligations:

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate</td>
<td>3.77%</td>
<td>4.29%</td>
</tr>
<tr>
<td>Rate of compensation increase</td>
<td>4.5%</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

The Company reassesses various actuarial assumptions at least on an annual basis. The discount rate is reviewed and updated at each measurement date. The discount rate used to measure the fiscal year end obligation is based on a segmented spot rate yield curve that matches projected future payments with the appropriate interest rate applicable to the timing of the projected future benefit payments. A 1% increase in the discount rate would decrease the December 31, 2017 retirement plans' projected benefit obligation by 12.4%. A 1% decrease in the discount rate would increase the December 31, 2017 retirement plans' projected benefit obligation by 15.6%.
The components of net periodic benefit cost are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service cost</td>
<td>$8,156</td>
<td>$7,705</td>
<td>$8,530</td>
</tr>
<tr>
<td>Interest cost</td>
<td>$12,196</td>
<td>$12,161</td>
<td>$13,477</td>
</tr>
<tr>
<td>Expected return on plan assets</td>
<td>(19,189)</td>
<td>(18,879)</td>
<td>(19,795)</td>
</tr>
<tr>
<td>Amortization of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>(7,572)</td>
<td>6,554</td>
<td>9,710</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>3,467</td>
<td>3,467</td>
<td>3,467</td>
</tr>
<tr>
<td>Total recognized in other comprehensive income</td>
<td>$8,370</td>
<td>$5,557</td>
<td>$1,977</td>
</tr>
</tbody>
</table>

In 2016, the Company changed the method used to estimate the service and interest components of net periodic benefit cost for pension benefits. This change, compared to the previous method, resulted in a decrease of approximately $2.9 million in the service cost and interest cost components in 2016. Historically, the Company estimated service and interest costs utilizing a single weighted-average discount rate derived from the yield curve used to measure the benefit obligation at the beginning of the period. In 2016, the Company elected to utilize a full yield curve approach to estimate these components by applying the specific spot rates along the yield curve used in the determination of the benefit obligation to the relevant projected cash flows. The Company believes the new approach provides a more precise measurement of service and interest costs by aligning the timing of the plan’s liability cash flows to the corresponding spot rates on the yield curve. The Company accounted for this change as a change in accounting estimate and accordingly, accounted for this prospectively.

The changes in benefit obligations recognized in other comprehensive income are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net (gain) loss</td>
<td>$ (4,265)</td>
<td>$8,644</td>
<td>$4,266</td>
</tr>
<tr>
<td>Amortization of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>(7,572)</td>
<td>(6,554)</td>
<td>(9,710)</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>3,467</td>
<td>3,467</td>
<td>3,467</td>
</tr>
<tr>
<td>Total recognized in other comprehensive income</td>
<td>$ (8,370)</td>
<td>$5,557</td>
<td>$ (1,709)</td>
</tr>
</tbody>
</table>

The total amount recognized in net periodic benefit costs and other comprehensive income are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total recognized in net periodic benefit cost and other comprehensive income</td>
<td>$ (3,102)</td>
<td>$9,631</td>
<td>$6,478</td>
</tr>
</tbody>
</table>
The following are amounts in accumulated other comprehensive income that are expected to be recognized as components of net periodic benefit cost during 2018 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Retirement Income Plan</th>
<th>Non-Qualified Retirement Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>$7,450</td>
<td>$960</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>(3,470)</td>
<td>(40)</td>
</tr>
</tbody>
</table>

The following are the weighted-average actuarial assumptions used to determine the net periodic benefit cost for the twelve months ended December 31:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Benefit obligation</td>
<td>4.30%</td>
<td>4.57%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Service cost</td>
<td>4.51%</td>
<td>4.83%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Interest cost</td>
<td>3.70%</td>
<td>3.86%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Expected long-term return on plan assets</td>
<td>7.0%</td>
<td>7.0%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Rate of compensation increase</td>
<td>4.5%</td>
<td>4.5%</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

The Company’s overall expected long-term rate of return on assets is 7.5% effective January 1, 2018, which is both a pre-tax and after-tax rate as pension funds are generally not subject to income tax. The expected long-term rate of return is based on the weighted average of the expected returns on investments based upon the target asset allocation of the pension fund. The Company’s target allocations for the plan’s assets are presented below:

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity securities</td>
<td>50%</td>
</tr>
<tr>
<td>Fixed income</td>
<td>40%</td>
</tr>
<tr>
<td>Alternative investments</td>
<td>10%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
</tbody>
</table>

As of January 1, 2018, the long-term rate of return assumption was updated to be gross of administrative expenses paid to the trust. Net of administrative expenses, the reported long-term rate of return would have been 7.0%.

The Retirement Plan invests the majority of its plan assets in common collective trusts which includes a diversified portfolio of domestic and international equity securities and fixed income securities. Alternative investments of the Retirement Plan are comprised of a real estate limited partnership and equity securities of real estate companies, primarily in real estate investment trusts, and other property trusts. The expected rate of returns for the funds are assessed annually and are based on long-term relationships among major asset classes and the level of incremental returns that can be earned by the successful implementation of different active investment management strategies. Equity and real estate equity returns are based on estimates of long-term inflation rate, real rate of return, 10-year Treasury bond premium over cash, an expected equity risk premium, as well as other economic factors. Fixed income returns are based on maturity, long-term inflation, real rate of return and credit spreads. These assumptions also capture the expected correlation of returns between these asset classes over the long term.
The FASB guidance on disclosure for pension plans requires disclosure of fair value measurements of plan assets. To increase consistency and comparability in fair value measurements, the FASB guidance on fair value measurements established a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

- **Level 1** – Observable inputs that reflect quoted market prices for identical assets and liabilities in active markets. Prices of securities held in the mutual funds and underlying portfolios of the Retirement Plan are primarily obtained from independent pricing services. These prices are based on observable market data. The Common Collective Trusts are valued using the Net Asset Value ("NAV") provided by the administrator of the fund. The NAV price is quoted on a restrictive market although the underlying investments are traded on active markets. The NAV used for determining the fair value of the investments in the Common Collective Trusts have readily determinable fair values. Accordingly, such fund values are categorized as Level 1.

- **Level 2** – Inputs other than quoted market prices included in Level 1 that are observable for the asset or liability either directly or indirectly. The fair value of these investments are based on evaluated prices that reflect observable market information, such as actual trade information of similar securities, adjusted for observable differences.

- **Level 3** – Unobservable inputs using data that is not corroborated by market data.
The fair value of the Company’s Retirement Plan assets at December 31, 2017 and 2016, and the level within the three levels of the fair value hierarchy defined by the FASB guidance on fair value measurements are presented in the table below (in thousands):

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2017</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and Cash Equivalents</td>
<td>$1,582</td>
<td>$1,582</td>
<td>—</td>
<td>$—</td>
</tr>
<tr>
<td>Common Collective Trusts (a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity funds</td>
<td>158,684</td>
<td>158,684</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Fixed income funds</td>
<td>124,491</td>
<td>124,491</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Real estate funds</td>
<td>15,779</td>
<td>15,779</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total Common Collective Trusts</td>
<td>298,954</td>
<td>298,954</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Limited Partnership Interest in Real Estate (b)(c)</td>
<td>3,853</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Plan Investments</td>
<td>$304,389</td>
<td>$300,536</td>
<td>—</td>
<td>$—</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2016</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and Cash Equivalents</td>
<td>$932</td>
<td>$932</td>
<td>—</td>
<td>$—</td>
</tr>
<tr>
<td>Common Collective Trusts (a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity funds</td>
<td>144,081</td>
<td>144,081</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Fixed income funds</td>
<td>109,356</td>
<td>109,356</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Real estate funds</td>
<td>8,406</td>
<td>8,406</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total Common Collective Trusts</td>
<td>261,843</td>
<td>261,843</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Limited Partnership Interest in Real Estate (b)(c)</td>
<td>6,991</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Plan Investments</td>
<td>$269,666</td>
<td>$262,775</td>
<td>—</td>
<td>$—</td>
</tr>
</tbody>
</table>

(a) The Common Collective Trusts are invested in equity and fixed income securities, or a combination thereof. The investment objective of each fund is to produce returns in excess of, or commensurate with, its predefined index.

(b) This investment is a commercial real estate partnership that purchases land, develops limited infrastructure, and sells it for commercial development. The Company was restricted from selling its partnership interest during the life of the partnership, which spanned 7 years. Return on investment is realized as land is sold. The fair value of the limited partnership interest in real estate is based on the NAV of the partnership which reflects the appraised value of the land. The partnership term expired on June 30, 2016. Upon expiration, dissolution of the partnership commenced and, as a result, the general partner of the partnership is attempting to sell the remaining inventory as soon as possible at the highest pricing possible.

(c) In the first quarter of 2016, the Company implemented ASU 2015-07, Fair Value Measurement (Topic 820) which eliminates the requirement to categorize investments in the fair value hierarchy if the fair value is measured at NAV per share (or its equivalent) using the practical expedient in the FASB’s fair value measurement guidance. The fair value amounts presented in the table are intended to permit reconciliation of the fair value hierarchy to the amounts presented in the statement of financial position.
The table below reflects the changes in the fair value of investments in the real estate limited partnership during the period (in thousands):

<table>
<thead>
<tr>
<th>Balances at December 31, 2015</th>
<th>Fair Value of Investments in Real Estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$8,588</td>
<td></td>
</tr>
<tr>
<td>Sale of land</td>
<td>(775)</td>
</tr>
<tr>
<td>Unrealized loss in fair value</td>
<td>(822)</td>
</tr>
<tr>
<td>Balances at December 31, 2016</td>
<td>6,991</td>
</tr>
<tr>
<td>Sale of land</td>
<td>(2,687)</td>
</tr>
<tr>
<td>Unrealized loss in fair value</td>
<td>(451)</td>
</tr>
<tr>
<td>Balances at December 31, 2017</td>
<td>$3,853</td>
</tr>
</tbody>
</table>

There were no transfers in or out of Level 1 and Level 2 fair value measurements categories due to changes in observable inputs during the twelve month periods ending December 31, 2017 and 2016. There were no purchases, issuances, and settlements related to the assets in the Level 3 fair value measurement category during the twelve month periods ending December 31, 2017 and 2016.

The Company and the fiduciaries responsible for the Retirement Plan adhere to the traditional capital market pricing theory which maintains that over the long term, the risk of owning equities should be rewarded with a greater return than available from fixed income investments. The Company and the fiduciaries responsible for the Retirement Plan seek to minimize the risk of owning equity securities by investing in funds that pursue risk minimization strategies and by diversifying its investments to limit its risks during falling markets. The investment manager has full discretionary authority to direct the investment of plan assets held in trust within the guidelines prescribed by the Company and the fiduciaries responsible for the Retirement Plan through the plan’s investment policy statement including the ability to hold cash equivalents. The investment guidelines of the investment policy statement are in accordance with the Employee Retirement Income Security Act of 1974 ("ERISA") and Department of Labor ("DOL") regulations.

The Company contributes at least the minimum funding amounts required by the IRS for the Retirement Plan, as actuarially calculated.

The following benefit payments, which reflect expected future service, as appropriate, are expected to be paid (in thousands):

<table>
<thead>
<tr>
<th>Retirement Income Plan</th>
<th>Non-Qualified Retirement Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$17,166</td>
</tr>
<tr>
<td>2019</td>
<td>17,656</td>
</tr>
<tr>
<td>2020</td>
<td>17,938</td>
</tr>
<tr>
<td>2021</td>
<td>18,612</td>
</tr>
<tr>
<td>2022</td>
<td>19,247</td>
</tr>
<tr>
<td>2023-2027</td>
<td>105,915</td>
</tr>
</tbody>
</table>

401(k) Defined Contribution Plans

The Company sponsors 401(k) defined contribution plans covering substantially all employees. The Company provides a 50 percent matching contribution up to 6 percent of the employee’s compensation for employees who are enrolled in the final average pay pension benefit of the Retirement Plan and a 100 percent matching contribution up to 6 percent of the employee's compensation for employees who are enrolled in the cash balance pension benefit of the Retirement Plan, subject to certain other limits and exclusions. Annual matching contributions made to the savings plans for the years 2017, 2016 and 2015 were $4.4 million, $4.1 million, and $3.9 million, respectively.

Other Post-retirement Benefits

The Company provides certain other post-retirement benefits, including health care benefits for retired employees and their eligible dependents and life insurance benefits for retired employees only (the "OPEB Plan"). Substantially all of the Company’s employees may become eligible for those benefits if they retire while working for the Company. Contributions from the Company are based on various factors such as the OPEB Plan's funded status, the IRS tax deductible limit, state and federal regulatory.
requirements, amounts requested from customers in the Company's Texas and New Mexico jurisdictions and the annual net periodic benefit cost of the OPEB Plan, as actuarially calculated. The assets of the OPEB Plan are primarily invested in institutional funds which hold equity securities, debt securities, and cash equivalents and are managed by a professional investment manager appointed by the Company.

The following table contains a reconciliation of the change in the benefit obligation, the fair value of plan assets, and the funded status of the OPEB Plan (in thousands):

<table>
<thead>
<tr>
<th>Change in benefit obligation:</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefit obligation at end of prior year</td>
<td>$73,515</td>
<td>$92,643</td>
</tr>
<tr>
<td>Service cost</td>
<td>2,236</td>
<td>2,769</td>
</tr>
<tr>
<td>Interest cost</td>
<td>2,723</td>
<td>3,167</td>
</tr>
<tr>
<td>Actuarial (gain) loss</td>
<td>(8,319)</td>
<td>10,751</td>
</tr>
<tr>
<td>Amendment (a)</td>
<td>—</td>
<td>(32,697)</td>
</tr>
<tr>
<td>Benefits paid</td>
<td>(4,087)</td>
<td>(4,428)</td>
</tr>
<tr>
<td>Retiree contributions</td>
<td>1,222</td>
<td>1,310</td>
</tr>
<tr>
<td><strong>Benefit obligation at end of year</strong></td>
<td>67,290</td>
<td>73,515</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change in plan assets:</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair value of plan assets at end of prior year</td>
<td>39,115</td>
<td>38,090</td>
</tr>
<tr>
<td>Actual return on plan assets</td>
<td>4,173</td>
<td>2,443</td>
</tr>
<tr>
<td>Employer contribution</td>
<td>450</td>
<td>1,700</td>
</tr>
<tr>
<td>Benefits paid</td>
<td>(4,087)</td>
<td>(4,428)</td>
</tr>
<tr>
<td>Retiree contributions</td>
<td>1,222</td>
<td>1,310</td>
</tr>
<tr>
<td><strong>Fair value of plan assets at end of year</strong></td>
<td>40,873</td>
<td>39,115</td>
</tr>
<tr>
<td><strong>Funded status at end of year</strong></td>
<td>$26,417</td>
<td>$(34,400)</td>
</tr>
</tbody>
</table>

(a) During October 2016, the Company approved and communicated a plan amendment that resulted in a remeasurement of the Company's Other Post-retirement Benefit Plan. Effective January 1, 2017, retirees and dependents that are less than 65 years of age are offered a choice between a $1,000 and $2,250 deductible plan. Additionally, retirees and dependents that are 65 years of age or greater were covered by a fully insured Medicare advantage plan.

Amounts recognized in the Company's balance sheets consist of the following (in thousands):

<table>
<thead>
<tr>
<th>December 31,</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current liabilities</td>
<td>$—</td>
<td>$—</td>
</tr>
<tr>
<td>Noncurrent liabilities</td>
<td>(26,417)</td>
<td>(34,400)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$(26,417)</td>
<td>$(34,400)</td>
</tr>
</tbody>
</table>

Pre-tax amounts recognized in accumulated other comprehensive income consist of the following (in thousands):

<table>
<thead>
<tr>
<th>December 31,</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net gain</td>
<td>$35,194</td>
<td>$26,285</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>(34,857)</td>
<td>(41,009)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$(70,051)</td>
<td>$(67,294)</td>
</tr>
</tbody>
</table>

98
The following are the weighted-average actuarial assumptions used to determine the accrued benefit obligations:

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate at end of year</td>
<td>3.79%</td>
<td>4.36%</td>
</tr>
<tr>
<td>Health care trend rates:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pre-65 medical</td>
<td>6.25%</td>
<td>6.50%</td>
</tr>
<tr>
<td>Post-65 medical</td>
<td>4.50%</td>
<td>4.50%</td>
</tr>
<tr>
<td>Pre-65 drug</td>
<td>7.25%</td>
<td>7.50%</td>
</tr>
<tr>
<td>Post-65 drug</td>
<td>10.00%</td>
<td>10.50%</td>
</tr>
<tr>
<td>Ultimate</td>
<td>4.50%</td>
<td>4.50%</td>
</tr>
<tr>
<td>Year ultimate reached (a)</td>
<td>2026</td>
<td>2026</td>
</tr>
</tbody>
</table>

(a) Pre-65 medical reaches the ultimate trend rate in 2025. Additionally, the Post-65 medical trend is assumed to be 4.50% for all years into the future.

The Company reassesses various actuarial assumptions at least on an annual basis. The discount rate is reviewed and updated at each measurement date. The discount rate used to measure the fiscal year end obligation is based on a segmented spot rate yield curve that matches projected future payments with the appropriate interest rate applicable to the timing of the projected future benefit payments. A 1% increase in the discount rate would decrease the December 31, 2017 accumulated post-retirement benefit obligation by 14.2%. A 1% decrease in the discount rate would increase the December 31, 2017 accumulated post-retirement benefit obligation by 18.5%.

Net periodic benefit cost (benefit) is made up of the components listed below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Years Ended December 31, 2017</th>
<th>Years Ended December 31, 2016</th>
<th>Years Ended December 31, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service cost</td>
<td>$2,236</td>
<td>$2,769</td>
<td>$3,454</td>
</tr>
<tr>
<td>Interest cost</td>
<td>2,723</td>
<td>3,167</td>
<td>4,035</td>
</tr>
<tr>
<td>Expected return on plan assets</td>
<td>(1,907)</td>
<td>(1,835)</td>
<td>(2,070)</td>
</tr>
<tr>
<td>Amortization of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>(6,151)</td>
<td>(3,901)</td>
<td>(3,068)</td>
</tr>
<tr>
<td>Net gain</td>
<td>(1,678)</td>
<td>(2,374)</td>
<td>(2,025)</td>
</tr>
<tr>
<td>Net periodic benefit cost (benefit)</td>
<td>$ (4,777)</td>
<td>$ (2,174)</td>
<td>$ 326</td>
</tr>
</tbody>
</table>

In 2016, the Company changed the method used to estimate the service and interest components of net periodic benefit cost for other post-retirement benefits. This change, compared to the previous method, resulted in a decrease of approximately $0.8 million in the service cost and interest cost components in 2016. Historically, the Company estimated service and interest costs utilizing a single weighted-average discount rate derived from the yield curve used to measure the benefit obligation at the beginning of the period. In 2016, the Company elected to utilize a full yield curve approach to estimate these components by applying the specific spot rates along the yield curve used in the determination of the benefit obligation to the relevant projected cash flows. The Company believes the new approach provides a more precise measurement of service and interest costs by aligning the timing of the plan’s liability cash flows to the corresponding spot rates on the yield curve. The Company accounted for this change as a change in accounting estimate and accordingly, accounted for this prospectively.
The changes in benefit obligations recognized in other comprehensive income are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net (gain) loss</td>
<td>$(10,586)</td>
<td>$10,143</td>
<td>$(8,884)</td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>—</td>
<td>(32,697)</td>
<td>(824)</td>
</tr>
<tr>
<td>Amortization of:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior service benefit</td>
<td>6,151</td>
<td>3,901</td>
<td>3,068</td>
</tr>
<tr>
<td>Net gain</td>
<td>1,678</td>
<td>2,374</td>
<td>2,025</td>
</tr>
<tr>
<td>Total recognized in other comprehensive income</td>
<td>$(2,757)</td>
<td>$(16,279)</td>
<td>$(4,615)</td>
</tr>
</tbody>
</table>

The total amount recognized in net periodic benefit cost and other comprehensive income are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total recognized in net periodic benefit cost and other comprehensive income</td>
<td>$(7,534)</td>
<td>$(18,453)</td>
<td>$(4,289)</td>
</tr>
</tbody>
</table>

The amount in accumulated other comprehensive income that is expected to be recognized as a component of net periodic benefit cost during 2018 is a prior service benefit of $6.2 million and a net gain of $2.1 million.

The following are the weighted-average actuarial assumptions used to determine the net periodic benefit cost for the twelve months ended December 31:

<table>
<thead>
<tr>
<th></th>
<th>2017 (a)</th>
<th>2016 (a)</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount rate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Benefit obligation</td>
<td>4.37%</td>
<td>4.59%</td>
<td>3.75%</td>
</tr>
<tr>
<td>Service cost</td>
<td>4.59%</td>
<td>4.91%</td>
<td>4.03%</td>
</tr>
<tr>
<td>Interest cost</td>
<td>3.76%</td>
<td>3.86%</td>
<td>3.15%</td>
</tr>
<tr>
<td>Expected long-term return on plan assets</td>
<td>4.875%</td>
<td>4.875%</td>
<td>5.2%</td>
</tr>
</tbody>
</table>

Health care cost trend rates:

<table>
<thead>
<tr>
<th></th>
<th>2017 (a)</th>
<th>2016 (a)</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pre-65 medical</td>
<td>6.5%</td>
<td>7.0%</td>
<td>7.25%</td>
</tr>
<tr>
<td>Post-65 medical</td>
<td>4.5%</td>
<td>7.0%</td>
<td>7.25%</td>
</tr>
<tr>
<td>Pre-65 drug</td>
<td>7.5%</td>
<td>7.0%</td>
<td>7.25%</td>
</tr>
<tr>
<td>Post-65 drug</td>
<td>10.5%</td>
<td>7.0%</td>
<td>7.25%</td>
</tr>
<tr>
<td>Ultimate</td>
<td>4.5%</td>
<td>4.5%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Year ultimate reached (b)</td>
<td>2026</td>
<td>2026</td>
<td>2026</td>
</tr>
</tbody>
</table>

(a) The actuarial assumptions are evaluated by the Company at each measurement date. The OPEB Plan was remeasured at October 1, 2016 due to a plan amendment.
(b) Pre-65 medical reaches the ultimate trend rate in 2025. Additionally, the Post-65 medical trend is assumed to be 4.50% for all years into the future.

Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plan. The effect of a 1% change in these assumed health care cost trend rates would increase or decrease the December 31, 2017 benefit obligation by $11.3 million or $8.8 million, respectively. In addition, a 1% change in said rate would increase or decrease the aggregate 2017 service and interest cost components of the net periodic benefit cost by $1.1 million or $0.8 million, respectively.
The Company's overall expected long-term rate of return on assets is 7.85%, effective January 1, 2018, on a pre-tax basis. The expected gross long-term rate of return on assets on an after-tax basis is 6.12% effective January 1, 2018. The trust's tax rate was assumed to be 35% at January 1, 2017 and 22% at January 1, 2018. The expected long-term rate of return is based on the after-tax weighted average of the expected returns on investments based upon the target asset allocation. The Company’s target allocations for the plan’s assets are presented below:

<table>
<thead>
<tr>
<th>December 31, 2017</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity securities</td>
<td>48%</td>
</tr>
<tr>
<td>Fixed income</td>
<td>33%</td>
</tr>
<tr>
<td>Alternative investments</td>
<td>19%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

As of January 1, 2018, the long-term rate of return assumption was updated to be gross of administrative expenses paid from the trust. Net of administrative expenses, the reported long-term rate of return would have been 7.5%.

The OPEB Plan invests the majority of its plan assets in institutional funds which includes a diversified portfolio of domestic and international equity securities and fixed income securities. Alternative investments of the OPEB Plan are comprised of real estate limited partnership and equity securities of commercial real estate securities, known as real estate investment trusts. The alternative investments also include equity securities of a dynamic, diversified portfolio designed to capture market opportunities. The underlying allocations to various asset classes in this portfolio will shift over time, but the overall strategic allocation will remain 75% global equity, 15% marketable real assets and 10% global fixed income. The expected rates of return for the funds are assessed annually and are based on long-term relationships among major asset classes and the level of incremental returns that can be earned by the successful implementation of different active investment management strategies. Equity returns are based on estimates of long-term inflation rate, real rate of return, 10-year Treasury bond premium over cash, an expected equity risk premium, as well as other economic factors. Fixed income returns are based on maturity, long-term inflation, real rate of return and credit spreads. These assumptions also capture the expected correlation of returns between these asset classes over the long term.

The FASB guidance on disclosure for other post-retirement benefit plans requires disclosure of fair value measurements of plan assets. To increase consistency and comparability in fair value measurements, the FASB guidance on fair value measurements established a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

- **Level 1** – Observable inputs that reflect quoted market prices for identical assets and liabilities in active markets. Prices of securities held in the mutual funds and underlying portfolios of the Other Post-retirement Benefits Plan are primarily obtained from independent pricing services. These prices are based on observable market data. The institutional funds are valued using the NAV provided by the administrator of the fund. The NAV price is quoted on a restrictive market although the underlying investments are traded on active markets. The NAV used for determining the fair value of the investments in the institutional funds have readily determinable fair values. Accordingly, such fund values are categorized as Level 1.

- **Level 2** – Inputs other than quoted market prices included in Level 1 that are observable for the asset or liability either directly or indirectly. The fair value of these investments are based on evaluated prices that reflect observable market information, such as actual trade information of similar securities, adjusted for observable differences.

- **Level 3** – Unobservable inputs using data that is not corroborated by market data.
The fair value of the Company’s OPEB Plan assets at December 31, 2017 and 2016, and the level within the three levels of the fair value hierarchy defined by the FASB guidance on fair value measurements are presented in the table below (in thousands):

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2017</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and Cash Equivalents</td>
<td>$ 809</td>
<td>$ 809</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Institutional Funds (a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity funds</td>
<td>19,862</td>
<td>19,862</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Fixed income funds</td>
<td>17,823</td>
<td>17,823</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Real estate funds</td>
<td>1,657</td>
<td>1,657</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total Institutional Funds</td>
<td>39,342</td>
<td>39,342</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Limited Partnership Interest in Real Estate (b) (c)</td>
<td>722</td>
<td>$ 40,873</td>
<td>$ 40,151</td>
<td>—</td>
</tr>
<tr>
<td>Total Plan Investments</td>
<td>$ 40,873</td>
<td>$ 40,151</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2016</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional Funds (a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity funds</td>
<td>$ 26,133</td>
<td>$ 26,133</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Fixed income funds</td>
<td>11,671</td>
<td>11,671</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total Institutional Funds</td>
<td>37,804</td>
<td>37,804</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Limited Partnership Interest in Real Estate (b) (c)</td>
<td>1,311</td>
<td>$ 40,873</td>
<td>$ 40,151</td>
<td>—</td>
</tr>
<tr>
<td>Total Plan Investments</td>
<td>$ 39,115</td>
<td>$ 37,804</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(a) The institutional funds are invested in equity or fixed income securities, or a combination thereof. The investment objective of each fund is to produce returns in excess of, or commensurate with, its predefined index.

(b) This investment is a commercial real estate partnership that purchases land, develops limited infrastructure, and sells it for commercial development. The OPEB Plan trust was restricted from selling its partnership interest during the life of the partnership, which spanned 7 years. Return of investment is realized as land is sold. The fair value of the limited partnership interest in real estate is based on the NAV of the partnership which reflects the appraised value of the land. The partnership term expired on June 30, 2016. Upon expiration, dissolution of the partnership commenced and, as a result, the general partner of the partnership is attempting to sell the remaining inventory as soon as possible at the highest pricing possible.

(c) In the first quarter of 2016, the Company implemented ASU 2015-07, Fair Value Measurement (Topic 820) which eliminates the requirement to categorize investments in the fair value hierarchy if the fair value is measured at NAV per share (or its equivalent) using the practical expedient in the FASB’s fair value measurement guidance. The fair value amounts presented in the table are intended to permit reconciliation of the fair value hierarchy to the amounts presented in the statement of financial position.
The table below reflects the changes in the fair value of the investments in real estate during the period (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Fair Value of Investments in Real Estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at December 31, 2015</td>
<td>$1,610</td>
</tr>
<tr>
<td>Sale of land</td>
<td>(145)</td>
</tr>
<tr>
<td>Unrealized loss in fair value</td>
<td>(154)</td>
</tr>
<tr>
<td>Balance at December 31, 2016</td>
<td>1,311</td>
</tr>
<tr>
<td>Sale of land</td>
<td>(504)</td>
</tr>
<tr>
<td>Unrealized loss in fair value</td>
<td>(85)</td>
</tr>
<tr>
<td>Balance at December 31, 2017</td>
<td>$ 722</td>
</tr>
</tbody>
</table>

There were no transfers in or out of Level 1 and Level 2 fair value measurements categories due to changes in observable inputs during the twelve month periods ending December 31, 2017 and 2016. There were no purchases, issuances, and settlements related to the assets in the Level 3 fair value measurement category during the twelve month periods ending December 31, 2017 and 2016.

The Company and the fiduciaries responsible for the OPEB Plan adhere to the traditional capital market pricing theory which maintains that over the long term, the risk of owning equities should be rewarded with a greater return than available from fixed income investments. The Company and the fiduciaries responsible for the OPEB Plan seek to minimize the risk of owning equity securities by investing in funds that pursue risk minimization strategies and by diversifying its investments to limit its risks during falling markets. The investment manager has full discretionary authority to direct the investment of plan assets held in trust within the guidelines prescribed by the Company and the fiduciaries responsible for the OPEB Plan through the plan’s investment policy statement including the ability to hold cash equivalents. The investment guidelines of the investment policy statement are in accordance with the ERISA and DOL regulations.

The following benefit payments, which reflect expected future service, as appropriate, are expected to be paid (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$2,260</td>
</tr>
<tr>
<td>2019</td>
<td>2,404</td>
</tr>
<tr>
<td>2020</td>
<td>2,607</td>
</tr>
<tr>
<td>2021</td>
<td>2,771</td>
</tr>
<tr>
<td>2022</td>
<td>2,937</td>
</tr>
<tr>
<td>2023-2027</td>
<td>16,440</td>
</tr>
</tbody>
</table>

**Annual Short-Term Incentive Plan**

The Annual Short-Term Incentive Plan (the “Incentive Plan”) provides for the payment of cash awards to eligible Company employees, including each of its named executive officers. Payment of awards is based on the achievement of performance measures reviewed and approved by the Company’s Board of Directors’ Compensation Committee. Generally, these performance measures are based on meeting certain financial, operational and individual performance criteria. The financial performance goals are based on earnings per share and certain operations and maintenance expenses. The operational performance goals are based on reliability, customer satisfaction, and compliance. If a specified level of earnings per share is not attained, no amounts will be paid under the Incentive Plan, unless the Compensation Committee determines otherwise. In 2017, the Company reached the required levels of earnings per share, certain operations and maintenance expenses, customer satisfaction, and compliance goals for an incentive payment of $9.7 million. In 2016 and 2015, the Company achieved required levels of similar goals for incentive payments of $12.5 million and $10.5 million, respectively.
N. Franchises and Significant Customers

Franchises

The Company operates under franchise agreements with several cities in its service territory, including one with El Paso, Texas, the largest city it serves. The franchise agreement allows the Company to utilize public rights-of-way necessary to serve its customers within El Paso. Pursuant to the El Paso franchise agreement, which was amended in 2010, the Company pays to the City of El Paso, on a quarterly basis, a fee equal to 4.00% of gross revenues the Company receives for the generation, transmission and distribution of electrical energy and other services within the city. The 2005 El Paso franchise agreement set the franchise fee at 3.25% of gross revenues, but the 2010 amendment added an incremental fee equal to 0.75% of gross revenues to be placed in a restricted fund to be used by the city solely for economic development and renewable energy purposes. Any assignment of the franchise agreement, including a deemed assignment as a result of a change in control of the Company, requires the consent of the City of El Paso. The El Paso franchise agreement is set to expire on July 31, 2030.

The Company does not have a written franchise agreement with Las Cruces, New Mexico, the second largest city in its service territory. The Company utilizes public rights-of-way necessary to service its customers within Las Cruces under an implied franchise by satisfying all obligations under the franchise agreement that expired on April 30, 2009. The Company pays the City of Las Cruces a franchise fee of 2.00% of gross revenues the Company receives from services within the City of Las Cruces.

Military Installations

The Company serves HAFB, White Sands Missile Range ("White Sands") and Fort Bliss. These military installations represent approximately 2.5% of the Company's annual retail revenues. In July 2014, the Company signed an agreement with Fort Bliss under which Fort Bliss takes retail electric service from the Company under the applicable Texas tariffs. The Company serves White Sands under the applicable New Mexico tariffs. In August 2016, the Company signed a contract with HAFB under which the Company provides retail electric service and limited wheeling services to HAFB under the applicable New Mexico tariffs. As stated in the contract, HAFB will purchase the full output of a Company-owned 5 MW solar facility upon its completed construction, with HAFB's other power requirements and limited wheeling services provided under the applicable New Mexico tariffs.
O. Financial Instruments and Investments

The FASB guidance requires the Company to disclose estimated fair values for its financial instruments. The Company has determined that cash and temporary investments, investment in debt securities, accounts receivable, decommissioning trust funds, long-term debt, short-term borrowings under the RCF, accounts payable and customer deposits meet the definition of financial instruments. The carrying amounts of cash and temporary investments, accounts receivable, accounts payable and customer deposits approximate fair value because of the short maturity of these items. Investments in debt securities and decommissioning trust funds are carried at estimated fair value.

Long-Term Debt and Short-Term Borrowings Under the RCF. The fair values of the Company's long-term debt and short-term borrowings under the RCF are based on estimated market prices for similar issues and are presented below (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Carrying Amount</td>
<td>Estimated Fair Value</td>
</tr>
<tr>
<td>Pollution Control Bonds (1)</td>
<td>$157,676</td>
<td>$169,186</td>
</tr>
<tr>
<td>Senior Notes</td>
<td>993,426</td>
<td>1,211,922</td>
</tr>
<tr>
<td>RGRT Senior Notes (2)</td>
<td>44,886</td>
<td>47,070</td>
</tr>
<tr>
<td>RCF (2)</td>
<td>173,533</td>
<td>173,533</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,369,521</strong></td>
<td><strong>$1,601,711</strong></td>
</tr>
</tbody>
</table>

(1) In September 2017, the $33.3 million 2012 Series A 1.875% Pollution Control Bonds which were subject to mandatory tender for purchase were redeemed and retired utilizing funds borrowed under the RCF.

(2) Nuclear fuel financing, as of December 31, 2017 and December 31, 2016, is funded through $45 million and $95 million RGRT Senior Notes and $88.5 million and $37.6 million, respectively under the RCF. In August 2017, RGRT's $50.0 million Series B 4.47% Senior Notes matured and were paid utilizing funds borrowed under the RCF. As of December 31, 2017, $85.0 million was outstanding under the RCF for working capital or general corporate purposes. As of December 31, 2016, $44.0 million amount was outstanding under the RCF for working capital or general corporate purposes. The interest rate on the Company's borrowings under the RCF is reset throughout the period reflecting current market rates. Consequently, the carrying value approximates fair value.

Treasury Rate Locks. The Company entered into treasury rate lock agreements in 2005 to hedge against potential movements in the treasury reference interest rate pending the issuance of the 6% Senior Notes. The treasury rate lock agreements met the criteria for hedge accounting and were designated as a cash flow hedge. In accordance with cash flow hedge accounting, the Company recorded the loss associated with the fair value of the cash flow hedge, net of tax, as a component of accumulated other comprehensive loss and amortizes the accumulated comprehensive loss to earnings as interest expense over the life of the 6% Senior Notes. In 2018, approximately $0.6 million of this accumulated other comprehensive loss item will be reclassified to interest expense.

Contracts and Derivative Accounting. The Company uses commodity contracts to manage its exposure to price and availability risks for fuel purchases and power sales and purchases and these contracts generally have the characteristics of derivatives. The Company does not trade or use these instruments with the objective of earning financial gains on the commodity price fluctuations. The Company has determined that all such contracts outstanding at December 31, 2017, except for certain natural gas commodity contracts with optionality features, that had the characteristics of derivatives met the "normal purchases and normal sales" exception provided in the FASB guidance for accounting for derivative instruments and hedging activities, and, as such, were not required to be accounted for as derivatives.

Marketable Securities. The Company’s marketable securities, included in decommissioning trust funds in the balance sheets, are reported at fair value which was $286.9 million and $255.7 million at December 31, 2017 and 2016, respectively. These securities are classified as available for sale and recorded at their estimated fair value using the FASB guidance for certain investments in debt and equity securities. The reported fair values include gross unrealized losses on marketable securities whose impairment the Company has deemed to be temporary. The tables below present the gross unrealized losses and the fair value of these securities, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position (in thousands):
Table of Contents

EL PASO ELECTRIC COMPANY
NOTES TO FINANCIAL STATEMENTS

December 31, 2017

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Less than 12 Months</th>
<th>12 Months or Longer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fair Value</td>
<td>Unrealized Losses</td>
<td>Fair Value</td>
</tr>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$4,700</td>
<td>$(46)</td>
<td>$10,099</td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>28,866</td>
<td>(416)</td>
<td>18,186</td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>4,290</td>
<td>(73)</td>
<td>9,736</td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>10,685</td>
<td>(107)</td>
<td>4,475</td>
</tr>
<tr>
<td>Total Debt Securities</td>
<td>48,541</td>
<td>(642)</td>
<td>42,496</td>
</tr>
<tr>
<td>Common Stock</td>
<td>962</td>
<td>(210)</td>
<td>—</td>
</tr>
<tr>
<td>Total Temporarily Impaired Securities</td>
<td>$49,503</td>
<td>$(852)</td>
<td>$42,496</td>
</tr>
</tbody>
</table>

(1) Includes approximately 146 securities.

December 31, 2016

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Less than 12 Months</th>
<th>12 Months or Longer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fair Value</td>
<td>Unrealized Losses</td>
<td>Fair Value</td>
</tr>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$11,582</td>
<td>$(239)</td>
<td>$436</td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>31,655</td>
<td>(762)</td>
<td>17,976</td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>9,596</td>
<td>(394)</td>
<td>4,067</td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>7,971</td>
<td>(172)</td>
<td>2,092</td>
</tr>
<tr>
<td>Total Debt Securities</td>
<td>60,804</td>
<td>(1,567)</td>
<td>24,571</td>
</tr>
<tr>
<td>Common Stock</td>
<td>2,760</td>
<td>(167)</td>
<td>—</td>
</tr>
<tr>
<td>Institutional Funds-International Equity</td>
<td>22,945</td>
<td>(110)</td>
<td>—</td>
</tr>
<tr>
<td>Total Temporarily Impaired Securities</td>
<td>$86,509</td>
<td>$(1,844)</td>
<td>$24,571</td>
</tr>
</tbody>
</table>

(2) Includes approximately 152 securities.

The Company monitors the length of time specific securities trade below its cost basis along with the amount and percentage of the unrealized loss in determining if a decline in fair value of marketable securities below recorded cost is considered to be other than temporary. The Company recognizes impairment losses on certain of its securities deemed to be other than temporary. In accordance with the FASB guidance, these impairment losses are recognized in net income, and a lower cost basis is established for these securities. In addition, the Company will research the future prospects of individual securities as necessary. The Company does not anticipate expending monies held in trust before 2044 or a later period when decommissioning of Palo Verde begins.

For the twelve months ended December 31, 2017, 2016, and 2015, the Company recognized other than temporary impairment losses on its available-for-sale securities as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Unrealized holding losses included in pre-tax income</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$</td>
</tr>
<tr>
<td>2016</td>
<td>$ (352)</td>
</tr>
<tr>
<td>2015</td>
<td>$ (338)</td>
</tr>
</tbody>
</table>

The reported securities also include gross unrealized gains on marketable securities which have not been recognized in the Company’s net income. The table below presents the unrecognized gross unrealized gains and the fair value of these securities, aggregated by investment category (in thousands):

106
### Description of Securities:

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>December 31, 2017</th>
<th>December 31, 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fair Value</td>
<td>Unrealized Gains</td>
</tr>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$ 5,933</td>
<td>$ 203</td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>$ 11,129</td>
<td>$ 256</td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>$ 2,558</td>
<td>$ 109</td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>$ 19,514</td>
<td>$ 1,067</td>
</tr>
<tr>
<td>Total Debt Securities</td>
<td>$ 39,134</td>
<td>$ 1,635</td>
</tr>
<tr>
<td>Common Stock</td>
<td>$ 52,879</td>
<td>$ 32,625</td>
</tr>
<tr>
<td>Equity Mutual Funds</td>
<td>$ 67,186</td>
<td>$ 12,962</td>
</tr>
<tr>
<td>Institutional Funds-International Equity</td>
<td>$ 28,804</td>
<td>$ 5,908</td>
</tr>
<tr>
<td>Cash and Cash Equivalents</td>
<td>$ 6,864</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 194,867</strong></td>
<td><strong>$ 53,130</strong></td>
</tr>
</tbody>
</table>

The Company’s marketable securities include investments in mortgage backed securities, municipal, corporate and federal debt obligations. The contractual year for maturity for these available-for-sale securities as of December 31, 2017 is as follows (in thousands):

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Total 2018</th>
<th>2019 through 2022</th>
<th>2023 through 2027</th>
<th>2028 and Beyond</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$ 20,732</td>
<td>$ 18</td>
<td>$ 280</td>
<td>$ 20,434</td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>$ 58,181</td>
<td>$ 27,181</td>
<td>$ 11,663</td>
<td>$ 14,086</td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>$ 16,584</td>
<td>$ 7,690</td>
<td>$ 7,064</td>
<td>$ 1,319</td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>$ 34,674</td>
<td>$ 16,946</td>
<td>$ 7,601</td>
<td>$ 9,912</td>
</tr>
</tbody>
</table>

The Company’s marketable securities in its decommissioning trust funds are sold from time to time and the Company uses the specific identification basis to determine the amount to reclassify from accumulated other comprehensive income into net income. The proceeds from the sale of these securities during the twelve months ended December 31, 2017, 2016, and 2015 and the related effects on pre-tax income are as follows (in thousands):

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from sales of available-for-sale securities</td>
<td>$ 97,037</td>
<td>$ 91,268</td>
<td>$ 102,567</td>
</tr>
<tr>
<td>Gross realized gains included in pre-tax income</td>
<td>$ 11,773</td>
<td>$ 9,212</td>
<td>$ 12,379</td>
</tr>
<tr>
<td>Gross realized losses included in pre-tax income</td>
<td>(1,147)</td>
<td>(1,220)</td>
<td>(927)</td>
</tr>
<tr>
<td>Gross unrealized losses included in pre-tax income</td>
<td>(352)</td>
<td>(338)</td>
<td></td>
</tr>
<tr>
<td>Net gains in pre-tax income</td>
<td>$ 10,626</td>
<td>$ 7,640</td>
<td>$ 11,114</td>
</tr>
<tr>
<td>Net unrealized holding gains (losses) included in accumulated other comprehensive income</td>
<td>$ 25,275</td>
<td>$ 8,444</td>
<td>$ (2,906)</td>
</tr>
<tr>
<td>Net gains reclassified out of accumulated other comprehensive income</td>
<td>(10,626)</td>
<td>(7,640)</td>
<td>(11,114)</td>
</tr>
<tr>
<td>Net gains (losses) in other comprehensive income</td>
<td>$ 14,649</td>
<td>$ 804</td>
<td>$ (14,020)</td>
</tr>
</tbody>
</table>

**Fair Value Measurements.** The FASB guidance requires the Company to provide expanded quantitative disclosures for financial assets and liabilities recorded on the balance sheet at fair value. Financial assets carried at fair value include the Company's decommissioning trust investments and investments in debt securities which are included in deferred charges and other assets on the Balance Sheets. The Company has no liabilities that are measured at fair value on a recurring basis. The FASB guidance establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

- **Level 1** - Observable inputs that reflect quoted market prices for identical assets and liabilities in active markets. Financial assets utilizing Level 1 inputs include the nuclear decommissioning trust investments in active exchange-traded equity securities, mutual funds and U.S. Treasury securities that are in a highly liquid and active market. The Institutional Funds...
are valued using the NAV provided by the administrator of the fund. The NAV price is quoted on a restrictive market although the underlying investments are traded on active markets. The NAV used for determining the fair value of the Institutional Funds-International Equity investments have readily determinable fair values. Accordingly, such fund values are categorized as Level 1.

- Level 2 - Inputs other than quoted market prices included in Level 1 that are observable for the asset or liability either directly or indirectly. Financial assets utilizing Level 2 inputs include the nuclear decommissioning trust investments in fixed income securities. The fair value of these financial instruments is based on evaluated prices that reflect observable market information, such as actual trade information of similar securities, adjusted for observable differences.

- Level 3 - Unobservable inputs using data that is not corroborated by market data and primarily based on internal Company analysis using models and various other analysis. Financial assets utilizing Level 3 inputs are the Company's investment in debt securities.

The securities in the Company’s decommissioning trust funds are valued using prices and other relevant information generated by market transactions involving identical or comparable securities. The FASB guidance identifies this valuation technique as the "market approach" with observable inputs. The Company analyzes available-for-sale securities to determine if losses are other than temporary.

The fair value of the Company’s decommissioning trust funds and investments in debt securities at December 31, 2017 and 2016, and the level within the three levels of the fair value hierarchy defined by the FASB guidance are presented in the table below (in thousands):

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2017</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trading Securities:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investments in Debt Securities</td>
<td>$1,735</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Available for sale:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$20,732</td>
<td></td>
<td>$20,732</td>
<td></td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>58,181</td>
<td>58,181</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>16,584</td>
<td></td>
<td>16,584</td>
<td></td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>34,674</td>
<td></td>
<td>34,674</td>
<td></td>
</tr>
<tr>
<td>Subtotal, Debt Securities</td>
<td>130,171</td>
<td>58,181</td>
<td>71,990</td>
<td></td>
</tr>
<tr>
<td>Common Stock</td>
<td>53,841</td>
<td>53,841</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity Mutual Funds</td>
<td>67,186</td>
<td>67,186</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutional Funds-International Equity</td>
<td>28,804</td>
<td>28,804</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and Cash Equivalents</td>
<td>6,864</td>
<td>6,864</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Available for Sale</strong></td>
<td>$286,866</td>
<td>$214,876</td>
<td>$71,990</td>
<td>$</td>
</tr>
</tbody>
</table>

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**EL PASO ELECTRIC COMPANY**  
NOTES TO FINANCIAL STATEMENTS

<table>
<thead>
<tr>
<th>Description of Securities</th>
<th>Fair Value as of December 31, 2016</th>
<th>Quoted Prices in Active Markets for Identical Assets (Level 1)</th>
<th>Significant Other Observable Inputs (Level 2)</th>
<th>Significant Unobservable Inputs (Level 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trading Securities:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investments in Debt Securities</td>
<td>$1,421</td>
<td>$—</td>
<td>$—</td>
<td>$1,421</td>
</tr>
<tr>
<td><strong>Available for sale:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Agency Mortgage Backed Securities</td>
<td>$19,448</td>
<td>$—</td>
<td>$19,448</td>
<td>$—</td>
</tr>
<tr>
<td>U.S. Government Bonds</td>
<td>61,868</td>
<td>$61,868</td>
<td>$—</td>
<td></td>
</tr>
<tr>
<td>Municipal Debt Obligations</td>
<td>16,144</td>
<td>$—</td>
<td>16,144</td>
<td></td>
</tr>
<tr>
<td>Corporate Debt Obligations</td>
<td>22,413</td>
<td>$—</td>
<td>22,413</td>
<td></td>
</tr>
<tr>
<td>Subtotal, Debt Securities</td>
<td>119,873</td>
<td>61,868</td>
<td>58,005</td>
<td></td>
</tr>
<tr>
<td>Common Stock</td>
<td>64,644</td>
<td>64,644</td>
<td>$—</td>
<td></td>
</tr>
<tr>
<td>Equity Mutual Funds</td>
<td>42,244</td>
<td>42,244</td>
<td>$—</td>
<td></td>
</tr>
<tr>
<td>Institutional Funds-International Equity</td>
<td>22,945</td>
<td>22,945</td>
<td>$—</td>
<td></td>
</tr>
<tr>
<td>Cash and Cash Equivalents</td>
<td>6,002</td>
<td>6,002</td>
<td>$—</td>
<td></td>
</tr>
<tr>
<td><strong>Total Available for Sale</strong></td>
<td>$255,708</td>
<td>$197,703</td>
<td>$58,005</td>
<td>$—</td>
</tr>
</tbody>
</table>

Below is a reconciliation of the beginning and ending balance of the fair value of the investment in debt securities (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at January 1</td>
<td>$1,421</td>
<td>$1,543</td>
</tr>
<tr>
<td>Net unrealized gains (losses) in fair value recognized in income (a)</td>
<td>314</td>
<td>(122)</td>
</tr>
<tr>
<td>Balance at December 31</td>
<td>$1,735</td>
<td>$1,421</td>
</tr>
</tbody>
</table>

(a) These amounts are reflected in the Company's statements of operations as investment and interest income.

There were no transfers in or out of Level 1 and Level 2 fair value measurements categories due to changes in observable inputs during the twelve month periods ending December 31, 2017 and 2016. There were no purchases, sales, issuances, and settlements related to the assets in the Level 3 fair value measurement category during the twelve month periods ending December 31, 2017 and 2016.
### P. Supplemental Statements of Cash Flows Disclosures

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest on long-term debt and borrowing under the revolving credit facility</td>
<td>$70,523</td>
<td>$69,990</td>
<td>$62,297</td>
</tr>
<tr>
<td>Income tax paid, net</td>
<td>2,055</td>
<td>2,328</td>
<td>1,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-cash investing and financing activities:</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale of interest in Four Corners Generating Station (a)</td>
<td>—</td>
<td>27,720</td>
<td>—</td>
</tr>
<tr>
<td>Changes in accrued plant additions</td>
<td>(5,090)</td>
<td>4,789</td>
<td>(6,660)</td>
</tr>
<tr>
<td>Grants of restricted shares of common stock</td>
<td>1,171</td>
<td>1,235</td>
<td>1,567</td>
</tr>
<tr>
<td>Issuance of performance shares</td>
<td>932</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

(a) The Company sold its interest in Four Corners in July 2016. The sales proceeds were reduced by the settlement of other obligations between the Company and APS and its affiliate, 4C Acquisition, LLC. See Part II, Item 8, Financial Statements and Supplementary Data, Note E.
Q. Selected Quarterly Financial Data (Unaudited)

The following table summarizes the Company’s unaudited results of operations on a quarterly basis. The quarterly earnings per share amounts for a year will not add to the earnings per share for that year due to the weighting of shares used in calculating per share data.

<table>
<thead>
<tr>
<th>2017 Quarters</th>
<th>2016 Quarters</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4th (2)</td>
</tr>
<tr>
<td>Operating revenues (1)</td>
<td>$196,149</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>20,299</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>6,500</td>
</tr>
<tr>
<td>Basic earnings per share:</td>
<td></td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>0.16</td>
</tr>
<tr>
<td>Diluted earnings per share:</td>
<td></td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>0.16</td>
</tr>
<tr>
<td>Dividends declared per share of common stock</td>
<td>0.335</td>
</tr>
</tbody>
</table>

---

(1) Operating revenues are seasonal in nature, with the peak sales periods generally occurring during the summer months. Comparisons among quarters of a year may not represent overall trends and changes in operations.

(2) For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2017 Texas Retail Rate Case until it received the 2017 PUCT Final Order on December 18, 2017. Accordingly, it reported in the fourth quarter of 2017 the cumulative effect of the 2017 PUCT Final Order which related back to July 18, 2017. See Part II, Item 8, Financial Statements and Supplementary Data, Note C.

(3) For financial reporting purposes, the Company deferred any recognition of the Company's request in its 2015 Texas Retail Rate Case until it received the 2016 PUCT Final Order on August 25, 2016. Accordingly, it reported in the third quarter of 2016 the cumulative effect of the 2016 PUCT Final Order which related back to January 12, 2016. See Part II, Item 8, Financial Statements and Supplementary Data, Note C.
Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of disclosure controls and procedures. Under the supervision and with the participation of our management, including our chief executive officer and our chief financial officer, we conducted an evaluation pursuant to Rule 13a-15(b) under the Exchange Act of our disclosure controls and procedures as defined in Rule 13a-15(e) under the Exchange Act. Based on that evaluation, our chief executive officer and our chief financial officer concluded that, as of December 31, 2017, our disclosure controls and procedures are effective.


Changes in internal control over financial reporting. There were no changes in our internal control over financial reporting in connection with the evaluation required by paragraph (d) of the Exchange Act Rules 13a-15 or 15d-15, that occurred during the quarter ended December 31, 2017, that materially affected, or that were reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.
PART III

Item 10. Directors, Executive Officers of the Registrant and Corporate Governance

The information called for by Item 10 concerning our directors will be set forth in our definitive proxy statement for the 2018 Annual Meeting of Shareholders (the "2018 Proxy Statement") under the heading "Nominees and Directors of the Company" and is incorporated herein by reference pursuant to Instruction G to Form 10-K. The information called for by Item 10 regarding our executive officers is included herein under the caption "Executive Officers of the Registrant" and is incorporated herein by reference.

The information called for by Item 10 concerning the identification of our standing audit committee will be set forth in the 2018 Proxy Statement under the caption "Committees" under the heading "Directors' Meetings, Compensation and Committees," and under the heading "Audit Committee Report" and is incorporated herein by reference pursuant to Instruction G to Form 10-K.

The information called for by Item 10 concerning our audit committee financial experts will be set forth in the 2018 Proxy Statement under the caption "Committees" under the heading "Directors', Meetings, Compensation and Committees" and is incorporated herein by reference pursuant to Instruction G to Form 10-K.

The information called for by Item 10 concerning compliance with Section 16(a) of the Exchange Act will be set forth in the 2018 Proxy Statement under the heading "Section 16(a) Beneficial Ownership Reporting Compliance," and is incorporated herein by reference pursuant to Instruction G to Form 10-K.

We have adopted a Code of Ethics. The information called for by Item 10 concerning our Code of Ethics will be set forth in the 2018 Proxy Statement under the caption "Business Conduct Policies" under the heading "Corporate Governance," and is incorporated herein by reference pursuant to Instruction G to Form 10-K.

Executive Officers of the Registrant

The executive officers of the Company are elected annually and serve at the discretion of the Board of Directors. The executive officers of the Company as of February 28, 2018 were as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Current Position and Business Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mary E. Kipp</td>
<td>50</td>
<td>President and Chief Executive Officer since May 2017; Chief Executive Officer from December 2015 to May 2017; President from September 2014 to December 2015; Senior Vice President, General Counsel and Chief Compliance Officer from June 2010 to September 2014.</td>
</tr>
<tr>
<td>Nathan T. Hirschi</td>
<td>54</td>
<td>Senior Vice President and Chief Financial Officer since October 2013; Vice President and Controller from March 2010 to October 2013.</td>
</tr>
<tr>
<td>Steven T. Buraczyk</td>
<td>50</td>
<td>Senior Vice President of Operations since October 2013; Vice President of Regulatory Affairs from April 2013 to October 2013; Vice President of Power Marketing and Fuels and Resource and Delivery Planning from August 2012 to April 2013; Vice President of System Operations and Planning from January 2011 to August 2012; Vice President of Power Marketing and Fuels from July 2008 to January 2011.</td>
</tr>
<tr>
<td>Rocky R. Miracle</td>
<td>65</td>
<td>Senior Vice President of Corporate Development and Chief Compliance Officer since May 2017; Senior Vice President Corporate Services and Chief Compliance Officer from December 2015 to May 2017; Senior Vice President of Corporate Planning &amp; Development and Chief Compliance Officer from September 2014 to December 2015; Senior Vice President of Corporate Planning and Development from August 2009 to September 2014.</td>
</tr>
<tr>
<td>William A. Stiller</td>
<td>66</td>
<td>Senior Vice President of Public &amp; Customer Affairs and Chief Human Resources Officer since December 2015; Senior Vice President of Human Resources and Customer Care from October 2013 to December 2015; Vice President and Chief Human Resources Officer from January 2013 to October 2013; Independent Human Resources consultant from 2005 to 2013.</td>
</tr>
<tr>
<td>Adrian J. Rodriguez</td>
<td>39</td>
<td>Senior Vice President, General Counsel and Assistant Secretary since September 2017; Vice President, General Counsel and Assistant Secretary from May 2017 to September 2017; Principal Attorney from July 2016 to May 2017; Senior Attorney from November 2014 to July 2016; Staff Attorney from April 2013 to November 2014.</td>
</tr>
<tr>
<td>Russell G. Gibson</td>
<td>65</td>
<td>Vice President and Controller since September 2014; Chief Financial Officer and Vice President for ReadyOne Industries, Inc. from June 2006 to September 2014.</td>
</tr>
</tbody>
</table>
**Equity Compensation Plan Information**

<table>
<thead>
<tr>
<th>Plan Category</th>
<th>Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)</th>
<th>Weighted-average exercise price of outstanding options, warrants and rights (b)</th>
<th>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity compensation plans</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>approved by security holders</td>
<td>—</td>
<td>$</td>
<td>1,342,428</td>
</tr>
<tr>
<td>Equity compensation plans</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>not approved by security holders</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total</td>
<td>—</td>
<td>$</td>
<td>1,342,428</td>
</tr>
</tbody>
</table>
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## PART IV

### Item 15. Exhibits and Financial Statement Schedules

(a) Documents filed as a part of this report:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Financial Statements:</td>
</tr>
<tr>
<td></td>
<td>See Index to Financial Statements</td>
</tr>
<tr>
<td>2.</td>
<td>Financial Statement Schedules:</td>
</tr>
<tr>
<td></td>
<td>All schedules are omitted as the required information is not applicable or is included in the financial statements or related notes thereto.</td>
</tr>
<tr>
<td>3.</td>
<td>Exhibits</td>
</tr>
<tr>
<td></td>
<td>Certain of the following documents are filed herewith. Certain other of the following exhibits have heretofore been filed with the Securities and Exchange Commission, and, pursuant to Rule 12b-32 and Regulation 201.24, are incorporated herein by reference.</td>
</tr>
</tbody>
</table>

115
<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Exhibit 3</strong> – Articles of Incorporation and Bylaws:</td>
<td></td>
</tr>
<tr>
<td>3.01</td>
<td>Restated Articles of Incorporation of the Company, dated February 7, 1996 and effective February 12, 1996. (Exhibit 3.1 to the Company's Registration Statement on Form S-3, filed on September 26, 2017)</td>
</tr>
<tr>
<td><strong>Exhibit 4</strong> – Instruments Defining the Rights of Security Holders, including Indentures:</td>
<td></td>
</tr>
<tr>
<td>4.01</td>
<td>General Mortgage Indenture and Deed of Trust, dated as of February 1, 1996. (Exhibit 4.1 to the Company’s Registration Statement on Form S-3, filed on September 26, 2017)</td>
</tr>
<tr>
<td>4.01-01</td>
<td>First Supplemental Indenture, dated February 1, 1996, to Exhibit 4.01. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-02</td>
<td>Second Supplemental Indenture, dated as of August 19, 1997, to Exhibit 4.01. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-03</td>
<td>Third Supplemental Indenture, dated as of January 29, 1999, to Exhibit 4.01. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-04</td>
<td>Fourth Supplemental Indenture, dated as of January 25, 2002, to Exhibit 4.01. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-05</td>
<td>Fifth Supplemental Indenture, dated as of December 17, 2004, to Exhibit 4.01. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-06</td>
<td>Sixth Supplemental Indenture to Exhibit 4.01, dated as of May 5, 2005 to General Mortgage Indenture and Deed of Trust dated as of February 1, 1996 between the Company and U.S. Bank National Association as trustee. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-07</td>
<td>Seventh Supplemental Indenture to Exhibit 4.01, dated as of April 11, 2006 to General Mortgage Indenture and Deed of Trust dated as of February 1, 1996 between the Company and U.S. Bank National Association as trustee. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.01-08</td>
<td>Eighth Supplemental Indenture to Exhibit 4.01, dated as of July 7, 2015 to General Mortgage Indenture and Deed of Trust dated as of February 1, 1996 between the Company and U.S. Bank National Association as trustee. (included in Exhibit 4.01)</td>
</tr>
<tr>
<td>4.02</td>
<td>Indenture of Trust between Maricopa County, Arizona Pollution Control Corporation and Union Bank of California, N.A. as Trustee dated as of August 1, 2012 relating to $59,235,000 Maricopa County, Arizona Pollution Control Corporation Pollution Control Refunding Revenue Bonds 2012 Series A (El Paso Electric Company Palo Verde Project). (Exhibit 4.05 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012)</td>
</tr>
<tr>
<td>4.03</td>
<td>Loan Agreement dated August 1, 2012 between Maricopa County, Arizona Pollution Control Corporation and El Paso Electric Company relating to the Pollution Control Bonds referred to in Exhibit 4.02. (Exhibit 4.06 to the Company’s Quarterly Report on Form 10-Q for the quarter ended September 30, 2012)</td>
</tr>
<tr>
<td>4.04</td>
<td>Indenture of Trust between Maricopa County, Arizona Pollution Control Corporation and Union Bank, N.A. as Trustee dated as of March 1, 2009 relating to $63,500,000 Maricopa County, Arizona Pollution Control Corporation Pollution Control Refunding Revenue Bonds 2009 Series A (El Paso Electric Company Palo Verde Project). (Exhibit 4.01 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2009)</td>
</tr>
<tr>
<td>4.05</td>
<td>Loan Agreement dated March 1, 2009 between Maricopa County, Arizona Pollution Control Corporation and El Paso Electric Company relating to the Pollution Control Bonds referred to in Exhibit 4.04. (Exhibit 4.02 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2009)</td>
</tr>
<tr>
<td>4.06</td>
<td>Indenture of Trust between Maricopa County, Arizona Pollution Control Corporation and Union Bank, N.A. as Trustee dated as of March 1, 2009 relating to $37,100,000 Maricopa County, Arizona Pollution Control Corporation Pollution Control Refunding Revenue Bonds 2009 Series B (El Paso Electric Company Palo Verde Project). (Exhibit 4.03 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2009)</td>
</tr>
<tr>
<td>4.07</td>
<td>Loan Agreement dated March 1, 2009 between Maricopa County, Arizona Pollution Control Corporation and El Paso Electric Company relating to the Pollution Control Bonds referred to in Exhibit 4.06. (Exhibit 4.04 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2009)</td>
</tr>
<tr>
<td>4.08</td>
<td>Amended and Restated Installment Sale Agreement, dated August 1, 2012, between El Paso Electric Company and the City of Farmington, New Mexico, relating to the Pollution Control Bonds referred to in Exhibit 4.09. (Exhibit 4.04 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012)</td>
</tr>
<tr>
<td>4.09</td>
<td>Debt Securities Indenture, dated as of May 1, 2005. (Exhibit 4.2 to the Company's Registration Statement on Form S-3, filed on September 26, 2017)</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.10</td>
<td>First Supplemental Indenture, dated as of May 19, 2008. (Exhibit 4.4 to the Company's Registration Statement on Form S-3, filed on September 26, 2017)</td>
</tr>
<tr>
<td>4.11</td>
<td>Securities Resolution No. 1, dated May 11, 2005, relating to the Company's 6.00% Senior Notes due 2035. (Exhibit 4.2 to the Company's Current Report on Form 8-K filed on May 19, 2005)</td>
</tr>
<tr>
<td>4.12</td>
<td>Securities Resolution No. 2, dated May 29, 2008, relating to the Company's 7.50% Senior Notes due 2038. (Exhibit 4.1 to the Company's Current Report on Form 8-K filed on June 9, 2008)</td>
</tr>
<tr>
<td>4.13</td>
<td>Securities Resolution No. 3, dated December 3, 2012, relating to the Company's 3.30% Senior Notes due 2022. (Exhibit 4.1 to the Company's Current Report on Form 8-K filed on December 6, 2012)</td>
</tr>
<tr>
<td>4.14</td>
<td>Securities Resolution No. 4, dated December 1, 2014, relating to the Company's 5.000% Senior Notes due 2044. (Exhibit 4.1 to the Company's Current Report on Form 8-K filed on December 2, 2014)</td>
</tr>
<tr>
<td>4.15</td>
<td>Securities Resolution No. 5, dated March 24, 2016, relating to the Company's 5.000% Senior Notes due 2044. (Exhibit 4.1 to the Company's Current Report on Form 8-K filed on March 24, 2016)</td>
</tr>
</tbody>
</table>

### Exhibit 10 – Material Contracts:

- **10.01** – Arizona Nuclear Power Project Participation Agreement, dated August 23, 1973, between Arizona Public Service Company, Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, Tucson Gas & Electric Company and the Company, describing the respective participation ownerships of the various utilities having undivided interests in the Arizona Nuclear Power Project and in general terms defining the respective ownerships, rights, obligations, major construction and operating arrangements of the Parties. (Exhibit 10.05 to the Company's Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-01** – Amendment No. 1, dated January 1, 1974, to Exhibit 10.01 (Exhibit 10.05 to the Company's Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-02** – Amendment No. 2, dated August 28, 1975, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-03** – Amendment No. 3, dated July 22, 1976, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-04** – Amendment No. 4, dated December 15, 1977, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-05** – Amendment No. 5, dated December 5, 1979, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-06** – Amendment No. 6, dated October 16, 1981, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-07** – Amendment No. 7, dated April 1, 1982, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-08** – Amendment No. 8, dated September 12, 1983, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-09** – Amendment No. 9, dated June 12, 1984, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-10** – Amendment No. 10, dated November 21, 1985, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-11** – Amendment No. 11, dated January 10, 1987, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-12** – Amendment No. 12, dated August 5, 1988, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-13** – Amendment No. 13, dated June 15, 1991, to Exhibit 10.01 (Exhibit 10.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)
  - **10.01-14** – Amendment No. 14, dated June 20, 2000, to Exhibit 10.01. (Exhibit 10.05-01 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2002)
  - **10.01-15** – Amendment No. 15, dated January 13, 2011, to Exhibit 10.01. (Exhibit 10.07 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012)
  - **10.01-16** – Amendment No. 16, dated April 28, 2014, to Exhibit 10.01. (Exhibit 10.06 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2014)
<table>
<thead>
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<th>Exhibit Number</th>
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<tbody>
<tr>
<td>*10.02</td>
<td>ANPP Valley Transmission System Participation Agreement, dated August 20, 1981, and Amendments No. 1 and 2 thereto. APS Contract No. 2253-419.00. (Exhibit 10.06 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)</td>
</tr>
<tr>
<td>*10.03-01</td>
<td>Amendment No. 1, dated November 20, 1986, to Exhibit 10.03. (Exhibit 10.11-01 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1986)</td>
</tr>
<tr>
<td>*10.06</td>
<td>Amrad to Artesia 345 KV Transmission System and DC Terminal Participation Agreement, dated December 8, 1981, between the Company and Texas-New Mexico Power Company, and the First through Third Supplemental Agreements thereto. (Exhibit 10.14 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)</td>
</tr>
<tr>
<td>#10.07</td>
<td>El Paso Electric Company Excess Benefit Plan, dated as of April 1, 2014 (Exhibit 10.07 to the Company's Annual Report on Form 10-K for the year ended December 31, 2016)</td>
</tr>
<tr>
<td>*10.08</td>
<td>Interconnection Agreement and Amendment No. 1, dated July 19, 1966, between the Company and Public Service Company of New Mexico. (Exhibit 19.01 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1982)</td>
</tr>
<tr>
<td>#10.09</td>
<td>Southwest New Mexico Transmission Project Participation Agreement, dated April 11, 1977, between Public Service Company of New Mexico, Community Public Service Company and the Company, and Amendments 1 through 5 thereto. (Exhibit 10.16 to the Company's Annual Report on Form 10-K for the year ended December 31, 1995)</td>
</tr>
<tr>
<td>*10.09-01</td>
<td>Amendment No. 6, dated as of June 17, 1999, to Exhibit 10.09. (Exhibit 10.09 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 1999)</td>
</tr>
<tr>
<td>10.10-01</td>
<td>Settlement Agreement between TEP and the Company, dated April 26, 2011, to Exhibit 10.10. (Exhibit 10.14-01 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011)</td>
</tr>
<tr>
<td>*10.12</td>
<td>Arizona Nuclear Power Project Transmission Project Westwing Switchyard Amended Interconnection Agreement, dated August 14, 1986, between The United States of America; Arizona Public Service Company; Department of Water and Power of the City of Los Angeles; Nevada Power Company; Public Service Company of New Mexico; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; and the Company. (Exhibit 10.72 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1986)</td>
</tr>
<tr>
<td>#10.13</td>
<td>Form of Indemnity Agreement, between the Company and its directors and officers. (Exhibit 10.17 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012)</td>
</tr>
<tr>
<td>*10.15</td>
<td>Trust Agreement, dated as of February 12, 1996, between the Company and Texas Commerce Bank National Association, as Trustee of the Rio Grande Resources Trust II. (Exhibit 10.34 to the Company’s Annual Report on Form 10-K for the year ended December 31, 1995)</td>
</tr>
<tr>
<td>Exhibit Number</td>
<td>Title</td>
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<tr>
<td>10.17</td>
<td>Decommissioning Trust Agreement, dated as of April 1, 2006, between the Company and Wells Fargo Bank, N.A., as decommissioning trustee for Palo Verde Unit 1. (Exhibit 10.02 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2006)</td>
</tr>
<tr>
<td>10.18</td>
<td>Decommissioning Trust Agreement, dated as of April 1, 2006, between the Company and Wells Fargo Bank, N.A., as decommissioning trustee for Palo Verde Unit 2. (Exhibit 10.03 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2006)</td>
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<tr>
<td>10.19</td>
<td>Decommissioning Trust Agreement, dated as of April 1, 2006, between the Company and Wells Fargo Bank, N.A., as decommissioning trustee for Palo Verde Unit 3. (Exhibit 10.04 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2006)</td>
</tr>
<tr>
<td>10.20</td>
<td>Second Amended and Restated Credit Agreement dated as of January 14, 2014, among the Company, The Bank of New York Mellon Trust Company, N.A., not in its individual capacity, but solely in its capacity as trustee of the Rio Grande Resources Trust II, the lenders party thereto, JPMorgan Chase Bank, N.A., as administrative agent and issuing bank and Union Bank of California, N.A., as syndication agent. (Exhibit 10.25-03 to the Company's Annual Report on Form 10-K for the year ended December 31, 2013)</td>
</tr>
<tr>
<td>10.20-01</td>
<td>Extension and Increase Confirmation to Exhibit 10.20. (Exhibit 10.1 to the Company’s Current Report on Form 8-K filed on January 10, 2017)</td>
</tr>
<tr>
<td>#10.21</td>
<td>Change in Control Agreement between the Company and certain key officers of the Company. (Exhibit 10.26 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2014)</td>
</tr>
<tr>
<td>10.22</td>
<td>Purchase and Sale Agreement between the Company and Arizona Public Service Company, dated February 17, 2015. (Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 19, 2015)</td>
</tr>
<tr>
<td>10.22-01</td>
<td>Amendment No. 1, dated April 13, 2015, to Exhibit 10.22. (Exhibit 10.03 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015)</td>
</tr>
<tr>
<td>10.22-02</td>
<td>Amendment Agreement, dated July 6, 2016, to Exhibit 10.22. (Exhibit 10.1 to the Company’s Current Report on Form 8-K filed on July 7, 2016)</td>
</tr>
<tr>
<td>#10.23</td>
<td>Form of Directors’ Restricted Stock Award Agreement between the Company and certain directors of the Company. (Exhibit 10.07 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 1999)</td>
</tr>
<tr>
<td>10.24</td>
<td>Franchise Agreement, dated July 12, 2005, between the Company and the City of El Paso. (Exhibit 10.05 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 2015)</td>
</tr>
<tr>
<td>10.24-01</td>
<td>Amendment No. 1, dated April 13, 2015, to Exhibit 10.22. (Exhibit 10.03 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2015)</td>
</tr>
<tr>
<td>10.25</td>
<td>Interconnection Agreement dated as of May 23, 2002, between the Company and the Public Service Company of New Mexico. (Exhibit 10.09 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 2002)</td>
</tr>
<tr>
<td>10.27</td>
<td>Power Purchase and Sale Agreement, dated as of December 16, 2005, between the Company and Phelps Dodge Energy Services, LLC. (Exhibit 10.42 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2005)</td>
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<tr>
<td>10.28</td>
<td>Letter Agreement, dated October 24, 2016, to Exhibit 10.28. (Exhibit 10.28-08 to the Company's Annual Report on Form 10-K for the year ended December 31, 2016)</td>
</tr>
<tr>
<td>10.29</td>
<td>Settlement Agreement between the State of Texas and the Company, dated October 17, 2006. (Exhibit 10.08 to the Company’s Quarterly Report on Form 10-Q for the quarter ended September 30, 2006)</td>
</tr>
<tr>
<td>#10.30</td>
<td>El Paso Electric Company 2007 Long-Term Incentive Plan. (Exhibit 10.1 to the Company’s Current Report on Form 8-K, filed on May 2, 2007)</td>
</tr>
<tr>
<td>#10.30-01</td>
<td>Amended and Restated 2007 Long-Term Incentive Plan to Exhibit 10.30. (Exhibit 99.1 to the Company's Registration Statement (No. 333-196628) on Form S-8, filed on June 6, 2014)</td>
</tr>
<tr>
<td>#10.30-02</td>
<td>First Amendment to the Amended and Restated 2007 Long-Term Incentive Plan. (Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 5, 2018)</td>
</tr>
<tr>
<td>#10.31</td>
<td>Employment Agreement between the Company and Mary E. Kipp, dated December 15, 2015. (Exhibit 10.50 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2015)</td>
</tr>
<tr>
<td>Exhibit Number</td>
<td>Title</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>#10.32</td>
<td>Change in Control Agreement between the Company and Mary E. Kipp. (Exhibit 10.01 to the Company’s Current Report on Form 8-K filed on May 26, 2017)</td>
</tr>
<tr>
<td>#10.33</td>
<td>Long-Term Incentive Award Agreement (For Non-Employee Directors). (Exhibit 10.01 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2017)</td>
</tr>
<tr>
<td>#10.34</td>
<td>Long-Term Incentive Award Agreement (For Employees). (Exhibit 10.02 to the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2017)</td>
</tr>
<tr>
<td>#10.35</td>
<td>Form of Performance Share Award Agreement for outstanding awards between the Company and certain officers of the Company. (Exhibit 10.2 to the Company’s Current Report on Form 8-K filed on February 5, 2018)</td>
</tr>
<tr>
<td>#10.36</td>
<td>Form of Performance Share Award Agreement between the Company and certain officers of the Company. (Exhibit 10.3 to the Company’s Current Report on Form 8-K filed on February 5, 2018)</td>
</tr>
<tr>
<td>#10.37</td>
<td>Form of Restricted Stock Award Agreement between the Company and certain officers of the Company. (Exhibit 10.4 to the Company’s Current Report on Form 8-K filed on February 5, 2018)</td>
</tr>
<tr>
<td>#10.38</td>
<td>Form of Restricted Stock Award Agreement between the Company and non-employee directors of the Company. (Exhibit 10.5 to the Company’s Current Report on Form 8-K filed on February 5, 2018)</td>
</tr>
<tr>
<td>Exhibit 12</td>
<td>Computation of Ratios:</td>
</tr>
<tr>
<td>*12.01</td>
<td>Computation of Ratios of Earnings to Fixed Charges</td>
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<tr>
<td>Exhibit 23</td>
<td>Consent of Experts:</td>
</tr>
<tr>
<td>*23.01</td>
<td>Consent of KPMG LLP (set forth on page 124 of this report)</td>
</tr>
<tr>
<td>Exhibit 24</td>
<td>Power of Attorney:</td>
</tr>
<tr>
<td>*24.01</td>
<td>Power of Attorney (set forth on page 122 of this report)</td>
</tr>
<tr>
<td>*24.02</td>
<td>Certified copy of resolution authorizing signatures pursuant to Power of Attorney</td>
</tr>
<tr>
<td>Exhibit 31 and 32</td>
<td>Certifications:</td>
</tr>
<tr>
<td>*31.01</td>
<td>Certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</td>
</tr>
<tr>
<td>*32.01</td>
<td>Certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</td>
</tr>
<tr>
<td>Exhibit 99</td>
<td>Additional Exhibits:</td>
</tr>
<tr>
<td>*99.01</td>
<td>Agreed Order, entered August 30, 1995, by the Public Utility Commission of Texas. (Exhibit 99.31 to the Company’s Registration Statement No. 33-99744 on Form S-1)</td>
</tr>
<tr>
<td>99.03</td>
<td>Final Order, entered June 8, 1999, by the Public Utility Commission of Texas. (Exhibit 99.01 to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 1999)</td>
</tr>
<tr>
<td>99.04</td>
<td>Final Order, entered January 8, 2002, by the New Mexico Public Utility Commission. (Exhibit 99.05 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2001)</td>
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<tr>
<td>Exhibit 101</td>
<td>XBRL – Related Documents:</td>
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<tr>
<td>*101.INS</td>
<td>XBRL Instance Linkbase Document</td>
</tr>
<tr>
<td>*101.SCH</td>
<td>XBRL Taxonomy Extension Schema Linkbase Document</td>
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<td>XBRL Taxonomy Extension Calculation Linkbase Document</td>
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<td>*101.PRE</td>
<td>XBRL Taxonomy Extension Presentation Linkbase Document</td>
</tr>
</tbody>
</table>
* Filed herewith.

# Management contracts or compensatory plans or arrangements required to be identified by Item 15(a)(3) of Form 10-K.

† Agreements substantially identical in all material respects to this exhibit have been entered into between the Company and its Section 16 officers, except for the president and chief executive officer, which agreement is separately filed herewith.

†† Confidential treatment has been requested and received for the redacted portions of these Exhibits. The copies filed omit the information subject to the confidentiality request. Omissions are designated as “****.” A complete version of these Exhibits has been filed separately with the Securities and Exchange Commission.

**Item 16. Form 10-K Summary**

None.

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POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each of El Paso Electric Company, a Texas corporation, and the undersigned directors and officers of El Paso Electric Company, hereby constitutes and appoints Mary E. Kipp, Nathan T. Hirschi, Adrian J. Rodriguez and Russell G. Gibson, its, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for it, him or her and its, his or her name, place and stead, in any and all capacities, with full power of each to act alone, to sign this report and any and all amendments to this report, and to file each such amendment to this report, with all exhibits thereto, and any and all documents in connection therewith, with the Securities and Exchange Commission, hereby granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform any and all acts and things requisite and necessary to be done in connection therewith, as fully to all intents and purposes as it, he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them or his or her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.
SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 28th day of February 2018.

EL PASO ELECTRIC COMPANY

By: /s/ MARY E. KIPP

Mary E. Kipp
President and Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the date indicated.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ MARY E. KIPP</td>
<td>President and Chief Executive Officer and Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Mary E. Kipp)</td>
<td>(Principal Executive Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ NATHAN T. HIRSCHI</td>
<td>Senior Vice President and Chief Financial Officer</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Nathan T. Hirschi)</td>
<td>(Principal Financial Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ RUSSELL G. GIBSON</td>
<td>Vice President and Controller</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Russell G. Gibson)</td>
<td>(Principal Accounting Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ CATHERINE A. ALLEN</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Catherine A. Allen)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ PAUL M. BARBAS</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Paul M. Barbas)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ JAMES W. CICCONI</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(James W. Cicconi)</td>
<td></td>
<td></td>
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<tr>
<td>/s/ EDWARD ESCUDERO</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Edward Escudero)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ JAMES W. HARRIS</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(James W. Harris)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ WOODLEY L. HUNT</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Woodley L. Hunt)</td>
<td></td>
<td></td>
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<tr>
<td>/s/ RAYMOND PALACIOS JR</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Raymond Palacios Jr.)</td>
<td></td>
<td></td>
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<tr>
<td>/s/ ERIC B. SIEGEL</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Eric B. Siegel)</td>
<td></td>
<td></td>
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<tr>
<td>/s/ STEPHEN N. WERTHEIMER</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Stephen N. Wertheimer)</td>
<td></td>
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<tr>
<td>/s/ CHARLES A. YAMARONE</td>
<td>Director</td>
<td>February 28, 2018</td>
</tr>
<tr>
<td>(Charles A. Yamarone)</td>
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ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT
Dated August 23, 1973

AMONG

ARIZONA PUBLIC SERVICE COMPANY
SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT
TUCSON GAS AND ELECTRIC COMPANY
PUBLIC SERVICE COMPANY OF NEW MEXICO AND
EL PASO ELECTRIC COMPANY
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<td>ANPP High Voltage Switchyard(s)</td>
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<td>3.5</td>
<td>Arizona Nuclear Power Project</td>
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<tr>
<td>3.6</td>
<td>Auditing Committee</td>
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**APPENDICES**

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1. **PARTIES:** The Parties to this Participation Agreement are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", TUCSON GAS AND ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Tucson", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM", and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso", and their respective assignees who shall have assumed all or part of the obligations of a Participant hereunder in accordance with the terms hereof.

2. **AGREEMENT:** In consideration of the mutual covenants herein, the Parties agree as follows:

3. **DEFINITIONS:** The following terms, when used herein and in the Appendices attached hereto, shall have the meanings specified:

3.1 **Accounting Practice:** Generally accepted accounting principles in accordance with the FPC Accounts.

3.2 **Administrative Committee:** The committee established pursuant to Section 6.1.1 hereof.

3.3 **ANPP:** The Arizona Nuclear Power Project.

3.4 **ANPP High Voltage Switchyard(s):** The facilities, described generally in Section 9 hereof and Appendix I attached hereto.

3.5 **Arizona Nuclear Power Project:** One or more nuclear steam electric Generating Units, together with all facilities, structures and Nuclear Fuel used or to be used therewith or related thereto, including the Nuclear Plant Site, all facilities and rights-of-way for the collection, transportation, treatment, storage and disposal of water required for Construction Work, Operating Work and Capital Improvements and for rail access wherever such facilities and rights-of-way are located, but excluding the ANPP High Voltage Switchyard(s), and all transmission facilities connected thereto, all as described generally in Appendix A attached hereto which may be revised from time to time by the Administrative Committee pursuant to Section 6.2.9 hereof.

3.6 **Auditing Committee:** The Committee established pursuant to Section 6.1.3 hereof.

3.7 **Available Generating Capability:** The Maximum Generating Capability of each Generating Unit as of any time less that amount of Power equal to the product of (i) the Power then used for the General Service Requirements and (ii) the ratio of the then Maximum Generating Capability of such Generating Unit to the sum of the then Maximum Generating Capabilities of all Generating Units.

3.8 **Base Load Period:** Any period of time during which any Generating Unit is scheduled, pursuant to Section 6.3.2.12 hereof, to be operated to achieve and maintain its then Maximum Generating Capability.

3.9 **Capacity:** The rate at which electrical Energy can be generated expressed in megawatts (MWe).
3.10 **Capital Improvements:** Any Units of Property, land or land rights which are added to ANPP, the betterment of land or land rights or the enlargement or betterment of any Units of Property constituting a part of ANPP, and the replacement of any Units of Property for other Units of Property or the replacement of land or land rights constituting a part of ANPP, irrespective of whether such replacement constitutes an enlargement or betterment of that which it replaces, which additions, betterments, enlargements and replacements in accordance with Accounting Practice would be capitalized and are not included or reflected in the Final Completion Report.

3.11 **Construction Account:** Any bank account or accounts selected and established by the Project Manager to receive and disburse construction funds pursuant to Section 12.4 hereof.

3.12 **Construction Agreement:** Any agreement entered into by the Project Manager for the design, engineering, construction or installation of any component or system for ANPP, including without limitation the nuclear steam supply system and the initial Nuclear Fuel Agreement for Fuel Assemblies to be fabricated for use in a Reactor, containment, turbine-generator, radioactive waste treatment system, architectural, engineering, design, construction, supervisory, licensing or consulting services in connection with the Construction Work, siting studies, pre-operational environmental studies or reports, and for any other services or things necessary or useful in the performance of the Construction Work.

3.13 **Construction Costs:** The costs of constructing ANPP as described in Section 10 hereof.

3.14 **Construction Funds:** Monies advanced to the Project Manager for Construction Work by or on behalf of the Participants in accordance with this Participation Agreement.

3.15 **Construction Insurance:** Policies of insurance to be procured and maintained or caused to be procured and maintained by the Project Manager in accordance with Sections 19 and 20 hereof.

3.16 **Construction Schedule:** The schedule of Construction Work to be prepared and from time to time revised by the Project Manager as set forth in Appendix C attached hereto.

3.17 **Construction Work:** All engineering, design, contract preparation, purchasing, construction, supervision, negotiation, preparation and performance of Construction Agreements, acquisition of land and water rights, expediting, inspection, accounting, testing and start-up for each Generating Unit and preparation of operating and equipment manuals, quality assurance manuals, Protective Action Plans, all reports required by regulatory authorities and the conduct of hearings, conferences and other activities incidental to obtaining requisite permits, licenses and certificates for the construction and operation of each Generating Unit prior to the Date of Firm Operation of such Generating Unit.

3.18 **Date of Firm Operation:** The date with respect to each Generating Unit on which the Engineering and Operating Committee determines it to be reliable as a source of Power and on which such Generating Unit can reasonably be expected to operate steadily at any load up to its Target Capacity.

3.19 **Emergency Spare Parts:** Spare parts or equipment, the cost of which is capitalized, which are stocked for ANPP.

3.20 **Engineering and Operating Committee:** The committee established pursuant to Section 6.1.2 hereof.

3.21 **Energy:** Kilowatt-hours (kwh).

3.22 **Final Completion Report:** A complete summary of Construction Costs, a description of ANPP and a summary of each Participant's contributions to Construction Costs.

3.23 **FPC Accounts:** The Federal Power Commission's "Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)," in effect as of the date of this
Participation Agreement, and as such system of accounts may be in effect from time to time. References in this Participation Agreement to any specific FPC Account number shall mean the FPC Account number in effect as of the effective date of this Participation Agreement or any successor FPC Account.

3.24 **Fuel Assembly:** An integral unit of fabricated Nuclear Fuel prepared for insertion into a Reactor, including all hardware incorporated in such integral unit.

3.25 **Fuel Expense:** The net costs of the character directly or indirectly includable in FPC Account 518, but excluding from such costs any interest during construction as well as any other interest, rental, carrying or use charges, costs of fuels, other than Nuclear Fuel, used for ancillary steam facilities including super heat, and, except as provided in Section 13.3 hereof, any ad valorem taxes or payments in lieu thereof.

3.26 **Fuel Lessor:** Any financial institution, supplier, fabricator or reprocessor of Nuclear Fuel who owns the entire or an undivided interest in Nuclear Fuel acquired for use in, used in or removed from a Reactor, and who leases such Nuclear Fuel to one or more Participants in accordance with the terms and conditions set forth in Section 15.4 hereof.

3.27 **General Service Requirements:** The Power and Energy required during any period and supplied from one or more Generating Units for operation of all process and auxiliary equipment and systems used or useful in connection with the operation and maintenance of all Generating Units.

3.28 **Generation Entitlement Share:** The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:

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3.29 **Generating Unit:** A complete system of ANPP for generating electricity, including without limitation the nuclear steam supply system and its containment, resident Fuel Assemblies, the turbine-generator, all auxiliary structures, system facilities and equipment necessary for or useful in the operation of the unit and any structures, systems, facilities and equipment shared with any other Generating Unit at the Nuclear Plant Site, such as the radioactive waste treatment systems, fire protection systems, water supply and treatment systems, all as more specifically described in Appendix A attached hereto and as revised from time to time.

3.30 **Materials and Supplies:** Materials and supplies which are stocked for ANPP, as defined in FPC Account 154.

3.31 **Maximum Generating Capability:** The maximum capability of any Generating Unit to produce Power, measured at the high side of its main generator step-up transformer, for sustained periods under conditions existing from time to time, including without limitation restrictions imposed by any law, regulation, license or permit, derating due to fuel conditions, water and atmospheric conditions or any other conditions other than Operating Emergency.

3.32 **Minimum Generating Capability:** The lowest Power level at which each Generating Unit can be reliably maintained in service on a continuous basis.

3.33 **Net Energy Generation:** The Energy generated over any period of time by each Generating Unit measured at the high side of its main generator step-up transformer less the Energy generated by said Generating Unit and allocated for General Service Requirements pursuant to Sections 6.3.2.5 and 8.3.25 hereof.
3.34 **Nuclear Fuel:** Any source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended as of the date of this Agreement, including any ores, mined or unmined, or concentrates from which any such material can be obtained, and any Fuel Assemblies.

3.35 **Nuclear Fuel Agreement:** Any agreement entered into by the Project Manager or the Operating Agent relating to the purchase, sale, lease, transfer, disposition, storage, transportation, mining, conversion, milling, enrichment, processing, fabrication and reprocessing of any Nuclear Fuel for use in, used in or removed from a Reactor.

3.36 **Nuclear Plant Site:** The land to be acquired for the construction, operation and maintenance of ANPP, including all exclusionary areas and any lands held for future use, the boundaries of which shall be established initially and revised from time to time as circumstances warrant by the Administrative Committee. When the boundaries are so established or revised, a plat of the Nuclear Plant Site, as it may from time to time be constituted, shall be prepared and incorporated in this Agreement as Appendix B pursuant to Section 6.2.8 hereof.

3.37 **Operating Account:** Any bank account or accounts selected and established by the Operating Agent to receive and disburse funds, pursuant to Section 12 hereof, for Operating Work and Capital Improvements and for payments under any Nuclear Fuel Agreement.

3.38 **Operating Agent:** The Participant responsible for the performance of Operating Work and making Capital Improvements.

3.39 **Operating Emergency:** An unplanned event or circumstance which reduces or may reduce the availability of Power from or the generation of Energy by any Generating Unit.

3.40 **Operating Funds:** Monies advanced to the Operating Agent for Operating Work, Capital Improvements and payments due under any Nuclear Fuel Agreement by or on behalf of the Participants or others in accordance with this Participation Agreement.

3.41 **Operating Insurance:** Policies of insurance to be procured and maintained or caused to be procured and maintained by the Operating Agent in accordance with Sections 19 and 20 hereof.

3.42 **Operating Work:** Engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, accounting, testing, protection, operation, use, management, retirement, reconstruction, and maintenance associated with operating ANPP, including any work undertaken by the Operating Agent pursuant to Section 16 hereof and any work necessitated by an Operating Emergency, but excluding all work undertaken to make any Capital Improvements.

3.43 **Participant:** Any party hereto and any successor or assignee of such party under either Section 15.2 or Section 15.3 hereof.

3.44 **Payroll Taxes:** Taxes based on payroll.

3.45 **Power:** Megawatts electric (MWe).

3.46 **Project Agreements:** This Participation Agreement, any Construction Agreement, any Nuclear Fuel Agreement, and any agreements between the Participants or any of them and any third party for land, land rights or water rights for ANPP, as such agreements are originally executed or as they may thereafter be supplemented or amended and any other agreements as the Participants agree to designate as Project Agreements.

3.47 **Project Director:** The individual designated by the Project Manager to be in charge of the Construction Work pursuant to Section 7.5 hereof.

3.48 **Project Insurance:** Construction Insurance and Operating Insurance.
3.49 **Project Manager:** The Participant responsible for the performance of Construction Work.

3.50 **Protective Action Plan:** A plan providing for the coordinated mobilization and control of action and communications by and between any and all Participants, Federal, state and local authorities and any public or private institutions in the event of an abnormal occurrence at the Nuclear Plant Site when any protective action outside the Nuclear Plant Site may be warranted to minimize exposure of the public to radiation.

3.51 **Reactor:** The pressure vessel of each Generating Unit in which Fuel Assemblies are placed for the purpose of generating heat.

3.52 **Scheduled Date of Firm Operation:** The target date established by the Administrative Committee, pursuant to Section 6.2.7.1 hereof for each Generating Unit on which the Construction Work shall be completed and the Generating Unit shall be available to operate continuously at its Target Capacity.

3.53 **Start-Up Period:** The period with respect to each Generating Unit commencing with the date on which the first Fuel Assembly is inserted into the Generating Unit's Reactor and terminating with its Date of Firm Operation.

3.54 **Target Capacity:** The Maximum Generating Capability established by the Administrative Committee pursuant to Section 6.2.7.1 hereof, for each Generating Unit at which such Generating Unit is expected to be capable of operating continuously with new, undamaged Fuel Assemblies.

3.55 **Units of Property:** Units of property as described in the Federal Power Commission's "List of Units of Property for Use in Connection with Uniform System of Accounts Prescribed for Public Utilities and Licensees" in effect as of the date of this Participation Agreement, and as such list may be amended from time to time.

3.56 **Willful Action:**

3.56.1 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom. Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

3.56.2 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default.

3.56.3 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with the knowledge that such action taken or failed to be taken is a material default under any of the Project Agreements.

3.56.4 The phrase "employees having management or administrative responsibility" as used in this Section 3.56 means employees of a Participant who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Participant's performance under any of the Project Agreements.
3.57 **Work Liability:** Liability of one or more Participants for damage suffered by anyone other than a Participant, whether or not resulting from the negligence of any Participant, its directors, officers, employees or any other person or entity whose negligence could be imputed to such Participant, resulting from:

3.57.1 The performance or non-performance of Construction Work or Operating Work.
3.57.2 The use or ownership of ANPP.

3.58 **Zero Net Load:** The Power load upon a Generating Unit when its gross Power production equals its share of the then General Service Requirements allocated in accordance with policies, criteria and procedures approved by the Engineering and Operating Committee pursuant to Section 6.3.2.5 hereof.

### 4. OWNERSHIP OF AND TITLE TO ARIZONA NUCLEAR POWER PROJECT:

4.1 Each Participant shall accept, acquire and own an undivided interest as a tenant in common in ANPP and all Project Agreements in proportion to its Generation Entitlement Share, but excluding (i) Option and Purchase of Effluent Agreement, Agreement No. 13904, dated April 23, 1973, between Arizona and Salt River Project and the Cities of Phoenix, Glendale, Mesa, Scottsdale and Tempe and the Town of Youngtown, except to the extent only that said agreement governs the rights and obligations for the purchase and delivery of wastewater effluent required for Construction Work, Operating Work and Capital Improvements and (ii) any Project Agreement which by its terms establishes an ownership interest or rights of any Participant in the subject matter thereof which differs from its Generation Entitlement Share under this Participation Agreement.

4.2 The ownership of and title to ANPP described or to be described in this Participation Agreement and all Capital Improvements shall be deemed to have vested simultaneously in the Participants so that the estate of each of them shall be deemed to be concurrent as to time, right and priority.

4.3 At any time as any Participant may reasonably demand in writing, the Participants shall jointly make, execute and deliver one or more supplements to this Participation Agreement in recordable form which shall describe with such particularity and detail as may be warranted under the circumstances the property and facilities then constituting ANPP and the rights, titles and interests of each Participant therein.

4.4 In the event any Participant transfers or assigns any of its rights, title or interest in and to ANPP in accordance with Section 15 hereof and other terms and conditions of this Participation Agreement, the Participants and any successor shall jointly make, execute and deliver a supplement to this Participation Agreement in recordable form which shall describe with such particularity and detail as may be warranted under the circumstances the rights, titles and interests of each Participant and any successor following such transfer or assignment.

### 5. GENERATING STATION CAPACITY AND ENERGY ENTITLEMENTS:

5.1 During the Start-up Period and any Base Load Period of any Generating Unit each Participant shall schedule and be obligated to take delivery of its Generation Entitlement Share of the Net Energy Generation of such Generating Unit.

5.2 At all times after the Date of Firm Operation of each Generating Unit other than those referred to in Section 5.1 hereof each Participant shall be entitled to schedule for its account Power from such Generating Unit equal to the product of its Generation Entitlement Share and the Available Generating Capability of such Generating Unit; and each Participant shall be obligated to provide its own reserve requirements, including spinning reserves, for its Generation Entitlement Share of the Available Generating Capability of all Generating Units.

5.3 Whenever any Participant schedules for its account Power from a Generating Unit, the Operating Agent, unless otherwise established by the Administrative Committee, shall additionally schedule for each Participant a percentage, equal to its Generation Entitlement Share, of the Zero Net Load as effective during the period that such Generating Unit is operated to meet such schedule.
5.4 Operation of any Generating Unit by the Operating Agent shall be subject to scheduled outages or curtailments, restrictions imposed by any regulatory authority or by Operating Emergencies.

5.5 The delivery of Power and Energy from ANPP shall be scheduled by the Participants in advance with the Operating Agent and accounted for on the basis of such advance schedules.

5.6 The Operating Agent shall deliver Power and Energy to each Participant from each Generating Unit at the high side of its main generator step-up transformer in accordance with the schedule submitted by such Participant to the Operating Agent or in accordance with any revisions thereto.

5.7 In the event of an Operating Emergency, the Participants shall, if necessary, revise their schedules to reflect the actual Power and Energy available from ANPP during the period of the Operating Emergency.

6. **ADMINISTRATION:**

6.1 As a means of securing effective cooperation and interchange of information and of providing consultation on a prompt and orderly basis among the Participants in connection with various administrative and technical matters which may arise from time to time in connection with the terms and conditions of the Project Agreements, the Participants establish the committees described in this Section 6.1. The chairman of each of such committees shall be a representative of the Project Manager up to the Date of Firm Operation of the first Generating Unit and thereafter shall be a representative of the Operating Agent. The chairman shall be responsible for calling meetings and establishing agendas. The following committees are hereby established and shall have the functions and responsibilities described herein and in the Project Agreements:

6.1.1 An Administrative Committee consisting of one representative appointed by each Participant, who shall be an officer or the general manager or his authorized designee of a Participant.

6.1.2 An Engineering and Operating Committee consisting of not more than two (2) representatives appointed by each Participant; provided, however, in respect of each matter brought before the Committee, that if any Participant appoints two representatives, only one of such representatives shall have the right to vote thereon. In addition, until completion of the Construction Work, the Project Director shall be a member of the committee, but shall have the right to vote only on such matters as the Project Manager shall designate to him to act as its voting representative on the committee.

6.1.3 An Auditing Committee consisting of not more than two representatives appointed by each Participant; provided that in respect of each matter brought before the committee, if any Participant appoints two (2) representatives, only one of such representatives shall have the right to vote.

6.2 The Administrative Committee shall have the following functions, among others:

6.2.1 Provide liaison between the Participants at the management level.

6.2.2 Exercise general supervision over the Engineering and Operating Committee, the Auditing Committee and any other standing or ad hoc committees established pursuant to Section 6.13 hereof.
6.2.3 Consider and resolve matters referred to it by other committees.
6.2.4 Perform such other functions and duties as may be assigned to it in the Project Agreements.
6.2.5 Review, discuss and act upon disputes among the Participants arising under the Project Agreements.
6.2.6 Provide liaison between the Participants and the Project Manager and the Operating Agent with respect to progress, performance and completion of Construction Work and performance of Operating Work and the financial and accounting aspects thereof.
6.2.7 Review and approve, modify, or otherwise act on recommendations of the Project Manager or the Operating Agent, as the case may be, concerning:
  6.2.7.1 The type and capacity of the nuclear steam supply systems for each Generating Unit and the Target Capacity and Scheduled Date of Firm Operation of each Generating Unit and any recommended revisions thereof.
  6.2.7.2 Any contract for nuclear steam supply systems, any Nuclear Fuel Agreement, and any contract with engineers or consultants related to the foregoing.
  6.2.7.3 The selection and arrangements for acquisition of the Nuclear Plant Site.
  6.2.7.4 Contracts for and all other arrangements or actions necessary to obtain requisite water and water rights for ANPP.
6.2.8 Establish, and as circumstances from time to time warrant, revise the boundaries of the Nuclear Plant Site and cause Appendix B to be prepared or revised as the case may be and incorporated herein.
6.2.9 Revise the general description of ANPP as circumstances from time to time warrant and cause Appendix A attached hereto to be revised accordingly and as so revised incorporated herein.
6.2.10 On the request of any Participant authorize, on such terms and conditions as the committee may deem appropriate, the installation on the Nuclear Plant Site or any other property comprising ANPP of any structures, facilities or equipment by any one or more Participants or any third party for its or their own use, which structures, facilities or equipment shall be deemed not to be a part of ANPP.
6.3 The Engineering and Operating Committee shall have the following functions:
  6.3.1 Provide liaison between Participants and the Project Manager with regard to the Construction Work.
  6.3.2 Review and approve, modify or otherwise act upon recommendations of the Operating Agent concerning the following items related to the performance of Operating Work or making Capital Improvements:
    6.3.2.1 The annual capital expenditures budget, annual manpower table and budget, and annual operation and maintenance budget.
    6.3.2.2 The planned outages scheduled for maintenance and the manner of selection of my maintenance contractor for contract maintenance included in the annual operation and maintenance budget.
    6.3.2.3 The policies for establishing the Emergency Spare Parts inventory and Materials and Supplies inventory.
    6.3.2.4 The written statistical and administrative reports, written budgets, and information and other similar records, and the form thereof, to be kept and furnished by
the Operating Agent (excluding accounting records used internally by the Operating Agent for the purpose of accumulating financial and statistical data, such as books of original entry, ledgers, work papers, and source documents).

6.3.2.5 The policies, criteria and procedures for determining Available Generating Capability, General Service Requirements, Maximum Generating Capability, Minimum Generating Capability, Net Energy Generation and Zero Net Load and for allocating the General Service Requirements among the Generating Units.

6.3.2.6 The procedures for performance and efficiency testing.

6.3.2.6a The quality assurance program governing the conduct of Operating Work and Capital Improvements pursuant to Section 8.3.20 hereof.

6.3.2.7 The procedures for scheduling deliveries of and forecasting and estimating requirements for Nuclear Fuel, Power and Energy, water and all Materials and Supplies incidental thereto.

6.3.2.8 The Operating Agent's analysis of the total expenditures caused by an Operating Emergency.

6.3.2.9 The written statement of operating practices and procedures.

6.3.2.10 The list of transportation and motorized equipment to be owned or leased by the Operating Agent for Operating Work or making Capital Improvements.

6.3.2.11 The practices and procedures for keeping each Participant advised of the Available Generating Capability of each Generating Unit and for the delivery of Power and Energy from ANPP in accordance with the Participants' schedules. Such practices and procedures shall provide for modifying said schedules to meet the needs of day-to-day or hour-by-hour operation, including emergencies on a Participant's system.

6.3.2.12 The scheduling, whenever fuel or other conditions warrant, of any Generating Unit to operate in a mode which restricts changes in Power of such Generating Unit for such specified periods as may be appropriate under such circumstances.

6.3.2.13 The policies, criteria and practices to be followed to optimize the use of the Nuclear Fuel in each Generating Unit.

6.3.2.14 Fuel management plans and the criteria and procedures for determining or estimating those factors, values, quantities, costs and expenses required to be determined or estimated as provided in Appendix F attached hereto.

6.3.2.15 The establishment of procedures for the operation of ANPP during periods of curtailed operations which reduce or may reduce the Available Generating Capability.

6.3.2.16 Arrangements for developing and implementing a Protective Action Plan.

6.3.3 Determine the Date of Firm Operation for each Generating Unit.

6.3.4 Perform such other duties as may be assigned to it in any Project Agreement or by the Administrative Committee.

6.4 The Auditing Committee shall have the following functions:

6.4.1 Development of procedures for accounting and auditing Construction Costs, and costs of Operating Work and Capital Improvements and Fuel Expenses and advances of Construction Funds and Operating Funds consistent with the provisions of the Project Agreements and Accounting Practice and development of procedures for making forecasts and requests for funds pursuant to Sections 12 and 18 hereof.

6.4.2 Audit or cause to be audited the books and records of the Project Manager, Operating Agent, and any other Participant or contractor relevant to the performance of Construction Work and Operating Work and to the construction of Capital Improvements.
6.4.3 Establish the minimum amounts for the Construction Account and the Operating Account pursuant to Sections 12.5 and 12.7 hereof, respectively.

6.4.4 Perform such other duties as may be assigned to it in any Project Agreement or by the Administrative Committee.

6.5 Within thirty (30) days after the execution of this Participation Agreement, each Participant shall designate its representatives on the committees hereby established, with notice thereof given to the other Participants.

6.6 Any action or determination of a committee must be unanimous, except as otherwise provided in Section 35 hereof.

6.7 The Administrative Committee, the Engineering and Operating Committee and the Auditing Committee shall each keep written minutes, and records of all meetings and all actions, agreements or determinations made by any such committee shall be reduced to writing and shall be signed by a representative of each Participant on said committee or an authorized alternate.

6.8 The committees shall have no authority to modify any of the terms, covenants or conditions of the Project Agreements.

6.9 If the Engineering and Operating Committee or the Auditing Committee fails to agree while performing the functions and duties delegated to it in this Participation Agreement or in the Project Agreements, then such disagreement shall be referred to the Administrative Committee for determination.

6.10 If the Administrative Committee fails to reach agreement while performing the respective functions and duties assigned to it in this Participation Agreement or in the other Project Agreements, then such disagreement shall be referred to higher authority within each Participant's organization before proceeding to arbitration as provided in Section 24 hereof.

6.11 In the event any committee established in accordance with this Section 6 is unable or fails to agree in respect of any matter which such committee is authorized to determine, approve or otherwise act upon after a reasonable opportunity so to do, then the Project Manager or the Operating Agent is authorized and obligated to take such action as in its discretion is necessary, pending the resolution of any such inability or failure to agree by arbitration pursuant to Section 24 hereof or otherwise, to the successful and proper construction, operation and maintenance of ANPP as contemplated hereby; provided, however, this Section 6.11 shall not be applicable in respect of those matters required to be approved pursuant to Section 6.2.7 hereof.

6.12 Each Participant shall notify the other Participants promptly of any change in the designation of its representatives on the committees. A Participant may designate an alternate to act as its representative on any committee in the absence of the regular member or to act on specified occasions with respect to specified matters. Any alternate representative appearing at a committee meeting shall be deemed to have authority to act on behalf of the Participant he represents unless the committee chairman is furnished with written notice to the contrary.

6.13 The Participants, acting through the Administrative Committee, shall have the right to establish standing or ad hoc committees. The authority and duties of any such committee shall be set forth in writing and shall be subject to the provisions of the Project Agreements.

6.14 Any expenses incurred by any member of the Administrative Committee or any standing or ad hoc committees in connection with his duties on such committee shall be paid and borne by the Participant whom he represents and shall not be included in Construction Costs or in costs for Operating Work.
7. **PROJECT MANAGER:**

7.1 The Project Manager for ANPP shall be Arizona.

7.2 The Participants hereby appoint the Project Manager as their agent, and the Project Manager shall undertake as their agent and as principal on its own behalf to perform the Construction Work and to carry out the duties and responsibilities provided hereunder to be performed by it.

7.3 The Project Manager shall:

7.3.1 Prepare and submit recommendations to the Administrative Committee concerning:

7.3.1.1 The type and capacity of the nuclear steam supply systems for each Generating Unit and the Target Capacity and Scheduled Date of Firm Operation of each Generating Unit and any revisions thereof as circumstances may warrant.

7.3.1.2 Contracts for nuclear steam supply systems, and any Nuclear Fuel Agreement, including any agreement for the fabrication of the initial supply of Fuel Assemblies, and the purchase of uranium and enrichment and conversion services necessary for such fabrication, including contracts with engineers or consultants related to the foregoing.

7.3.1.3 The selection of the Nuclear Plant Site.

7.3.1.4 Contracts for and all other pertinent arrangements or actions necessary to obtain requisite water and water rights for ANPP.

7.3.2 Carry out the directions of the Administrative Committee in respect of the matters set forth in Section 7.3.1.

7.3.3 With respect to all aspects of Construction Work not governed by Sections 6.2.7, 7.3.1 and 7.3.2, negotiate and enter into any Construction Agreement, and purchase and procure such equipment, apparatus, machinery, materials, tools, supplies and services as it in its sole discretion may deem necessary or useful for the performance and completion of the Construction Work from any source or sources it may select.

7.3.4 Transmit as and when received from the architect, engineer, constructor, consultants, contractors or vendors, any studies, specifications, drawings and any documentation related to the foregoing in respect of ANPP to each member of the Engineering and Operating Committee for review and comment. With respect to any such matters which under the provisions of any Construction Agreement the Project Manager shall have the right of approval or comment, the Project Manager shall notify each member of the Engineering and Operating Committee of the date on which comments from any such member must be received by the Project Manager for consideration; provided, however, that the opportunity for comment by such members need not be afforded with respect to changes in design or specifications where in the discretion of the Project Manager the need for prompt action is overriding. Each such member shall be advised of major meetings with the architect, engineer, constructor, consultants, contractors and vendors related to the foregoing matters and shall be permitted to have a representative to attend any such meeting and to offer comments at or in advance of such meetings on any aspects to be discussed thereat.

7.3.5 Furnish each member of the Administrative Committee with copies of all contracts with the architect, engineer, constructor, contractors and principal subcontractors, vendors and consultants.

7.3.6 Notwithstanding the provisions of Section 7.3.3, review with the Administrative Committee the Project Manager's proposals for awards to vendors for major equipment in advance of such awards, including the recommendations of the architect, engineer, constructor relating to the proposed award, at either a meeting called for such purpose by the Project Manager or by conference telephone call.
7.3.7 Arrive for placement of Construction Insurance pursuant to Sections 19 and 20 hereof.

7.3.8 Determine what contractors, if any, shall be required to furnish any portion of the Construction Insurance, other insurance and faithful performance and payment bonds.

7.3.9 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Construction Insurance.

7.3.10 Present and prosecute claims against insurers and provide Construction Insurance or indemnities in respect of any loss of or damage to any property of ANPP or liability of any Participant to third parties covered by Construction Insurance or indemnities, and to the extent that any such loss or damage is not covered by Construction Insurance, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, the Project Manager shall not make any settlement of any claims in respect thereof without the consent and approval of the Administrative Committee.

7.3.11 Subject to the provisions of Section 21 hereof and except as hereinafter provided in this Section 7.3.11, investigate, adjust, defend and settle claims against any or all Participants arising out of or attributable to Construction Work, or the past or future performance or non-performance of the obligations and duties of any Participant, including the Project Manager, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered collectible Construction Insurance or other valid and collectible insurance carried by any Participant, and, whenever and to the extent warranted, present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by the Project Manager before any said claim or combination of said claims against any or all Participants arising out of the same transaction or incident is settled for more than $250,000 unless it shall be established that the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Construction Insurance.

7.3.12 Execute, perform and enforce all Construction Agreements in the name of the Project Manager, acting as principal on its own behalf and as agent for all Participants, in which all Participants shall have undivided interests as tenants in common equal to their respective Generation Entitlement Shares.

7.3.13 Comply with (i) any and all laws applicable to the performance of Construction Work, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any workmen's compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to ANPP.

7.3.14 Expend the funds advanced to the Project Manager only in the manner and for the purposes set forth in Sections 10 and 12 hereof.

7.3.15 Keep and maintain records of monies received and expended, obligations incurred, credits accrued, estimates of Construction Costs (excluding, subject to Section 13.3 hereof, ad valorem taxes or payments in lieu thereof and interest during construction) and contracts entered into in the performance of Construction Work, and make such records available for inspection by the Auditing Committee at reasonable times and places.

7.3.16 Not suffer any liens to remain in effect unsatisfied against ANPP (other than liens permitted under the Project Agreements, liens for taxes or assessments not yet delinquent, liens for labor and material not yet perfected, or undetermined charges or liens incidental to the performance of Construction Work); provided, however, that the Project Manager shall
not be required to pay or discharge any such lien as long as the Project Manager in good faith shall be contesting the same, which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

7.3.17 Obtain or cause to be obtained necessary construction permits, temporary access rights and other licenses and approvals requisite to the performance and completion of Construction Work and initiation of Operating Work.

7.3.18 As soon as practicable after the Date of Firm Operation of each Generating Unit, provide each Participant with a summary of the Construction Costs applicable to such Generating Unit in a form which will allow each such Participant to classify such Construction Costs to appropriate FPC Accounts.

7.3.19 Provide the Participants with all necessary and required records and information pertaining to the performance of Construction Work, including progress reports at such regular intervals as the Administrative Committee or the Engineering and Operating Committee shall determine.

7.3.20 Keep the Participants fully and promptly informed of any known default by any Participant under the provisions of this Participation Agreement.

7.3.21 As soon as practicable after the commencement of Construction Work, furnish each Participant an estimate of total Construction Costs broken down by major categories of equipment and services and a forecast of the cash requirements of each Participant to meet such Construction Costs. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which Construction Costs will become due and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of Construction Work. In addition, and as soon as practicable after commencement of Construction Work, the Project Manager shall furnish each Participant a detailed monthly forecast of each Participant's estimated expenditures during each week of the succeeding month for Construction Work, which said forecast shall be furnished each Participant monthly thereafter until completion of Construction Work.

7.3.22 Furnish a Participant any information reasonably available pertaining to the construction of ANPP that will assist said Participant in responding to a request for such information by any Federal, state or local regulatory authority.

7.3.23 Use its best efforts in the performance of its responsibilities hereunder to effect the completion of Construction Work in accordance with the Scheduled Date of Firm Operation for each Generating Unit. To achieve this objective and keep the Participants informed, the Project Manager shall from time to time revise the Construction Schedule attached to this Participation Agreement as Appendix C which shall include those milestones that the Project Manager shall deem significant and target dates for their accomplishment consistent with meeting the Scheduled Date of Firm Operation of each Generating Unit.

7.3.24 Keep the Participants fully and promptly advised of significant developments in connection with the progress, performance and completion of Construction Work.

7.3.25 Prepare and distribute the Final Completion Report to each Participant as soon as practicable but not later than twenty-four (24) months after the Date of Firm Operation of the final Generating Unit to be completed unless such time is extended by the Administrative Committee.

7.3.26 Provide the Administrative Committee with all necessary and require records and information for its use in the performance of its responsibilities under this Participation Agreement.

7.3.27 Construct ANPP so as to comply with the Project Agreements.
7.3.28 Conduct tests to verify that specified characteristics of major equipment items have been achieved and, if necessary, make or cause to be made final equipment modifications to meet the specified requirements thereof.

7.3.29 Provide for and enforce any and all warranties on equipment, facilities, materials and services sold to or furnished for ANPP, except that any equipment warranties which expire more than one (1) year after the Date of Firm Operation of the final Generating Unit and all fuel warranties shall be enforced by the Operating Agent.

7.3.30 Conduct such environmental and economic studies of alternative sites as the Administrative Committee directs or as the Project Manager in its discretion deems necessary or appropriate in arriving at a recommendation to the Administrative Committee of a suitable site for ANPP.

7.3.31 Establish a quality assurance program to be observed in the design, fabrication, procurement, storage, handling, shipping, installation and construction of ANPP which shall at a minimum fully meet the requirements of the regulations set forth by the U.S. Atomic Energy Commission in 10 CFR, Part 50, Appendix B, as amended and in effect from time to time.

7.3.32 Establish a quality assurance organization to review and verify conformance with the established quality assurance procedures utilizing personnel from any source, provided no person assigned to audit any activity shall be or have been responsible for the conduct of such activity.

7.3.33 Coordinate with the Operating Agent all arrangements (i) for shipment, transfer, receipt, inspection, storage and loading of Nuclear Fuel at the Nuclear Plant Site, (ii) for the preoperational testing and acceptance by the Operating Agent of components and systems of ANPP, (iii) for preoperational radiological, meteorological and other environmental monitoring programs which are to be continued after the Date of Firm Operation of the first Generating Unit, (iv) for the start-up, operational testing and operation of each Generating Unit prior to its Date of Firm Operation, and (v) for the preservation and organization of all quality assurance records accumulated in the performance of Construction Work and for the on-going quality assurance and surveillance programs to be conducted during ANPP operation.

7.4 Each Participant shall provide to the extent possible all assistance required by the Project Manager in the performance of its obligations hereunder and such Participant shall be reimbursed for its costs and expenses incurred in providing such assistance on such terms and conditions as may be agreed upon by such Participant and the Project Manager. Each Participant shall, within sixty (60) days after the execution of this Participation Agreement, submit to the Project Manager any special requirement it may have regarding accounting, records, or information in order that all required records may be maintained in the same manner throughout the construction and final completion of ANPP. The Project Manager shall use its best efforts to accommodate said special requirements.

7.5 The Project Manager shall have the full responsibility and authority for the employment and organization of the personnel and staff required to prosecute the Construction Work. The Project Manager shall designate an individual to serve as Project Director who shall be responsible solely to the Project Manager and shall be charged with the duties of supervising and coordinating all Construction Work subject to the terms of the Project Agreements.
8. OPERATING AGENT:

8.1 The Operating Agent for ANPP shall be Arizona.

8.2 The Participants hereby appoint the Operating Agent as their agent, and the Operating Agent shall undertake as their agent and as principal on its own behalf, to perform the Operating Work and Capital Improvements to carry out the duties and responsibilities provided hereunder to be performed by it.

8.3 The Operating Agent shall:

8.3.1 Administer, enforce and perform the Operating Work so as to comply with Project Agreements and in a manner consistent with generally accepted practices in the electric utility industry recognizing that such practices may be affected by the design and operational characteristics of ANPP, the rights and obligations of the Participants under this Participation Agreement and other special circumstances affecting the Operating Work.

8.3.2 Furnish from its own resources or contract for and obtain from any other sources it may select, including any Participant, the services and studies necessary for performance of Operating Work.

8.3.3 Execute, administer, perform and enforce contracts in the name of the Operating Agent, acting as principal on its own behalf and as agent for all of the other Participants, for Operating Work, including without limitation any and all warranties on equipment, facilities, materials and services furnished pursuant to any such contracts.

8.3.4 Administer, perform and enforce any Nuclear Fuel Agreements executed by the Project Manager pursuant to Section 7.3.2 and, subject to the provisions of Section 6.2.7, execute administer, perform and enforce all other Nuclear Fuel Agreements.

8.3.5 Administer, perform and enforce all other contractual obligations and arrangements, including all warranties applicable thereto, entered into by the Project Manager and continuing beyond the period ending one year after the Date of Firm Operation of the final Generating Unit.

8.3.6 Furnish or recruit the necessary personnel and provide for such training as may be required to qualify them to perform the Operating Work and to meet all licensing requirements established by law.

8.3.7 Comply with (i) any and all laws applicable to the performance of Operating Work and Capital Improvements, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any workmen’s compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to ANPP.

8.3.8 Purchase and procure, through and from any source it may select, in the name of the Participants with undivided interests as tenants in common in accordance with their Generation Entitlement Shares, the equipment, apparatus, machinery, tools, Materials and Supplies and Emergency Spare Parts necessary for the performance of Operating Work and Capital Improvements.

8.3.9 Expend the Operating Funds advanced to the Operating Agent in accordance with the terms and conditions of this Participation Agreement.

8.3.10 Keep and maintain such records of monies received and expended, obligations incurred, credits accrued, the conduct of Operating Work and making Capital Improvements, and of contracts entered into in the performance of Operating Work as may be necessary or useful in carrying out Project Agreements or required to permit an audit of the Operating Work.
Work and Capital Improvements, and make such records available for inspection by the Auditing Committee.

8.3.11 Not suffer any liens to remain in effect unsatisfied against ANPP (other than the liens permitted under the Project Agreements, liens for taxes and assessments not yet delinquent, liens for labor and material not yet perfected or undetermined charges or liens incidental to the performance of the Operating Work); provided, that the Operating Agent shall not be required to pay or discharge any such lien as long as the Operating Agent in good faith shall be contesting the same which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

8.3.12 Arrange for the placement and maintenance of Operating Insurance as provided in Sections 19 and 20 hereof.

8.3.13 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Operating Insurance.

8.3.14 Present and prosecute claims against insurers and indemnitors providing Operating Insurance or indemnities in respect of any loss of or damage to any property of ANPP or liability of any Participant to third parties covered by any indemnity agreement, and to the extent that any such loss, damage or liability is not covered by Operating Insurance or by any indemnity agreement, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, the Operating Agent shall not make any settlement of any claims in respect thereof without the consent and approval of the Administrative Committee.

8.3.15 Subject to the provisions of Section 21 hereof and except as hereinafter provided in this Section 8.3.15, investigate, adjust, defend and settle claims against any or all Participants arising out of or attributable to Operating Work or Capital Improvements, or the past or future performance or nonperformance of the obligations and duties of any Participant, including the Operating Agent, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered by valid and collectible Operating Insurance carried by any Participant, and whenever and to the extent reasonable present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by the Operating Agent before any said claim or combination of said claims against any or all Participants arising out of the same transaction or incident is settled for more than $250,000 unless the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Operating Insurance.

8.3.16 Keep the Participants fully and promptly advised of material changes in conditions or other material developments affecting the performance of Operating Work and furnish the other Participants with copies of any notices given or received pursuant to the Project Agreements.

8.3.17 Provide the Administrative, Engineering and Operating and Auditing Committees with all written statistical and administrative reports, accounting records, written budgets, information and other records relating to Operating Work and Capital Improvements necessary or useful in the performance of their respective responsibilities under this Participation Agreement.

8.3.18 Determine in accordance with policies, criteria and procedures established by the Engineering and Operating Committee pursuant to Section 6.3.2.5 hereof, and keep the system dispatcher of each Participant advised of, the Maximum Generating Capability,
Minimum Generating Capability and the Available Generating Capability of each Generating Unit.

8.3.19 Upon the request of any Participant, provide such Participant, in reasonable quantity without direct charge therefor, a copy or copies of any report, record, list, budget, manual, accounting or billing summary, classification of accounts or other documents or revisions of any of the aforesaid items, all as prepared in accordance with this Participation Agreement.

8.3.20 Establish a quality assurance program to be followed in the operation and maintenance, changes in design, facilities or equipment and Capital Improvements of ANPP, including without limitation in-service inspections and other surveillance procedures and techniques, which shall, at a minimum, fully meet the requirements of the regulations the U.S. Atomic Energy Commission set forth in 10 CFR, Part 50, Appendix B, as amended and in effect from time to time, including without limitation those regulations governing the delegation of authority for checking, auditing, inspecting or other verifying compliances with the quality assurance program.

8.3.21 Take custody of and maintain a suitable recovery system for all quality assurance records pertaining to Construction Work received from the Project Manager.

8.3.22 Take such action and responsibility for pre-operational Operating Work as required under Appendix G attached hereto.

8.3.23 Keep the Participants fully and promptly informed of any known default of the Project Agreements and submit to the Participants any recommendations for amendments of the Project Agreements.

8.3.24 Prepare recommendations covering the matters which are to be reviewed and acted upon by the Administrative Committee pursuant to Section 6.2.7 hereof or by the Engineering and Operating Committee pursuant to Section 6.3.2 hereof.

8.3.25 Carry out and follow the practices and procedures and directions which have been approved and issued by the Administrative Committee, the Engineering and Operating Committee, or the Auditing Committee pursuant to the Project Agreements, except as otherwise provided in Section 8.3.26 hereof.

8.3.26 In the event of an Operating Emergency take such action as the Operating Agent in its sole discretion may deem prudent or necessary, notwithstanding any practices and procedures and directions approved and issued by the Administrative Committee or the Engineering and Operating Committee, to terminate the Operating Emergency, to preserve and maintain the safety, integrity and operability of ANPP, to maintain to the maximum extent the availability of Power and Energy from each Generating Unit, to protect the health and safety of the public or to minimize any adverse environmental effects and such other action as required by Appendix H attached hereto.

8.4 The other Participants shall lend and be properly reimbursed for all necessary and available assistance as may be requested by the Operating Agent in the performance of Operating Work.

8.5 It is recognized that some Participants may have interests in training personnel in the operation and maintenance of a nuclear station and the Operating Agent shall institute a program to provide such training of personnel of any Participant as the Operating Agent may deem feasible and consistent with the performance of its other duties and responsibilities hereunder. The regular operating and maintenance staff assigned to ANPP, however, will be comprised of the Operating Agent's personnel solely unless the Operating Agent otherwise determines.
9. **INTERCONNECTIONS AND TRANSMISSION LINES:**

9.1 Power and Energy generated by ANPP shall be delivered to the Participants by means of (i) one or more ANPP High Voltage Switchyard(s) to be constructed on the Nuclear Plant Site and (ii) such high voltage transmission lines as the Participants or any of them shall determine to construct, operate and maintain to interconnect ANPP with either existing or planned transmission systems owned or to be owned and operated, by one or more Participants or any other party with whom any Participant has or will have a right to interconnect.

9.2 The Participants shall establish one or more task groups or committees to study, plan and coordinate transmission and interconnection arrangements suitable for delivery to the Participants of Power and Energy generated by ANPP and necessary to satisfy the transmission requirements of the Participants. Such group(s) shall further develop such transmission and interconnection agreements as may be appropriate, including without limitation an agreement governing the ownership, construction, operation and maintenance of the ANPP High Voltage Switchyard(s) which, unless otherwise agreed by all Participants, shall meet the principles established in and be otherwise consistent with Appendix I attached hereto and made a part hereof.

9.3 Since the Arizona Nuclear Power Project will interconnect the systems of the Participants, such interconnections shall be governed by the Principles of Interconnected Operation for Four Comers Interconnection Agreement attached as Appendix J hereto to the extent applicable and the Participants agree to proceed with due diligence to enter into a more definitive interconnection agreement for implementing said principles.

10. **CONSTRUCTION COSTS:**

10.1 Construction Costs of ANPP shall include all payments made and obligations incurred by the Project Manager for or in connection with Construction Work, including but not limited to those costs specified in Appendix D attached hereto and in Section 10.2 hereof.

10.2 Construction Costs shall also include the costs incurred by any Participant in developing ANPP prior to or after the effective date of this Participation Agreement, including (i) the costs incurred in preparation of this Participation Agreement and negotiation and preparation of other Project Agreements and the costs of studies associated therewith, (ii) the costs incurred or contributed by any Participant to make the studies and reports conducted and prepared by Arizona Nuclear Resource Study Group to investigate the feasibility of constructing and operating a nuclear power station in Arizona, and (iii) the costs incurred or contributed by any Participant in connection with the preparation of the Preliminary Evaluation Study for Nuclear Dual Purpose Plants in Southwest Arizona, dated June, 1972, and all studies associated therewith.

10.3 All Construction Costs shall be shared by the Participants in proportion to their respective Generation Entitlement Shares and shall be advanced by them and disbursed and accounted for by the Project Manager in accordance with Section 12 hereof.

11. **OPERATION AND MAINTENANCE COSTS:**

11.2 Operation and maintenance costs of ANPP shall include all payments made and obligations incurred by the Operation Agent for or in connection with the performance of Operation Work, including (i) those costs of Operating Work specified in Appendix E attached hereto, (ii) those costs specified in Section 13 hereof to the extent any tax or payment in lieu thereof is levied against a Participant in behalf of all of the Participants, and in Section 19 hereof (excluding workmen's compensation expense for the Operating Agent's employees), (iii) those costs and expenses described in Section 21.3 hereof, and (iv) all costs, including option payments, for wastewater effluent under Agreement No. 13904 described in Section 4.1 hereof, required or reserved for operation and maintenance of ANPP, but excluding all such costs as may be included in Construction Costs or in the cost of Capital Improvements.
11.2 Except as provided in Section 11.3 hereof, the costs of Operating Work, including costs of water used for Operating Work, shall be shared by the Participants in proportion to their respective Generation Entitlement Shares and shall be advanced by them to the Operating Agent and disbursed and accounted for by it in accordance with Section 12 hereof.

11.3 Fuel Expenses of the character chargeable to FPC Account 518 and investments in Nuclear Fuel shall be shared among the Participants and accounted for in accordance with Appendix F attached hereto.

12. ADVANCEMENT OF FUNDS:

12.1 Each Participant shall advance its share of Construction Funds and Operating Funds prior to the date when funds are required by the Project Manager or Operating Agent to pay for Construction Work, Operating Work and Capital Improvements so that neither the Project Manager nor the Operating Agent in its capacity as such will have to advance any funds on behalf of another Participant.

12.2 Each Participant shall pay weekly in advance its share (equal to its Generation Entitlement Share) of all Construction Costs in accordance with the monthly forecasts of estimated weekly expenditures for Construction Work prepared by the Project Manager and furnished to each Participant pursuant to Section 7.3.21 hereof. Construction Funds on hand shall be invested to the maximum extent feasible. Earnings and losses, if any, shall be allocated to the Participants on the basis of such funds advanced. Following completion of the Construction Work, the Project Manager shall compute the total Construction Costs of ANPP, and each Participant shall promptly settle any balance of its share of such total Construction Costs in accordance therewith. If at any time it is determined that a Participant has made advances which are greater or less than its share of the Construction Costs, the difference shall be paid by or refunded to such Participant.

12.3 The sum of the advances by the Participants hereunder to the Project Manager shall not exceed 100 percent of the total Construction Costs forecasted to be expended as of the date specified in the detailed monthly forecast furnished to the Participants pursuant to Section 7.3.21 hereof plus or minus any adjustments of previous estimates to actual costs.

12.4 The Project Manager shall establish a Construction Account at a bank of its choice and notify the Participants in writing of the establishment of the Construction Account not later than five (5) days following its establishment.

12.5 Not less than sixty (60) days prior to the establishment of the Construction Account, the Auditing Committee shall establish a minimum amount for the Construction Account so that the Project Manager will have Construction Funds to pay for expenditures or obligations incurred by the Project Manager pursuant to this Participation Agreement. Such minimum amount may be revised by the Auditing Committee at any time. The original minimum amount and any increase therein shall be allocated among the Participants in accordance with their respective Generation Entitlement Shares and shall be due and payable within fifteen (15) business days following notification of the establishment of the Construction Account or of the date on which any increase in such minimum amount shall become effective. In the event the Auditing Committee authorizes a decrease in such minimum amount, then each Participant shall receive a credit which shall be in proportion to its Generation Entitlement Share.

12.6 Construction Funds required to be advanced by the Participants in accordance with this Participation Agreement shall be deposited in the Construction Account, and the Project Manager shall, unless otherwise agreed to by the Participants, make disbursements from the Construction Account only for expenditures or obligations incurred by it in the performance of Construction Work or for the investment of Construction Funds pursuant to Section 12.2 hereof.
12.7 Not less than sixty (60) days prior to the establishment of the Operating Account, the Auditing Committee shall establish a minimum balance for the Operating Account so that the Operating Agent will have Operating Funds to pay for expenditures or obligations incurred by the Operating Agent pursuant to this Participation Agreement. Such minimum balance may be revised by the Auditing Committee at any time. The original minimum balance and any increase therein shall be allocated among the Participants on the basis of their respective Generation Entitlement Shares and shall be due and payable within fifteen (15) business days following notification of the establishment of the Operating Account or of the date on which any increase in such minimum balance shall become effective. In the event the Auditing Committee authorizes a decrease in such minimum balance, then each Participant shall receive a credit on the next bills from the Operating Agent.

12.8 All Operating Funds required to be advanced by the Participants in accordance with this Participation Agreement shall be made payable to the account of the Operating Agent or may be credited to the Operating Account by bank transfers. All Operating Funds shall be deposited in the Operating Account, and the Operating Agent shall, unless otherwise directed by the Administrative Committee, make disbursements from the Operating Account only for expenditures or obligations incurred by it in the performance of Operating Work or Capital Improvements or for payments due under any Nuclear Fuel Agreement.

12.9 Not less than thirty (30) days prior to incurring any cost for Operating Work or making any payment under any Nuclear Fuel Agreement, whichever occurs first, on behalf of the Participants pursuant to this Participation Agreement, the Operating Agent shall establish the Operating Account. The Operating Agent shall notify the Participants in writing of the establishment of the Operating Account not later than five (5) days following its establishment.

12.10 Each Participant shall advance Operating Funds to the Operating Account on the basis of bills it receives from the Operating Agent which reflect such Participant's share of the costs of Operating Work and Capital Improvements determined in accordance with this Participation Agreement as follows:

12.10.1 All costs of Operating Work and Capital Improvements (except for expenditures billed under Sections 12.10.2, 12.11 and 12.12 and Fuel Expenses billed under Appendix F attached hereto) shall be billed in writing as follows:

12.10.1.1 On the 5th and 20th day of each month for the payroll paid to the Operating Agent's employees on the last preceding pay day.

12.10.1.2 On the 20th day of each month for the total monthly expenditures for Operating Work and Capital Improvements except those expenditures billed under Section 12.10.1.1 hereof.

12.10.2 Expenditures described in Sections 13, 19.2 (excluding workmen's compensation expenses for the Operating Agent's employees) and 21 and costs for any charitable contributions if such contributions are authorized by the Administrative Committee may be billed prior to their due dates and shall be due and payable not less than three (3) days prior to the date payment by the Operating Agent is due. If such expenditures have no specific due date, then they shall be billed and become due within a reasonable time.

12.11 Each Participant shall advance funds to the Operating Account for its share of all expenditures for Operating Emergencies (excluding those items billed under Sections 12.10.1.1 and 12.10.1.2 hereof) on the basis of estimates made in accordance with Section H.4 of Appendix H attached hereto.

12.12 Each Participant shall advance Operating Funds to the Operating Account for its share of all payments due under any Nuclear Fuel Agreement in accordance with Section F.3 of Appendix F attached hereto.
12.13 Funds not advanced to the Project Manager or the Operating Agent on or before the due date specified in Sections 12.2, 12.5, 12.7, 12.10, 12.11 and 12.12 hereof shall be payable with interest, if any, accrued as provided in Section 23.3 hereof.

12.14 If a Participant shall dispute any portion of any amount specified in a monthly forecast, billing or a request for funds, the disputant shall make the total payment specified in said forecast, billing or request for funds pursuant to Section 23.4 hereof.

13. **TAXES:**

13.1 The Participants shall use their best efforts to have any taxing or other authority levying any taxes or assessments, or payments in lieu thereof, or making any valuations for the purpose of levying any taxes or assessments or payments in lieu thereof, on ANPP, or any interest or rights therein, assess and levy such taxes or assessments or payments in lieu thereof directly against the ownership or beneficial interest of each Participant or its Fuel Lessor, if any.

13.2 All taxes or assessments or payments in lieu thereof levied against each Participant's ownership or beneficial interest in ANPP, excepting those taxes or assessments or payments in lieu thereof levied against an individual Participant in behalf of any or all of the other Participants, shall be the sole responsibility of the Participant upon whose ownership or beneficial interest said taxes or assessments or payments in lieu thereof are levied.

13.3 If any property taxes or payments in lieu thereof or any other taxes or assessments are levied or assessed in a manner other than as specified in Section 13.1 hereof, it shall be the responsibility of the Administrative Committee to establish equitable practices and procedures for the apportionment among the Participants of such taxes and assessments or payments in lieu thereof.

13.4 No Participant who is exempt from any taxes assessed against any or all of the other Participants shall be obligated to make any contribution toward such taxes to the extent of the exemption.

14. **NONPARTITIONMENT:** Each Participant hereby waives any rights which it may have to partition any component of ANPP or the Project Agreements, whether by partitionment in kind or by sale and division of the proceeds, and further agrees that it will not resort to any action in law or in equity to partition such component or the Project Agreements, and it waived the benefits of all laws that may now or hereafter authorize such partition for a term (i) which shall be conterminous with this Participation Agreement, or (ii) which shall be for such lesser period as may be required under applicable law.

15. **MORTGAGE AND TRANSFER OF INTEREST:**

15.1 Each Participant shall have the right at any time and from time to time to mortgage, create or provide for a security interest in or convey in trust all or a part of its ownership share in ANPP, together with an equal interest in the Project Agreements to a trustee or trustees under deed of trust, mortgage or indenture or to a secured party or parties under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior written consent of any other Participant and without such mortgagee, trustee or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Participants.

15.2 Any mortgagee, trustee or secured party under present or future deeds of trust, mortgages, indentures or security agreements of any of the Participants and any successor or assignee thereof, and any receiver, referee or trustee in bankruptcy or reorganization of any of the Participants, and any successor by action of law or otherwise, and any purchaser, transferee or assignee of any thereof may, without need for the prior written consent of any other Participant, succeed to and
acquire all the rights, titles and interests of such Participant in ANPP and the Project Agreements, and may, take over possession of or foreclose upon said property, rights, titles and interests of such Participant, and in such event shall assume and be obligated fully to perform and discharge all of the obligations hereunder and under any other Project Agreement of such Participant.

15.3 Without the prior written consent of any other Participant, each Participant shall have the right to transfer or assign all or part of its Generation Entitlement Share, together with an equal interest in the ownership of ANPP and in the Project Agreements, to any person, partnership, corporation, or governmental corporation or agency engaged in the generation, transmission or distribution of Energy, provided that, unless otherwise required by law, no transfer or assignment by any Participant shall result in the creation of a Generation Entitlement Share and ownership interest in ANPP of any Participant of less than 5% after any such transfer or assignment.

15.4 Unless otherwise determined by the Administrative Committee, all Nuclear Fuel to be used in or removed from any Generating Unit of ANPP or recovered after reprocessing for reuse in any such Generating Unit or for sale to others shall be jointly-owned by the Participants in accordance with their respective Generation Entitlement Shares, provided that any Participant may at any time lease (from a Fuel Lessor) its undivided interest in any discrete portion or portions of such Nuclear Fuel in the manner provided in Section F.1.1.1 or F.1.1.2 of Appendix F attached hereto, subject to the conditions set forth therein and to the further conditions that in each instance (a) any such Fuel Lessor (i) shall waive all right to partitionment of such discrete portion or portions of Nuclear Fuel prior to completion of the reprocessing thereof, (ii) shall not obtain any rights not possessed by such Participant with respect to the operation or scheduling of any Generating Unit or the removal of Nuclear Fuel therefrom and (iii) shall not become a Participant in ANPP unless or until it succeeds to all of such Participant's right, title and interest in ANPP, and agrees to assume and be fully obligated to perform and discharge all of such Participant's obligations hereunder and under any other Project Agreement, and (b) such Participant shall indemnify all other Participants against any costs or expenses incurred by them because of such Participant's leasing of its undivided interest in such discrete portion or portions of the Nuclear Fuel.

15.5 Except as otherwise provided in Sections 15.1 and 15.2 hereof, any successor to the rights, titles and interests of a Participant in ANPP, together with an equal interest in the Project Agreements, shall assume and agree fully to perform and discharge all of the obligations hereunder of such Participant, and such successor shall notify each of the other Participants in writing of such transfer, assignment or merger, and shall furnish to each Participant evidence of such transfer, assignment or merger and thereupon shall be considered to be a Participant in ANPP and the transferring Participant thereupon, without the consent of any other Participant, be released from all obligations under the Project Agreements so assumed and agreed to by such successor.

16. DESTRUCTION:

16.1 If ANPP or any portion thereof should be damaged or destroyed to the extent that the cost of repairs or reconstruction is estimated to be less than 150% of the aggregate amount of Project Insurance coverage carried pursuant to Section 19 hereof, and covering the cost of such repairs or reconstruction, then the Project Manager or the Operating Agent shall cause such repairs or reconstruction to be made so that ANPP shall be restored to substantially the same general condition, character or use as existed prior to such damage or destruction and the Participants shall share the costs of such repairs or reconstruction in proportion to their Generation Entitlement Shares.

16.2 If ANPP or any portion thereof should be damaged or destroyed to the extent that the costs of repairs or reconstruction is estimated to be 150% or more of the aggregate amount of Project Insurance coverage carried and covering the cost of such repairs or reconstruction, then upon agreement of all Participants the Project Manager or the Operating Agent shall cause such repairs or reconstruction to be made as may be agreed and the Participants shall share the costs.
of such repairs or reconstruction in proportion to their Generation Entitlement Shares; provided, however, that should all of the Participants not agree to restore or reconstruct the damaged portion of ANPP, but some of the Participants nevertheless desire to do so, then any Participant who does not agree to restore or reconstruct shall sell its Generation Entitlement Share and ownership interest in ANPP to the remaining Participants for a price equal in amount to its Generation Entitlement Share in the salvage value thereof. The Participants agreeing to repair or reconstruct such Generating Unit shall share the costs of repair or reconstruction in the proportion that the Generation Entitlement Share of each bears to the total Generation Entitlement Shares of such Participants.

17. SEVERANCE OF IMPROVEMENTS: The Participants agree that all facilities, structures, improvements, equipment and property of whatever kind and nature constructed, placed or affixed on the rights-of-way, easements, patented and leased lands as part of or as a Capital Improvement to ANPP, as against all parties and persons whomsoever (including without limitation any party acquiring any interest in the rights-of-way, easements, patented or leased lands or any interest in or lien, claim or encumbrance against any of such facilities, structures, improvements, equipment and property of whatever kind and nature), shall be deemed to be and remain personal property of the Participant(s), not affixed to the realty.

18. CAPITAL IMPROVEMENTS:

18.1 The Participants recognize that from time to time it may be necessary or desirable to make Capital Improvements or that Capital Improvements may be required by laws and regulations applicable to ANPP.

18.2 If requested by a Participant, any such Capital Improvement shall be described in a supplement to this Participation Agreement executed in recordable form.

18.3 All Capital Improvements shall be included in the annual capital expenditures budget. After such budget has been approved by the Engineering and Operating Committee, each Participant shall be obligated for the costs incurred for such Capital Improvements in proportion to its Generation Entitlement Share.

18.4 At any time the Engineering and Operating Committee may authorize Capital Improvements not included in the annual capital expenditures budget if any such Capital Improvement is required to comply with any lawful order, rule or regulation of a regulatory agency or if the cost of any such Capital Improvement is less than $500,000. All other Capital Improvements not included in the annual capital expenditures budget may only be authorized by the Administrative Committee.

18.5 The Operating Agent shall submit to the Participants a forecast of cash requirements for each authorized Capital Improvement. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which costs for such Capital Improvements shall become due and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of the Capital Improvement.

18.6 The Operating Agent shall be responsible for the design and construction of all Capital Improvements unless otherwise agreed by the Administrative Committee.

18.7 The cost of Capital Improvements shall be determined in accordance with Appendix E attached hereto.

18.8 Units of Property retired from service, whether considered original construction or Capital Improvements, shall be disposed of by the Operating Agent on the best available terms as
soon as practicable, and the proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Generation
Entitlement Shares.

19. PROJECT INSURANCE:

19.1 Unless otherwise specified by the Administrative Committee, during the performance of Construction Work the Project Manager shall
procure and maintain in force, or cause to be procured and maintained in force, Construction Insurance providing coverage against the following
risks, hazards and perils:

19.1.1 Comprehensive liability risks, including bodily injury, personal injury and property damage risks, hazards of automobile liability,
contractual liability, contractor's protective liability and liability for products and completed operations, in an amount not less than $10,000,000.

19.1.2 Risks covered by the standard form of All Risk Builder's Risk Insurance, including the transportation hazard. Such insurance shall be
written with such deductible(s) as shall be approved by the Administrative Committee or in the absence of any approval with the smallest deductible(s)
normally available and shall afford coverage from the time that Construction Work is commenced or material and equipment is shipped, as to each
Generating Unit, until such time as Nuclear Fuel arrives at the Nuclear Plant Site and coverage of such risks is provided by the Project Insurance
required to be obtained pursuant to Section 19.4 hereof.

19.1.3 Risks covered by the standard form of All Risk Contractor's Equipment Floater Insurance covering owned, non-owned and leased
equipment used in connection with the performance of Construction Work.

19.1.4 Risks covered by the standard form of employees' dishonesty bond covering loss of property or funds of ANPP due to dishonest or
fraudulent acts committed by an officer or employee of the Project Manager, any Participant or contractor who is engaged in Construction Work.

19.1.5 Risks covered by the standard form of workmen's compensation and employer's liability insurance, covering officers and employees
of the Project Manager, any Participant and contractors engaged in the performance of Construction Work. Unless otherwise directed
by the Administrative Committee, workmen's compensation coverage for officers and employees of the Project Manager shall be written with a
deductible of $50,000. Coverage for employer's liability shall be written in an amount not less than $500,000.

19.2 Unless otherwise specified by the Administrative Committee, the Operating Agent shall procure and maintain in force, or cause to be
procured and maintained in force, so as to be effective not later than the date on which the Operating Agent shall first incur a risk of loss, damage or
liability, Operating Insurance providing coverage against the following risks, hazards and perils:

19.2.1 Comprehensive liability risks, including bodily injury, personal injury and property damage risks, hazards of automobile liability,
contractual liability, contractor's protective liability and liability for products and completed operations, in an amount not less than $10,000,000.

19.2.2 Risks covered by the standard form of employee dishonesty bond covering loss of property or funds of ANPP due to dishonest or
fraudulent acts committed by an officer or employee of the Operating Agent, any Participant or contractor who is engaged in Operating Work or Capital
Improvements.

19.2.3 Risks covered by the standard form of workmen's compensation and employer's liability insurance covering officers and employees of
the Operating Agent, any Participant
and contractors and their employees engaged in the performance of Operating Work. Unless otherwise directed by the Administrative Committee, workmen's compensation coverage for the Operating Agent's officers and employees shall be written with a deductible of $50,000. Coverage for employer's liability shall be written in an amount not less than $500,000.

19.2.4 In the event any Capital Improvements are undertaken at the Nuclear Plant Site the Operating Agent, shall procure and maintain or cause to be procured and maintained Construction Insurance providing coverage for risks described in Sections 19.1.1, 19.1.2 and 19.1.3 hereof in respect of the construction of such Capital Improvements.

19.3 Whenever there shall be Nuclear Fuel at the Nuclear Plant Site or in transit to or from the Nuclear Plant Site, the Project Manager prior to the Date of Firm Operation of the first Generating Unit and the Operating Agent thereafter shall have in force and effect (i) Project Insurance in such minimum amount and in such form or forms as may be required, approved or permitted from time to time by law, including the rules and regulations of the U.S. Atomic Energy Commission and (ii) an indemnity agreement executed and delivered by the U.S. Atomic Energy Commission as required by the Atomic Energy Act of 1954 as amended as of the date of this Participation Agreement. In the event that a construction permit required to be issued by the U.S. Atomic Energy Commission for any Generating Unit is not issued prior to August 1, 1977, and Section 170(c) of said Act shall not have been amended prior to such date to extend the availability of the financial protection currently afforded by said Section 170(c) or other legislation affording comparable financial protection in respect of such Generating Unit shall not have been enacted prior to such date or in the event that, prior to August 1, 1977, and the issuance of such a construction permit, said Act or the rules and regulations of the U.S. Atomic Energy Commission shall be further amended in a manner which substantially changes the limit of liability of "persons indemnified" or otherwise substantially increases the risk of "public liability" of any Participant arising out of or resulting from a nuclear incident, as such terms are defined in the Atomic Energy Act of 1954 as amended as of the date of this Participation Agreement, any Participant may terminate its participation in ANPP with respect to such Generating Unit upon the terms and conditions set forth in Section 35 hereof.

19.4 Unless otherwise directed by the Administrative Committee, at all times when it is required under Section 19.3 hereof, the Project Manager prior to the Date of Firm Operation of the first Generating Unit and the Operating Agent thereafter shall have and maintain in force and effect nuclear property insurance providing coverage against radioactive contamination and all other risks of loss except those risks excluded in the standard form of policy of the Nuclear Energy Property Insurance Association which are not insurable by any available endorsement thereto. Except as otherwise authorized herein or directed by the Administrative Committee, such insurance shall be maintained in an amount not less than 90% of either the actual cash value or replacement cost, as the Administrative Committee shall direct or in the absence of any such direction as the Project Manager or the Operating Agent may in its sole discretion determine, of all property at the Nuclear Plant Site as determined from time to time by independent qualified appraisers selected by the Project Manager prior to completion of Construction Work or the Operating Agent thereafter. At any time that the maximum amount of insurance available from all domestic insurers or pools of insurers or any utilities mutual insurance company to cover the risks required to be insured under this Section 19.4 is less than 90% of the actual cash value or replacement cost of all property at the Nuclear Plant Site, then the Project Manager or the Operating Agent shall report such fact in writing to each Participant and shall obtain an endorsement of any policy procured in compliance with this Section 19.4 to render the conditions of any co-insurance clause therein inapplicable, provided that, if such an endorsement is not available, then the Project Manager or the Operating Agent shall use its best efforts to obtain, subject to Section 20.9 hereof, the maximum amount of nuclear property insurance available from all sources. Unless otherwise directed by the Administrative Committee the insurance policy or policies secured in compliance
with this Section 19.4 shall be written with such deductible(s) as shall be approved by the Administrative Committee or in the absence of any approval with the lowest deductible amounts offered by the insurer or insurers providing such policy or policies for property situated at the Nuclear Plant Site in its entirety and any component thereof.

20. **GENERAL PROVISIONS AFFECTING PROJECT INSURANCE.** Except as otherwise directed by the Administrative Committee, the following provisions shall apply to the Project Insurance obtained by the Project Manager or Operating Agent in compliance with Section 19 hereof.

20.1 Except for Project Insurance described in Sections 19.1.3, 19.1.4, 19.1.5, 19.2.2 and 19.2.3 hereof, each Participant shall be named an additional insured, individually and jointly with the other Participants, on all policies of Project Insurance, and the policies of Project Insurance referred to in Sections 19.1.1 and 19.2.1 hereof shall carry cross-liability endorsements. In lieu of naming Participants insureds on policies described in Section 19.1.1 hereof, the Project Manager may require contractors to procure owner's protective liability insurance naming the Participants as insureds therein, with limits similar to those required in Section 19.1.1 hereof.

20.2 Any deductibles shall be apportioned among the Participants on the basis set forth in Section 21.3 hereof, except that deductibles under any workmen's compensation insurance carried for officers and employees of the Project Manager and Operating Agent shall be apportioned in the manner specified in Section E.7 of Appendix E attached hereto.

20.3 Project Insurance policies shall be primary insurance for all purposes and shall be so endorsed. Any other insurance carried by a Participant individually shall not participate with Project Insurance as to any loss or claim for which valid and collectible Project Insurance shall apply. Such other insurance shall apply solely as to the individual interest of the Participant carrying such other insurance; provided, however, that each Participant shall accept any reasonably restrictive endorsement to its separate insurance policies as may be required by an insurer as a condition precedent to the issuance of a policy of Project Insurance.

20.4 At the direction of the Project Manager or Operating Agent, any party furnishing services, materials, parts or equipment in connection with the planning, design, engineering, construction, maintenance, operation or use of property at the Nuclear Plant Site may be named as an insured as its interest may appear in any of the Project Insurance policies, and either the Project Manager or the Operating Agent may waive on behalf of each Participant its right of recovery against any such party for insured loss of or damage to any property covered by Project Insurance, provided that no such waiver shall impair the right to recover any sums otherwise payable to any Participant under the Project Insurance.

20.5 The Project Manager and Operating Agent respectively shall furnish the other Participants with a certified copy of each of the policy forms of Project Insurance, together with a line sheet therefor (and any subsequent amendments) naming the insurers and underwriters and the extent of their participation.

20.6 Each of the Project Insurance policies shall be endorsed so as to provide that the Participants and additional named insureds pursuant to Section 20.4 hereof shall be given the same advance notice of cancellation or material change as that required to be given to the Project Manager or Operating Agent.

20.7 In the event the Administrative Committee is unable to agree upon any matters relating to Project Insurance not governed by Sections 19 and 20 hereof, the Project Manager or Operating Agent, pending the resolution of such disagreement, shall procure or cause to be procured, such policies of Project Insurance as in its best judgment are necessary and required to protect the Participants against the insurable risks more particularly set forth in Section 19 hereof. During any period of negotiations with an insurer, or other negotiations which are pending at the expiration
of the period of coverage of a Project Insurance policy, or in the event a Project Insurance policy is cancelled, the Project Manager and Operating Agent shall renew or bind policies as an emergency measure or may procure policies of insurance which are identical to those which were cancelled, or may to the extent possible, secure replacement policies which will provide substantially the same coverage as the policy expiring or cancelled.

20.8 Each Participant shall have the right to have any mortgagee, trustee or secured party named on all or any of the Project Insurance policies as loss payee or additional insured as its interest may appear, by notice to the Project Manager or Operating Agent given in writing not less than ninety (90) days prior to the procurement or renewal of the Project Insurance policy(ies), which such notice shall specify the name or names of such mortgagee, trustee or secured party and such additional information as may be necessary or required to permit it to be included on the policy(ies) of Project Insurance.

20.9 Unless otherwise directed by the Administrative Committee, the Project Manager and Operating Agent shall obtain Project Insurance from such insurers or underwriters, including stock companies, mutuals and pools or groups of insurers or underwriters, as either of them in its sole discretion may select, provided that any policy which obligates any Participant to pay any assessment shall not be obtained unless such Participant has agreed in writing to undertake such obligation.

20.10 Any refunds of premiums or dividends received by the Project Manager or Operating Agent on any Project Insurance shall be allocated among the Participants in proportion to their Generation Entitlement Shares at the time of receipt thereof, provided that any reserve premium refunds received under any nuclear liability insurance policy or any other policy with a comparable retrospective rating plan shall be allocated among the Participants at the time of payment of the reserve premium in proportion to their Generation Entitlement Shares at such time.

20.11 Nothing herein shall prohibit the Project Manager or Operating Agent from combining the coverage required by this Participation Agreement with coverage outside the scope of that required by this Participation Agreement. If the Project Manager or Operating Agent does so combine coverages, the Administrative Committee shall determine the portion of the total premium cost which is allocable to Construction Insurance or Operating Insurance. If the Administrative Committee is unable to determine such allocation, the Project Manager or Operating Agent, as the case may be, may make an estimated allocation and bill the Participants on the basis thereof, with adjustment to be made when the dispute is resolved.

20.12 Except as provided in Section 20.8 hereof, if any Participant desires changes in any policy of Project Insurance, such Participant shall request in writing to the Project Manager or Operating Agent, as the case may be, to have the desired changes made. Upon receipt of any such request the Project Manager or Operating Agent shall promptly determine whether or not the desired changes can be made and the effect thereof upon the coverage afforded each other Participant and upon insurance premiums. If the Project Manager or Operating Agent determines that (i) the desired changes can be made, (ii) will not reduce the coverage otherwise afforded to any Participant and (iii) will not result in any increase in premium expense or if an increase in premium expenses will result and the requesting Participant agrees in writing to pay such increase, then the Project Manager or Operating Agent shall cause such desired changes to be made at the earliest feasible time. If the Project Manager or Operating Agent determines that the desired changes can be made but to do so (i) will result in a reduction in coverage otherwise afforded to any Participant or (ii) will result in an increase in premium expense shared by the Participants, such request shall be referred to the Administrative Committee for resolution.

21. **LIABILITY:**

21.1 Exception for any Judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid Project Insurance, each Participant hereby
extends to all other Participants and all of their directors, officers and employees, its covenant not to execute on any judgment obtained against any of them for direct or consequential loss from physical damage to its property, which results from the performance or non-performance of the Project Agreements.

21.2 In the event any insurer providing Project Insurance refuses to pay any judgment obtained by a Participant against another Participant, or any of its directors, officers or employees, on account of liability referred to in Section 21.1 hereof, the Participant or any of its directors, officers or employees against whom the judgment is obtained shall, at the request of the Participant obtaining the judgment and in consideration for the covenant given in Section 21.1 hereof, execute such documents as may be necessary to effect an assignment of its or their contractual rights against the non-paying insurer.

21.3 Except for Work Liability resulting from Willful Action and except as provided in Section 21.5 hereof, the costs and expenses of discharging all Work Liability imposed upon one or more of the Participants for which payment is not made by Project Insurance, shall be allocated among the Participants in proportion to their Generation Entitlement Shares.

21.4 Each Participant shall be responsible for the consequences of its own Willful Action and shall indemnify and hold harmless the other Participants from the consequences thereof to the extent that such consequences are not covered by any Project Insurance.

21.5 Except for liability resulting from Willful Action, any Participant whose electric customer shall have a claim or bring an action against any other Participant for any death, injury, loss or damage arising out of or in connection with interruptions to or curtailment of electric service to such customer caused by the operation or failure of operation of ANPP or any portion thereof shall indemnify and hold harmless such other Participant, its directors, officers and employees, from and against any liability for such death, injury, loss or damage.

21.6 The provisions of this Section 21 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies.

22. AUTHORIZATIONS AND APPROVALS:

22.1 The Project Manager shall be responsible for obtaining all licenses, permits and authorizations requisite to construct each Generating Unit and any components thereof and, in coordination with the Operating Agent for obtaining all licenses, permits and authorizations requisite to operate and maintain such Generating Unit prior to the Date of Firm Operation, for the release of any effluents therefrom and the storage, shipment, use or disposal of any radioactive materials prior to such date and is authorized to submit and prosecute on behalf of each Participant any applications therefor, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearing at any hearing. The Project Manager shall furnish each Participant with copies of all documents submitted as much in advance of the filing or submission date as may be reasonably possible without incurring a delay or risk of delay of the Date of Firm Operation of any Generating Unit and shall otherwise keep each Participant informed of the status of all applications. Each Participant shall cooperate with the Project Manager in the preparation, submission and execution of such information, records, statements or other material required to obtain any such licenses, permits or authorizations.

22.2 The Operating Agent shall be responsible for obtaining and continuing in effect all licenses, permits and authorizations requisite to (i) operate and maintain each Generating Unit, (ii) release of any effluents and (iii) store, ship or dispose of any wastes and to construct or install any Capital Improvements and is authorized on behalf of each Participant to submit and prosecute any applications therefor, including the preparation and submission of any supplementary or
supporting documentation or other evidence and appearance at any hearing. The Operating Agent shall furnish each Participant with copies of all documents submitted and all licenses, permits and authorizations received and shall otherwise keep each Participant informed of the status of all licenses, permits and authorizations in effect and any pending or proposed applications therefor or for changes thereto. Each Participant shall cooperate with the Operating Agent in the preparation, submission and execution of such information, records, statements or other material required to obtain and continue in effect any such licenses, permits or authorizations and any changes thereto.

22.3 Except as provided in Sections 22.1 and 22.2 hereof, each Participant shall be responsible for obtaining, at its own expense, its required authorizations and approvals, if any, relating to its participation in the construction or reconstruction and operation of ANPP and to its performance of the provisions of the Project Agreements, from Federal, state or local regulatory authorities having jurisdiction to issue such authorizations and approvals, and each Participant shall keep the Project Manager and Operating Agent informed of its applications therefor.

23. DEFAULTS AND COVENANTS REGARDING OTHER AGREEMENTS:

23.1 Each Participant hereby agrees that it shall pay all monies and carry out all other duties and obligations agreed to be paid and/or performed by it pursuant to all of the terms and conditions set forth and contained in the Project Agreements, and a default by any Participant in the covenants and obligations to be kept and performed pursuant to the terms and conditions set forth and contained in any of the Project Agreements shall be an act of default under this Participation Agreement.

23.2 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements, then, within ten (10) days after written notice has been given by any non-defaulting Participant to all other Participants of the existence and nature of the default, the non-defaulting Participant shall remedy such default either by advancing the necessary funds and/or commencing to render the necessary performance, with each non-defaulting Participant contributing to such remedy in the ratio of its Generation Entitlement Share to the total of the Generation Entitlement Shares of all non-defaulting Participants.

23.3 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements and the giving of notice as provided in Section 23.2 hereof, the defaulting Participant shall take all steps necessary to cure such default as promptly and completely as possible and shall pay promptly upon demand to each non-defaulting Participant the total amount of money and/or the reasonable equivalent in money of non-monetary performance, if any, paid and/or made by such non-defaulting Participant in order to cure any default by the defaulting Participant, together with interest on such money and/or the costs of non-monetary performance at the rate of ten percent (10%) per annum, or the maximum rate of interest legally chargeable, whichever is the lesser, from the date of the expenditure of such money and/or the date of completion of such non-monetary performance by each such non-defaulting Participant to the date of such reimbursement by the defaulting Participant, or such greater amount as may be otherwise provided in the Project Agreements.

23.4 In the event that any Participant shall dispute the existence or nature of a default asserted in a notice given pursuant to Section 23.2, then such Participant shall pay the disputed payment or perform the disputed obligation, but may do so under protest. The protest shall be in writing, shall accompany the disputed payment or precede the performance of the disputed obligation, and shall specify the reasons upon which the protest is based. Copies of such protest shall be mailed by such Participant to all other Participants. Payments not made under protest shall be deemed to be correct, except to the extent that periodic or annual audits may reveal over or under payments by Participants, necessitating adjustments. In the event it is determined by
arbitration, pursuant to the provisions of this Participation Agreement or otherwise, that a protesting Participant is entitled to a refund of all or any portion of a disputed payment or payments or is entitled to the reasonable equivalent in money of non-monetary performance of a disputed obligation theretofore made, then, upon such determination, the non-protesting Participants shall pay such amount to the protesting Participants, together with interest thereon at the rate of six percent (6%) per annum from the date of payment or from the date of completion of performance of a disputed obligation to the date of reimbursement. Reimbursement of the amount so paid shall be made by the non-protesting Participants in the ratio of their respective Generation Entitlement Shares to the total of the Generation Entitlement Shares of all non-protesting Participants.

23.5 Unless otherwise determined by a board of arbitrators, in the event a default by any Participant in the payment or performance of any obligation under the Project Agreements shall continue for a period of six (6) months or more without having been cured by the defaulting Participant or without such Participant having commenced or continued action in good faith to cure such default, or in the event the question of whether an act of default exists becomes the subject of an arbitration pursuant to Section 24 hereof, and such act continues for a period of six (6) months following a final determination by a board of arbitrators or otherwise that an act of default exists and the defaulting Participant has failed to cure such default or to commence such action during said six (6) month period, then, at any time thereafter and while said default is continuing, all of the non-defaulting Participants, by written notice to all Participants, may suspend the right of the defaulting Participant (i) to be represented on and participate in the actions of all committees and (ii) to receive all or any part of its proportionate share of the Available Generating Capability and Net Energy in which event:

23.5.1 During the period that such suspension is in effect, the non-defaulting Participants (i) shall bear all of the operation and maintenance costs, insurance costs and other expenses, including Fuel Expenses and Nuclear Fuel Expenditures, otherwise payable by the defaulting Participant under the Project Agreements and (ii) shall be entitled to schedule and receive for their respective accounts the Generation Entitlement Share of the defaulting Participant of the Available Generating Capability and Net Energy Generation of all Generating Units, in the ratio of their respective Generation Entitlement Shares to the total of the Generation Entitlement Shares of all non-defaulting Participants.

23.5.2 A defaulting Participant shall be liable to the non-defaulting Participants in the proportion that the Generation Entitlement Shares of each non-defaulting Participant bears to the total of the Generation Entitlement Shares of all non-defaulting Participants for all costs incurred by such non-defaulting Participants pursuant to Section 23.5.1 hereof. The proceeds paid by any defaulting Participant to remedy any such default shall be distributed to the non-defaulting Participants in the ratio of their respective Generation Entitlement Shares to the total of the Generation Entitlement Shares of all non-defaulting Participants.

23.5.3 The suspension of any defaulting Participant shall be terminated and its full rights hereunder restored when all of its defaults have been cured and all costs incurred by non-defaulting Participants pursuant to Section 23.5.1 have been paid by the defaulting Participant or other arrangements suitable to all non-defaulting Participants have been made.

23.5.4 During the period that such suspension in effect, no Fuel Expense Credits nor net credit adjustments to Fuel Expense Allocations to which the defaulting Participant or its Fuel Lessor, if any, would in the absence of such suspension have been entitled, pursuant to Appendix F attached hereto, shall become due and payable to the defaulting Participant or its Fuel Lessor, if any, and the non-defaulting Participants may apply all or any portion of any such Fuel Expense Credits and of any such net credit adjustments as offsets to the costs and expenses incurred by them and arising from or in connection with such default.
23.6 In addition to the remedies provided for in Section 23.5 hereof the non-defaulting Participants may, in submitting a dispute to arbitration in accordance with the provision of Section 24 hereof, request that the board of arbitrators determine what additional remedies may be reasonably necessary or required under the circumstances which give rise to the dispute. The board of arbitrators may determine what remedies are necessary or required in the premises, including but not limited to the conditions under which ANPP may be operated economically and efficiently during periods when the defaulting Participant's right to receive its proportionate share of the Available Generating Capability is suspended.

23.7 The rights and remedies of the Participants set forth in this Participation Agreement shall be in addition to the rights and remedies of the Participants set forth in any other of the Project Agreements.

24. ARBITRATION:

24.1 If a dispute between any of the Participants should arise under the Project Agreements, any Participant(s) may call for submission of the dispute to arbitration which shall be binding upon all of the other Participants.

24.2 The Participant(s) calling for arbitration shall give written notice to all other Participants, setting forth in such notice in adequate detail the nature of the dispute, the amount or amounts, if any, involved in such dispute, and the remedy sought by such arbitration proceedings, and, within twenty (20) days from receipt of such notice, any other Participant(s) involved may, by written response to the first Participant(s) and all other Participants, submit its or their own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated. Thereafter, the Participant(s) first submitting its or their notice of the matter at issue shall have ten (10) days in which to submit a written rebuttal statement, copies of which shall be given to all other Participants.

24.3 Within forty (40) days following delivery of the written notice pursuant to Section 24.2 hereof, the Participants, acting through their representatives on the Administrative Committee, shall meet for the purpose of selecting arbitrators. Each Participant or group of Participants representing one side of the dispute shall designate an arbitrator. The arbitrators so selected shall meet within twenty (20) days following their selection and shall select additional arbitrators, the number of which shall be one (1) less than the total number of arbitrators selected by the Participants. If the arbitrators selected by the Participants, as herein provided, shall fail to select such additional arbitrator(s) within said twenty (20) day period, then the arbitrators shall request from the American Arbitration Association (or a similar organization if the American Arbitration Association should not at the time exist) a list of arbitrators who are qualified and eligible to serve as hereinafter provided. The arbitrators selected by the Participants shall take turns striking names from the list of arbitrators furnished by the American Arbitration Association, and the last name(s) remaining on said list shall be the additional arbitrator(s). All arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute, and no person shall be eligible for appointment as an arbitrator who is an officer or employee of any of the parties to the dispute or is otherwise interested in the matter to be arbitrated.

24.4 Except as otherwise provided in this Section 24, the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force, except that if such rules and practice, as modified herein, shall conflict with state or Federal law, as the case may be, then in force which are specifically applicable to such arbitration proceedings, such law shall govern.

24.5 Included in the issues which may be submitted to arbitration pursuant to this Section 24 is the issue of whether the right to arbitrate a particular dispute is permitted under the Project Agreements.
24.6 The arbitrators shall hear evidence submitted by the respective Participants and may call for additional information, which additional information shall be furnished by the Participant(s) having such information. The decision of a majority of the arbitrators shall be binding upon all the Participants.

24.7 The award of the arbitrators shall contain findings relative to the materiality of the default, the period of time within which the defaulting party must remedy the default or commence remedial action, and the remedies which may be exercised by the non-defaulting Participants in the event the default is not remedied within such period of time.

24.8 This agreement to arbitrate shall be specifically enforceable, and the award and findings of the arbitrators shall be final and binding upon the Participants to the extent permitted by applicable law. Any award may be filed with the clerk of any court having jurisdiction over the Participants, or any of them, against whom the award is rendered, and, upon such filing, such award, to the extent permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgment or other similar relief.

24.9 The fees and expenses of the arbitrators shall be shared by the Participants equally, unless the decision of the arbitrators shall specify some other apportionment of such fees and expenses. All other expenses and costs of the arbitration shall be borne by the Participant incurring the same.

24.10 In the event that any Participant shall attempt to carry out the provisions herein set forth in regard to arbitration, and such Participant shall not be able to obtain a valid and enforceable arbitration decree, such Participant shall be entitled to seek legal remedies in the courts having jurisdiction in the premises, and the provisions of the Project Agreements referring to decision of a board of arbitration, to the extent allowable by law, shall be then deemed applicable to final decisions of such courts.

25. ACTIONS PENDING RESOLUTION OF DISPUTES:

25.1 If a dispute should arise which is not resolved by the Administrative Committee or the higher authorities within the Participants' organizations, then, pending the resolution of the dispute by arbitration or judicial proceedings, the Project Manager or Operating Agent shall proceed with Construction Work, Operating Work or Capital Improvements in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry, and the Participants shall advance the funds required to perform such Construction Work, Operating Work or Capital Improvements in accordance with the applicable provisions of the Project Agreements. The resolution of any dispute involving the failure of the Administrative Committee to reach agreement upon matters involving future expenditures shall have prospective application from the date of final determination, and amounts advanced by the Participants pursuant to this Section 25 during the pendency of such dispute shall not be subject to refund except upon a final determination that the expenditures were not made in a manner consistent with the Project Agreement and generally accepted practice in the electric utility industry.

26. REMOVAL OF PROJECT MANAGER OR OPERATING AGENT:

26.1 The Project Manager and Operating Agent shall serve during the term of and pursuant to this Participation Agreement unless either one resigns by giving written notice to the Participants at least one (1) year in advance of the date of resignation or until receipt by either one of notice of its removal following a determination that it is in default of this Participation Agreement as provided in Section 26.2.2 hereof. Upon the effective date of such resignation or removal, the Participants shall designate a new Project Manager or Operating Agent by written agreement.
26.2 The following provisions shall apply solely in regard to violations or allegations of violations of this Participation Agreement by the Project Manager or the Operating Agent on the basis of which removal of either one is sought:

26.2.1 In the event any Participant shall be of the opinion that an action taken or not taken by the Project Manager or Operating Agent constitutes a violation of this Participation Agreement, it may give written notice thereof to the Project Manager or the Operating Agent as the case may be and the other Participants, together with a statement of the reasons for its opinion. Thereupon, the Project Manager or the Operating Agent may prepare a statement of the reasons justifying its action or failure to take action. If agreement in settling the dispute is not reached between the Project Manager or the Operating Agent and the Participant which gave such notice, then the matter shall be submitted to arbitration in the manner provided in Section 24 hereof. During the continuance of the arbitration proceedings, the Project Manager or the Operating Agent may continue such action taken or not taken in the manner it deems most advisable and consistent with this Participation Agreement.

26.2.2 If it is determined that the Project Manager or the Operating Agent is violating this Participation Agreement, then it shall act with due diligence to end such violation and shall, within six (6) months or within such lesser time following the determination as may be prescribed in the determination, take action or commence action in good faith to terminate such violation. In the event that the Project Manager or the Operating Agent has failed either to correct, or to commence action to correct, the violation within such allowed period (which itself may be a subject of dispute for determination as above provided) it shall be deemed to be in default under this Participation Agreement and shall be subject to removal upon receipt of notice, executed by all the other Participants, in accordance with Section 26.1 hereof.

26.2.3 The provisions of Section 23 hereof shall not apply to disputes as to whether or not an action or non-action of the Project Manager or the Operating Agent, in its capacity as such, is a violation or a default under this Participation Agreement.

27. RELATIONSHIP OF PARTICIPANTS:

27.1 The covenants, obligations and liabilities of the Participants are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any one or more of the Participants. Each Participant shall be individually responsible for its own covenants, obligations and liabilities as herein provided. No Participant or group of Participants shall be under the control of or shall be deemed to control any other Participant or the Participants as a group. No Participant shall be the agent of or have a right or power to bind any other Participant without its express written consent, except as expressly provided in this Participation Agreement or other Project Agreements.

27.2 The Participants hereby elect to be excluded from the application of Subchapter "K" of Chapter 1 of Subtitle "A" of the Internal Revenue Code of 1954, or such portion or portions thereof as may be permitted or authorized by the Secretary of the Treasury or his delegate insofar as such Subchapter, or any portion or portions thereof, may be applicable to the Participants under the Project Agreements.

28. FEES: No Project Manager or Operating Agent shall receive any fee or profit hereunder.

29. ENVIRONMENTAL PROTECTION:

29.1 The Participants agree to design, construct, operate and maintain ANPP in a manner consistent with the Participants' objective of attaining the degree of environmental protection
reasonably feasible. The Participants affirm their continuing obligation to comply fully with applicable Federal, state and local laws, orders, regulations, rules and standards relating to environmental protection. The Participants shall to the extent practicable anticipate and make provision for the future installation of any systems required to comply with changes in said laws, orders, regulations, rules and standards.

29.2 The Participants hereby direct that the Project Manager and Operating Agent shall install and diligently operate as part of ANPP such solid, gaseous and liquid effluent control and treatment systems as may be necessary to comply with and fulfill the objectives and obligations set forth in Section 29.1 hereof.

29.3 The Project Manager is hereby authorized and directed to conduct such studies and monitoring programs and employ such expert consultants as may be required or useful to properly evaluate alternative plant sites and feasible means of minimizing the impact of ANPP on the environment and of enhancing the incidental environmental benefits which may accrue from or be developed in connection with the operation and maintenance of ANPP. Further, the Project Manager shall take all appropriate measures to harmonize ANPP with the environment and shall exercise care to prevent any unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the Nuclear Plant Site.

29.4 The Operating Agent shall continue or initiate such monitoring programs as may be appropriate to detect in their incipiency any changes, anticipated and unanticipated, in the environment that may be attributable to the operation of ANPP and recommend to the Engineering and Operating Committee such Capital Improvements as may in the future with improvements in technology enhance the environmental benefits derivable from ANPP or minimize any adverse effects.

30. UNCONTROLLABLE FORCES:

30.1 No Participant shall be considered to be in default in the performance of any of its obligations under the Project Agreements (other than obligations of said Participant to pay costs and expenses) when a failure of performance shall be due to an uncontrollable force. The term “uncontrollable force” shall be any cause beyond the control of the Participant affected, including but not restricted to failure of or threat of failure of facilities, flood, earthquake, tornado, 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 non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Participant could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Participant to settle any strike or labor dispute in which it may be involved. Any Participant rendered unable to fulfill any of its obligations under the Project Agreements by reason of an uncontrollable force shall give prompt written notice of such fact to the other Participants and shall exercise due diligence to remove such inability with all reasonable dispatch. The term “Participant” as used in this Section 30 shall include the Project Manager and Operating Agent in their capacities as such.

31. GOVERNING LAW:

31.1 This Agreement shall be governed by and construed and enforceable in accordance with the laws of the State of Arizona.

32. BINDING OBLIGATIONS:

32.1 All of the respective covenants and obligations of each of the Participants set forth and contained in the Project Agreements shall bind and shall be and become the respective covenants and obligations of:

32.1.1 Each such Participant;
32.1.2 All mortgagees, trustees and secured parties under all present and future mortgages, indentures and deeds of trust, and security agreements which are or may become a lien upon any of the interests of such Participant in ANPP; provided, however, that such covenants and obligations shall become binding upon such parties only at the time of taking possession;

32.1.3 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such Participant;

32.1.4 All other persons, firms, partnerships or corporations claiming through or under any of the foregoing; and

32.1.5 Any successors or assigns of any of those mentioned in Sections 32.1.1 through 32.1.4 hereof, and shall be covenants and obligations running with such Participant's respective rights, titles and interests in ANPP and in, to and under the Project Agreements, and shall be for the benefit of the respective rights, titles and interests of the Participants and their respective successors and assigns, in and to ANPP. It is the specific intention of this provision that all such covenants and obligations shall be binding upon any party which acquires any of the rights, titles and interests of any such Participant in ANPP or in to and under the Project Agreements and that all of the above-described persons and groups shall be obligated to use such Participant's rights, titles and interests in ANPP and/or in, to or under the Project Agreements for the purpose of discharging its covenants and obligations under the Project Agreements; except (i) that in the case of a partial assignment the assignee shall only be required to share in the cost of fulfilling the covenants and obligations of the assigning Participant in to and under the Project Agreements to an extent proportionate or attributable to such assignment and (ii) the rights and obligations of any Fuel Lessor of any Participant shall be governed by the provisions of Section 15.4 hereof:

33. NONDEDICATION OF FACILITIES:

33.1 The Participants do not intend to dedicate and nothing in this Participation Agreement or the Project Agreements shall be construed as constituting a dedication by any Participant of its properties or facilities, or any part thereof, to any other Participant or to the customers of any Participant.

34. GENERAL PROVISIONS GOVERNING PROJECT AGREEMENTS:

34.1 The Participants agree to negotiate in good faith and to proceed with diligence to obtain all of the Project Agreements among the Participants and between the Participants and other entities.

34.2 It is acknowledged by the Participants that one or more of the Project Agreements may contain provisions which are in conflict with or contrary to the terms of this Participation Agreement, and any such provision in a Project Agreement executed subsequent to the execution of this Participation Agreement and agreed to by the Participants shall be deemed to supersede, amend or modify any conflicting or contrary provision herein. The mutual agreement of the Participants to supersede, amend or modify the terms hereof shall constitute the legal consideration to support such change in the legal rights and obligations of the Participants.

34.3 Each Participant agrees, upon request by the other Participants, to make, execute and deliver any and all documents reasonably required to implement this Participation Agreement and the Project Agreements.

34.4 Each term, covenant and condition of this Participation Agreement and the Project Agreements is deemed to be an independent term, covenant and condition, and the obligation of any Participant to perform any or all of the terms, covenants and conditions to be kept and performed by it is not dependent on the performance by the other Participants of any or all of the terms, covenants and conditions to be kept and performed by them.
34.6 In the event that any of the terms, covenants or conditions of this Participation Agreement or any of the Project Agreements, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants or conditions of such agreements and their application shall not be affected thereby, but shall remain in force and effect.

34.7 The Project Agreements shall be subject to filing with, and to such changes or modifications as may from time to time be directed by, competent regulatory authority, if any, in the exercise of its jurisdiction.

34.8 Except as otherwise specifically provided in this Participation Agreement or the Project Agreements, the Participants do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Participation Agreement or the Project Agreements or of any duty, covenant, obligation or undertaking established therein.

34.9 Any waiver at any time by any Participant of its rights with respect to a default or any other matter arising in connection with this Participation Agreement or a Project Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

35. TERMS AND TERMINATION:

35.1 This Participation Agreement shall become effective on September 1, 1973, provided that it shall have been then duly executed by all of the Participants and shall have a term of fifty (50) years from its effective date or forty (40) years from the Date of Firm Operation of the last Generating Unit constructed hereunder whichever is later.

35.2 In the event any Participant elects to terminate its participation in ANPP in respect of any Generating Unit in accordance with Section 19.3 hereof, such election shall be exercised by delivery to each other Participant not later [than] September 1, 1977, of a written notice of such election and shall become effective as of December 1, 1977.

35.3 Upon delivery of any notice by any Participant pursuant to Section 35.2 hereof, each other Participant shall have right to terminate its participation in ANPP in respect of the Generating Unit affected by such notice. Such right to terminate shall be exercised by delivery to each other Participant on or before December 1, 1977, of a written notice of the exercise of such right. Any such termination shall become effective on December 1, 1977.

35.4 No election or exercise of the right to terminate participation in respect of any Generating Unit pursuant to Section 35.2 or 35.3 hereof shall modify or alter the rights and obligations of any Participant in respect of any other Generating Unit.

35.5 In the event any Participant elects or exercises its right to terminate its participation in any Generating Unit pursuant to Section 35.2 or 35.3 hereof ("Terminating Participant"), the accumulated Construction Costs, charges and expenses paid or incurred by all Participants prior to the effective date of such termination and any termination costs shall be shared by all Participants on the basis of the respective Generation Entitlement Shares of the Participants in the affected Generating Unit. All equipment, facilities and property theretofore acquired or constructed in connection with such Generating Unit shall, subject to Section 35.6 hereof, be disposed of by the Project Manager in the manner most beneficial to all Participants, and the benefits accruing therefrom shall be shared on the basis of the Participants' Generation Entitlement Shares.

35.6 Should any Participants desire to proceed with the construction of such Generating Unit or any component thereof, they shall have the right to purchase from each Terminating Participant and each Terminating Participant shall be obligated to sell to the continuing Participant(s) its right, title and interest in such Generating Unit, including any Project Agreement related thereto, for the amount that such Terminating Participant has expended therefor pursuant to this
Participation Agreement, excluding interest during construction but including a proportionate share determined on the basis of ratios of Maximum Generating Capability of the cost of any facilities shared by such Generating Unit with any other Generating Unit, and upon receipt of payment thereof, all rights and obligations of such Terminating Participant under this Participation Agreement in respect of such Generating Unit shall cease and terminate. If two or more Participants desire to exercise their rights to purchase under this Section 35.6, then, unless they shall otherwise agree, each of them shall be entitled to purchase a pro rata share, based upon their respective Generation Entitlement Shares, of the right, title and interest of the Terminating Participant(s) in such Generating Unit and this Participation Agreement shall remain in force and effect with respect to the continuing Participants until the expiration of the term provided in Section 35.1 hereof.

35.7 In any event this Participation Agreement shall continue in force and effect until (i) the expiration of the term set forth in Section 35.1 hereof, or (ii) all property comprising ANPP has been disposed of and all termination costs have been paid.

36. ASSIGNMENT OF INTERESTS: Any Participant who acquires in its name an interest in any real or personal property or contract which is part of ANPP shall transfer and assign an undivided interest therein to the other Participants so that the ownership and rights of the Participants in such property or contract shall be as provided for in this Participation Agreement and the Project Agreements.

37. EQUAL OPPORTUNITY:

37.1 During the term of this Participation Agreement, the Project Manager and the Operating Agent (hereinafter in this Section 37 referred to collectively as the "Contractor") agree as follows:

37.1.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex 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, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff 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 non-discrimination clause.

37.1.2 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 or national origin.

37.1.3 The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this Section 37, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

37.1.4 The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations and relevant orders of the Secretary of Labor.

37.1.5 The Contractor will furnish all information and reports required by Executive Order 11246 as amended by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administer-
ing agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

37.1.6 In the event of the Contractor’s noncompliance with the nondiscrimination clauses of this Participation Agreement or with any of the said rules, regulations or orders, this Participation Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in said Executive Order 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order as amended or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

37.1.7 The Contractor will include the provisions of Sections 37.1.1 through 37.1.7 hereof in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of said Executive Order 11246 as amended, 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 administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

37.2 The parties recognize there are a number of Indian Reservations in the area in which the Contractor operates. Pursuant to the provisions of Title 42 U.S.C.A. § 2000-e-2(i), the Contractor now has several agreements and contemplates it may have additional agreements with Indian Tribes providing for preference to qualified Indians for employment on the Reservation of such Indians. The parties agree that Contractor's act of giving preference to qualified Indians for employment on the Reservation of said Indians is not to be deemed inconsistent with the purposes or provisions of Section 37.1 hereof.

38. **NOTICES:**

38.1 Except as set forth in Section 38.2 hereof, any notice, demand or request provided for in this Participation Agreement or any other Project Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

38.1.1 Arizona Public Service Company  
c/o Secretary  
P. O. Box 21666  
Phoenix, Arizona 85036

38.1.2 Salt River Project Agricultural Improvement and Power District  
c/o Secretary  
P. O. Box 1980  
Phoenix, Arizona 85001

38.1.3 Tucson Gas and Electric Company  
c/o Secretary  
P. O. Box 711  
Tucson, Arizona 85702

38.1.4 Public Service Company of New Mexico  
c/o Secretary  
P. O. Box 2267  
Albuquerque, New Mexico 87103
38.1.5 El Paso Electric Company  
c/o Secretary  
P. O. Box 982  
El Paso, Texas 79901  

38.2 Communications of a routine nature, including requests for funds and related matters, shall be given in such manner as the Administrative Committee shall arrange.  

38.3 Any Participant may, at any time, by written notice to all other Participants, designate different or additional persons or different addresses for the giving of notices hereunder.  

39. EXECUTION:  
IN WITNESS WHEREOF, the Participants have caused this Participation Agreement to be executed as of the 23rd day of August, 1973.  

ARIZONA PUBLIC SERVICE COMPANY  
By /s/ W. P. REILLY  
ATTEST:  
/s/ GERALD J. GRIFFIN  
President  
Assistant Secretary  

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT  
By /s/ KARL F. ABEL  
ATTEST AND COUNTERSIGN:  
/s/ F. E. SMITH  
President  
Secretary  

TUCSON GAS AND ELECTRIC COMPANY  
By /s/ J. LUTHER DAVIS  
ATTEST:  
/s/ R. N. FOSTER  
President  
Secretary  

PUBLIC SERVICE COMPANY OF NEW MEXICO  
By /s/ G. A. SCHREIBER  
ATTEST:  
/s/ D. E. PECKHAM  
President  
Secretary  

EL PASO ELECTRIC COMPANY  
By /s/ D. H. LANE  
ATTEST:  
/s/ I. J. LAMBKA  
President  
Secretary
STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 23rd day of August, 1973, before me, the undersigned Notary Public, personally appeared Karl F. Abel and F. E. Smith who acknowledged themselves to be the President and Secretary of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ JUDITH A. PIETRZAK
Notary Public

My Commission Expires: November 30, 1976

STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 23rd day of August, 1973, before me, the undersigned Notary Public, personally appeared W. P. Reilly and Gerald J. Griffin who acknowledged themselves to be the President and Assistant Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company themselves as such President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ JUDITH A. PIETRZAK
Notary Public

My Commission Expires: November 30, 1976

STATE OF ARIZONA

COUNTY OF PIMA

On this the 28th day of August, 1973, before me, the undersigned Notary Public, personally appeared J. Luther Davis and R. N. Foster who acknowledged themselves to be the President and Secretary of TUCSON GAS & ELECTRIC COMPANY, an Arizona corporation, and that they as such officers, executed the foregoing instrument for the purposes therein contained by signing the name of the company themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ DIANE HOWLAND
Notary Public

My Commission Expires: December 8, 1976

STATE OF NEW MEXICO

COUNTY OF BERNALILLO
On this the 30th day of August, 1973, before me, the undersigned Notary Public, personally appeared G. A. Schreiber and D. E. Peckham who acknowledged themselves to be the President and Secretary of the PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves, as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ MARY A. HIGHFILL
Notary Public

My Commission Expires: January 4, 1977

STATE OF TEXAS
) ss.
COUNTY OF EL PASO
) ss.

On this the 4th day of September, 1973, before me, the undersigned Notary Public, personally appeared D. H. Lane and I. J. Lambka who acknowledged themselves to be the President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, executed the foregoing instrument for the purposes therein contained by signing the name of the company themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ A. G. CROCKER
Notary Public

My Commission Expires: June 1, 1975
APPENDIX A

DESCRIPTION OF ARIZONA NUCLEAR POWER PROJECT

The Arizona Nuclear Power Project shall consist of the following:

I. Three (3) nuclear steam supply systems of the pressurized water type, each with a thermal capacity of approximately 3817 MW.

II. Three (3) steam turbine-generators, each with a name plate rating of approximately 1300 MWe, and designed to take steam from the nuclear steam supply system.

III. Containment(s) for the nuclear steam supply systems.

IV. All auxiliary equipment and other engineered safeguards associated with the foregoing.

V. An administration building, machine shop, warehouse, public information facility and other support buildings to be located adjacent to said units.

VI. Closed cycle circulating water system and related makeup systems.

VII. A radioactive waste treatment and control system or systems and all associated equipment.

VIII. All facilities and equipment connecting each Generating Unit to the ANPP High Voltage Switchyard(s).

IX. Standby auxiliary power transformation equipment and related facilities.

X. Plant control and communication facilities and associated buildings or equipment.

XI. The Nuclear Plant Site described in Appendix B attached to the Participation Agreement.

XII. Access roads and railroad spurs required to gain entrance to the Nuclear Plant Site.

XIII. Treatment and transport systems, including rights-of-way therefor, for supply of wastewater effluent from the sewage treatment plants in the Phoenix metropolitan area.
The Palo Verde Nuclear Generating Station Site is located in Maricopa County, Arizona, approximately 36 miles west of the City of Phoenix and approximately 16 miles west of the City of Buckeye. The Plant Site is described as follows:

The West Half (W 1/2) of the Northwest Quarter (NW 1/4) and the West Half (W 1/2) and the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-six (26), all of Section Twenty-seven (27) except the Northwest quarter (NW 1/4) thereof, the Southeast Quarter (SE 1/4) of Section Twenty-eight (28), the East Half (E 1/2) of section Thirty-three (33), all of Section Thirty-four (34) and the West Half (W 1/2) of Section Thirty-five (35), all in Township One (1) North, Range Six (6) West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; and

The West Half (W 1/2) of the West Half (W 1/2) of Section Two (2), all of Section Three (3), the East Half of Section Four (4), the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section Nine (9), all of Section Ten (10) except the West Half (W 1/2) of the Northwest Quarter (NW 1/4) and the East Half (E 1/2) of the Southeast Quarter (SE 1/4) thereof, all in Township One (1) South, Range Six (6) West of the Gila and Salt River Base and, Meridian, Maricopa County, Arizona.
### APPENDIX C
CONSTRUCTION SCHEDULE
ARIZONA NUCLEAR POWER PROJECT

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Unit 1</th>
<th>Unit 2</th>
<th>Unit 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selection of siting and environmental consultants and initiation of siting and environmental studies</td>
<td>6/29/72</td>
<td>6/29/72</td>
<td>6/29/72</td>
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<tr>
<td>Contract with engineer-constructor</td>
<td>1/15/73</td>
<td>1/15/73</td>
<td>1/15/73</td>
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<tr>
<td>Invitation for bids for supply of nuclear steam supply systems</td>
<td>2/27/73</td>
<td>2/27/73</td>
<td>2/27/73</td>
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<tr>
<td>Nuclear Plant Site selection</td>
<td>9/1/73</td>
<td>9/1/73</td>
<td>9/1/73</td>
</tr>
<tr>
<td>Contracts for nuclear steam supply systems and initial supply of Nuclear Fuel</td>
<td>8/20/73</td>
<td>8/20/73</td>
<td>8/20/73</td>
</tr>
<tr>
<td>Begin preliminary engineering</td>
<td>8/20/73</td>
<td>8/20/73</td>
<td>8/20/73</td>
</tr>
<tr>
<td>Contract for supply of turbine-generators</td>
<td>11/1/73</td>
<td>11/1/73</td>
<td>11/1/73</td>
</tr>
<tr>
<td>Submit applications to USAEC for construction permits and to the Arizona Power Plant and Electric Transmission Line Siting Committee for a Certificate of Environmental Compatibility</td>
<td>5/1/74</td>
<td>5/1/74</td>
<td>5/1/74</td>
</tr>
<tr>
<td>Obtain all authorizations required to commence construction and begin final design and engineering</td>
<td>5/1/76</td>
<td>5/1/76</td>
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<tr>
<td>Complete final design and engineering and submit applications to USAEC for operating licenses</td>
<td>11/1/78</td>
<td>11/1/78</td>
<td>11/1/78</td>
</tr>
<tr>
<td>Issuance of operating license and begin loading and start-up testing</td>
<td>11/1/80</td>
<td>5/1/82</td>
<td>11/1/83</td>
</tr>
<tr>
<td>Scheduled Date of Commercial Operation</td>
<td>5/1/81</td>
<td>11/1/82</td>
<td>5/1/84</td>
</tr>
</tbody>
</table>
APPENDIX D

CONSTRUCTION COSTS OF ARIZONA NUCLEAR POWER PROJECT

D.1 Construction Costs shall consist of payments made and obligations incurred for or in connection with Construction Work (excluding allowance for funds during construction and, except as provided in Section 13.3 of the Participation Agreement, \textit{ad valorem} taxes or payments in lieu thereof) for the account of Construction Work and shall consist of the following:

D.1.1 All costs of labor, services and studies performed in connection with Construction Work, if authorized and approved by the Project Manager.

D.1.2 Payroll and other expenses of the Project Manager's employees while performing the Construction Work, including applicable allocated labor loading charges, such as department overhead, time-off allowances, Payroll Taxes (allocated in accordance with Section E.1.5 of Appendix E), workmen's compensation expenses (allocated in accordance with Section E.1.8 of Appendix E), retirement and death benefits and other employee benefits and any incidental expenses (e.g., travel) incurred by the Project Manager in connection with the employment of any employees of any Participant assigned to the Project Manager.

D.1.3 Payroll and other expenses incurred by any Participant with respect to any of its employees who have been assigned to the Project Manager to perform Construction Work which expenses have not been paid by the Project Manager under Section D.1.2 hereof. All such payroll and other expenses, including applicable labor loading charges, such as vacation, sick, holiday and other time-off allowances, Payroll Taxes, workmen's compensation expenses, retirement and death benefits, other employee benefits, incidental expenses and applicable administrative and general expenses (excluding department overheads), shall be billed by the assigning Participant to the Project Manager at appropriate intervals not less frequently than once each year. The Project Manager shall pay any such bill within fifteen (15) days after receipt.

D.1.4 Overhead costs associated with Construction Work (including the allowance for the Project Manager's administrative and general expenses described in Section D.1.14 hereof), costs of temporary facilities, land and land rights, structures and improvements, and equipment for ANPP as set forth in the Electric Plant Instructions of the FPC Accounts.

D.1.5 All costs and expenses, including those of outside consultants and attorneys, incurred by the Project Manager or other Participants with respect to the securing of licenses, permits, certificates and any other authorizations required by law, compliance with any applicable laws, rules or regulations respecting the environment, conservation of the public health and safety, negotiation for and acquisition of land, land rights, water rights and fuel requirements and supply, and to the preparation of agreements and permits relating to Construction Work with entities other than the Participants. A Participant anticipating such costs and expenses shall submit an estimate thereof to the Project Manager for authorization and approval. Any Participant incurring such costs and expenses after such authorization and approval shall bill the Project Manager therefor.

D.1.6 Applicable costs of materials, supplies, tools, machinery, equipment, apparatus, construction Power and Energy, including installation of any facilities necessary therefor, determined in accordance with the established charges, rates, rules, regulations and practices of the utility furnishing such Power, Energy and facilities, construction water in connection with Construction Work including rental charges, and Emergency Spare Parts.

D.1.7 All costs of Construction Insurance, except costs of workmen's compensation insurance included in Section D.1.2 hereof.
D.1.8 All costs of any loss, damage or liability arising out of or caused by Construction Work which are not satisfied under the coverage of Construction Insurance, and the expenses incurred in settlement of injury and damage claims, including the costs of labor and related supplies and expenses incurred in injury and damage activities, (all as referred to in FPC Account 925 and FPC Accounts Electric Plant Instruction 3(8), but excluding any costs or expenses included in Section D.1.2 hereof), because of any claim arising out of or attributable to the construction of ANPP, the past or future performance or nonperformance of the obligations and duties of any Participant (including the Project Manager) or the past or future performance or nonperformance of Construction Work, including but not limited to any claim resulting from death or injury to persons or damage to property.

D.1.9 All Federal, state or local taxes of any character imposed upon Construction Work, except any tax assessed directly against an individual Participant unless such tax was assessed to such individual Participant in behalf of any or all of the Participants.

D.1.10 Expenses of other Participants incurred in the performance of Construction Work, if authorized and approved by the Project Manager, and the expenses of the Operating Agent incurred prior to the Date of Firm Operation of each Generating Unit which are properly chargeable to Construction Costs and are billed by the Operating Agent to the Project Manager pursuant to Appendix G attached to the Participation Agreement.

D.1.11 All costs and expenses of enforcing or attempting to enforce the provisions of Construction Insurance policies, payment and performance bonds, contracts executed as Project Manager and warranties extended to facilities constituting a part of ANPP, except any costs or expenses included in Section D.1.2 hereof.

D.1.12 All costs and expenses, including those of attorneys and consultants, incurred by the Project Manager or a Participant with respect to environmental matters such as lawsuits, hearings and environmental studies related thereto. All Participants anticipating such costs and expenses shall submit an estimate thereof to the Project Manager for authorization and approval. Any Participant incurring such costs and expenses after such authorization and approval shall bill the Project Manager therefor.

D.1.13 All costs for charitable contributions if authorized and approved by the Administrative Committee.

D.1.14 An allowance for the Project Manager's administrative and general expenses deemed to have been incurred by it in the performance of Construction Work. Said expenses shall be allocated monthly at the rate of one percent (1%) of Construction Costs incurred and not previously billed, excluding from such Construction Costs:

D.1.14.1 Any allowance for administrative and general expenses provided for in this Section D.1.14.
D.1.14.2 Expenses described in Section D.1.3 hereof.
D.1.14.3 Expenses described in Section D.1.8 hereof.
D.1.14.4 Expenses described in Section D.1.10 hereof.
D.1.14.5 Expenses described in Section D.1.12 hereof when such expenses are incurred by a Participant other than the Project Manager.

D.1.15 Miscellaneous costs and expenses, consisting of any and all other types of costs and expenses incidental to and necessary for the performance of Construction Work.

D.2 In cases where the allocation of a cost item is made between Construction Work and the other work, such allocation shall be made on fair and equitable basis.
D.3 The Project Manager shall develop, or cause to have developed, and shall employ a project planning control system which recognizes and contains the elements of planning, scheduling, reporting, forecasting and analysis with the variables of time and money. Such control system employed must provide the tools for corrective action. The accounting classifications employed must be converted to the FPC Accounts for the Final Completion Report and any supplement thereto, of total cost of Construction Work.

D.4 The Project Manager and the other Participants shall not be entitled to a fee, price, percentage or any other compensation over and above the costs of services rendered by them in performance of Construction Work.

D.5 Travel and other related expenses of employees of the Project Manager whose salary costs are considered administrative and general expenses recoverable through the administrative and general expense allowance specified in D.1.14 hereof shall not be charged directly to Construction Work as Construction Costs.
APPENDIX E

COSTS OF OPERATING WORK AND CAPITAL IMPROVEMENTS

E.1 Operation and Maintenance Expenses. In determining ANPP operating expenses, the Operating Agent shall include the following expenses, including Arizona's normal time-off allowances and M & S Stores Load, to the extent that they are chargeable to ANPP in accordance with Accounting Practice:

E.1.1 The operation expenses chargeable to FPC Accounts 517, 518 (excluding Fuel Expenses), 519 to 525, inclusive, 556, 557, 560, 561, 562, 565, 566 and 567.
E.1.2 The maintenance expenses chargeable to FPC Accounts 528 to 532, inclusive, 568, 569, 570 and 573.
E.1.3 All costs incurred by the Operating Agent directly chargeable to FPC Accounts 408 (except Payroll Taxes which are allocated in accordance with Section E.1.5 hereof and ad valorem taxes, or payments in lieu thereof) 925 (except workmen's compensation expense allocated to ANPP pursuant to Section E.1.8) and 928.
E.1.4 Overseas expenses incurred by the Operating Agent which are allocable to the operation and maintenance of ANPP. Such overseas expenses shall be determined in accordance with Section E.3 hereof.
E.1.5 The portion of the Operating Agent's employee Payroll Taxes chargeable to FPC Account 408 determined by applying the Payroll Tax Ratio computed in accordance with Section E.4 hereof to labor charges of ANPP operating and maintenance expenses, including without limitation the labor portion of expenses chargeable to ANPP pursuant to Sections E.1.1, E.1.2, E.1.3 and E.1.4 hereof.
E.1.6 The portion of the Operating Agent's employee pensions and benefits expenses as defined under FPC Account 926 and determined by applying the Benefits Ratio computed in accordance with Section E.5 hereof to the total labor charges of ANPP operating and maintenance expenses, including without limitation the labor portion of expenses chargeable to ANPP pursuant to Sections E.1.1, E.1.2, E.1.3 and E.1.4 hereof.
E.1.7 The portion of the Operating Agent's administrative and general expenses chargeable to FPC Accounts 920, 921, 923 and 932 determined by applying the Operating and Maintenance A & G Ratio computed in accordance with Section E.6 hereof to the total labor charges of ANPP operating and maintenance expenses, including without limitation the labor portion of expenses chargeable to ANPP pursuant to Sections E.1.1, E.1.2, E.1.3 and E.1.4 hereof.
E.1.8 The portion of the Operating Agent's workmen's compensation expense, including premiums, payments and accruals, chargeable to FPC Account 925 (except amounts charged to ANPP pursuant to Section E.1.3) and allocable to ANPP which shall be determined by applying the Compensation Insurance Ratio computed in accordance with Section E.7 hereof to the total labor charges of ANPP operating and maintenance expense, including without limitation the labor portion of the expenses chargeable to ANPP pursuant to Sections E.1.1, E.1.2, E.1.3 and E.1.4 hereof.
E.1.9 The portion of the Operating Agent's administrative and general expenses for work performed by a contractor, the cost of which is chargeable to ANPP operation and maintenance expenses in accordance with Sections E.1.1, E.1.2 and E.1.3 hereof, determined by multiplying the total contract cost thereof by one percent (1%).

E.2 Cost of Capital Improvements. In determining the costs of Capital Improvements; the Operating Agent shall include all costs, including time-off allowances, incurred by the Operating Agent.
(other than allowance for funds used during construction) which conform to the provisions of Electric Plant Instruction 3 of FPC Accounts entitled "Components of Construction Cost"; provided, that (i) charges for insurance other than workmen's compensation insurance for the Operating Agent's officers and employees shall be limited to (a) the cost of Construction Insurance obtained by the Operating Agent pursuant to Section 19.2.4 of the Participation Agreement and (b) any increases in the cost of Operating Insurance attributable to the construction of Capital Improvements, (ii) charges for injuries and damages shall be limited to those injuries or damages arising out of or in connection with and occurring in the course of construction of the Capital Improvements, and (iii) charges for taxes shall not include any taxes paid by any Participant pursuant to Section 13 of the Participation Agreement. In making such cost determinations the Operating Agent shall include the following:

E.2.1 Overhead expenses incurred by the Operating Agent which are allocable to the cost of Capital Improvements. Such overhead expenses shall be determined in accordance with Section E.3 hereof.

E.2.2 The portion of the Operating Agent's employee Payroll Taxes, workmen's compensation expense and an allowance for administrative and general expenses chargeable to ANPP construction accounts determined by multiplying (i) the Payroll Tax Ratio, the Compensation Insurance Ratio and the Capital A & G Ratio computed in accordance with Sections E.4, E.7 and E.9 respectively, by (ii) the sum of the Operating Agent's labor charges included in the cost of Capital Improvements, including the cost of Capital Improvements pursuant to Section E.3 hereof.

E.2.3 The portion of the Operating Agent's administrative and general expenses for work in making Capital Improvements performed by a contractor determined by multiplying the total contract cost thereof by one percent (1%).

E.3 Allocation of Overhead Expenses

E.3.1 Overhead expenses incurred by the Operating Agent which are allocable to ANPP are comprised of, but not limited to, the following:

E.3.1.1 All of the following expenses incurred at the Nuclear Plant Site:

E.3.1.1.1 The salaries and expenses of the Station Superintendent and his supervisory, administrative, engineering and clerical staff assigned to ANPP;
E.3.1.1.2 Stationery and office supplies expense;
E.3.1.1.3 The payroll and other costs incurred in processing grievances;
E.3.1.1.4 The payroll and other costs, excluding expenses for initial training, incurred in attending job training meetings by employees assigned to the ANPP; and
E.3.1.1.5 Miscellaneous expenses not assignable to other functions of ANPP.

E.3.1.2 A portion of the expenses incurred by the Operating Agent's Power Production Department, such portion to be determined by multiplying the total of such expenses by a ratio, the numerator of which is the total payroll for A.. P and the denominator of which is the total payroll supervised by the Vice President, Power Production. Such expenses shall include, but not be limited to, the following:

E.3.1.2.1 The salaries and expenses of the Vice President, Power Production, and his supervisory, administrative, engineering and clerical staff;
E.3.1.2.2 Stationery and office supplies expense;
E.3.1.2.3 Expenses (but not payroll costs) incurred in attending certain conventions and committee meetings; and
E.3.1.2.4 Miscellaneous expenses not assignable to other functions.
E.3.1.3 A portion of the expenses incurred by the Operating Agent's Electric and Gas Operations Group, such portion to be determined by multiplying the total of such expenses by a ratio, the numerator of which is the total payroll for ANPP and the denominator of which is the total payroll supervised by the Executive Vice President, Engineering and Operations. Such expenses shall include, but not be limited to, the following:

   E.3.1.3.1 The salaries and expenses of the Executive Vice President, Engineering and Operations, and his engineering and clerical staff, less that portion chargeable to administrative and general accounts;
   E.3.1.3.2 Stationery and office supplies expense; and
   E.3.1.3.3 Miscellaneous expenses not assignable to other functions.

E.3.1.4 A portion of the expenses incurred by the Operating Agent's System Electric Operations Department, such portion to be determined by multiplying the total of such expenses by a ratio, the numerator of which is the total payroll for ANPP and the denominator of which is the total payroll supervised by the Executive Vice President, Engineering and Operations. Such expenses shall include, but not be limited to, the following:

   E.3.1.4.1 The salaries and expenses of the Manager of System Electric Operations, his supervisory, administrative, engineering and clerical staff, and his load supervisors;
   E.3.1.4.2 Stationery and office supplies expense;
   E.3.1.4.3 Expenses (but not payroll costs) incurred in attending certain conventions and committee meetings by System Electric Operations personnel; and
   E.3.1.4.4 Miscellaneous expenses not assignable to other functions of the System Electric Operations Department.

E.3.2 Overhead expenses described in Section E.3.1 of this Appendix shall be allocated to certain FPC Accounts and to Capital Improvements as follows:

   E.3.2.1 The total direct labor expense incurred at the Nuclear Plant Site shall be deemed to be the sum of the following:
      E.3.2.1.1 Direct operating labor chargeable to FPC Accounts 517 through 525;
      E.3.2.1.2 Direct maintenance labor chargeable to FPC Accounts 528 through 532;
      E.3.2.1.3 Direct maintenance labor chargeable to FPC Accounts 568, 569, 570 and 573; and
      E.3.2.1.4 Direct labor chargeable to Capital Improvements.

   E.3.2.2 Overhead expenses described in Sections E.3.1.1 and E.3.1.3 hereof shall be allocated to FPC Accounts 517, 528 and 568, and to Capital Improvements, as follows:
      E.3.2.2.1 The portion of said overhead expenses to be allocated to FPC Account 517 shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct operating labor set forth in Section E.3.2.1.1 hereof and the denominator of which is the total direct labor expense set forth in Section E.3.2.1 hereof.
      E.3.2.2.2 The portion of said overhead expenses to be allocated to FPC Account 528 shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct maintenance labor set forth in Section E.3.2.1.2 hereof and the denominator of which is the total direct labor expense set forth in Section E.3.2.1 hereof.
E.3.2.2.3 The portion of said overhead expenses to be allocated to FPC Account 568 shall be equal to said overhead expense multiplied by a ratio, the numerator of which is the direct maintenance labor set forth in Section E.3.2.1.3 hereof and the denominator of which is the total direct labor expense set forth in Section E.3.2.1 hereof.

E.3.2.2.4 The portion of said overhead expenses to be allocated to Capital Improvements shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct labor set forth in Section E.3.2.1.4 hereof and the denominator of which is the total labor expense set forth in Section E.3.2.1 hereof.

E.3.2.3 Overhead expenses described in Section E.3.1.2 hereof shall be allocated to FPC Accounts 517 and 528, and to Capital Improvements, as follows:

E.3.2.3.1 The portion of said overhead expenses to be allocated to FPC Account 517 shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct operating labor set forth in Section E.3.2.1.1 hereof and the denominator of which is the sum of the direct labor set forth in Sections E.3.2.1.1, E.3.2.1.2 and E.3.2.1.4 hereof.

E.3.2.3.2 The portion of said overhead expenses to be allocated to FPC Account 528 shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct maintenance labor set forth in Section E.3.2.1.2 hereof and the denominator of which is the sum of the direct labor set forth in Sections E.3.2.1.1, E.3.2.1.2 and E.3.2.1.4 hereof.

E.3.2.3.3 The portion of said overhead expenses to be allocated to Capital Improvements shall be equal to said overhead expenses multiplied by a ratio, the numerator of which is the direct labor set forth in Section E.3.2.1.4 hereof and the denominator of which is the sum of the direct labor set forth in Sections E.3.2.1.1, E.3.2.1.2 and E.3.2.1.4 hereof.

E.3.2.3.4 Overhead expenses described in Section E.3.1.4 hereof shall be allocated to FPC Account 556.

E.3.3 The job and department titles referred to in this Section E.3 are those currently in use by the Operating Agent, as follows: Station Superintendent; Vice President, Power Production; Executive Vice President, Engineering and Operations; Manager of System Electric Operations; Power Production Department; Electric and Gas Operations Group; and System Electric Operations Department. The provisions of this Section E.3 shall refer to those jobs and departments having generally the same responsibility and functions as those listed above without regard to any subsequent assignment of a different title by the Operating Agent.

E.4 Payroll Tax Ratio

E.4.1 The Payroll Tax Ratio set forth below shall be applied to the labor expense portion of the ANPP operation and maintenance expenses, to the Operating Agent's direct labor charges incurred in effecting Capital Improvements, and to the labor expenses included in the Operating Agent's supervisory and administrative and general expense accounts. Estimated and actual Payroll Tax Ratios shall be determined, adjusted and used in the manner set forth in Section E.10 hereof.
Payroll Tax Ratio = \frac{T}{P}

Where:  
T = The Operating Agent's Payroll Tax expenses.

P = The Operating Agent's total labor distributed including accruals.
The following example sets forth the method to be employed by the Operating Agent to determine the Payroll Tax Ratio:

EXAMPLE COMPUTATION OF PAYROLL TAX RATIO
(Based on Operating Agent's 1972 Expenses)

Total Payroll Taxes:
- F.I.C.A. $1,543,360
- F.U.T.A 76,296
- S.U.I. 47,365

Total Payroll Taxes $1,667,021

Total Labor charged to operation and maintenance, construction and miscellaneous general ledger accounts $44,502,733

Payroll Tax Ratio: $1,677,021 / $44,502,733 = 3.746%

The Benefits Ratio set forth below shall be applied to the labor expense portion of the ANPP operations and maintenance expenses, to the Operating Agent's direct labor charges incurred in effecting Capital Improvements, and to the labor expenses included in the Operating Agent's supervisory and administrative and general expense accounts. Estimated and actual Benefits Ratios shall be determined, adjusted and used in the manner set forth in Section E.10 hereof.

\[
\text{Benefits Ratio} = \frac{B}{L}
\]

Where: 
- \( B \) = The Operating Agent's total system employee pensions and benefits (as defined in FPC Account 926), including Payroll Taxes and workmen's compensation expense on labor charged to employee pensions and benefits.
- \( L \) = The Operating Agent's total labor distributed including accruals less labor charged to employee pensions and benefits.

The following example sets forth the method to be employed by the Operating Agent to determine the Benefits Ratio:

EXAMPLE COMPUTATION OF BENEFITS RATIO
(Based on Operating Agent's 1972 Expenses)

<table>
<thead>
<tr>
<th>Pensions and Benefits</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees Pensions and Benefits</td>
<td>$624,964</td>
<td>$ 5,590,439</td>
</tr>
<tr>
<td>Payroll Taxes @ 3.746% of labor (See Example in Section E.4.2)</td>
<td>23,411</td>
<td></td>
</tr>
<tr>
<td>Compensation Insurance @ 1.204% of labor (See Example in Section E.7.2)</td>
<td>7,525</td>
<td></td>
</tr>
<tr>
<td>Total Pensions and Benefits</td>
<td>5621,375</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Labor Base</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor charged to operation and maintenance, construction and miscellaneous general ledger accounts</td>
</tr>
<tr>
<td>Less total labor charged to Pensions and Benefits</td>
</tr>
<tr>
<td>Total applicable labor</td>
</tr>
<tr>
<td>Benefits Ratio: $5,621,375 ÷ $43,877,769</td>
</tr>
</tbody>
</table>
The Operation and Maintenance A & G Ratio shall be the percentage computed by dividing (i) the sum of (a) the total amounts charged to FPC Accounts 920 and 921 multiplied by the O & M Ratio computed in accordance with Section E.8 hereof, (b) the total amounts charged to FPC Accounts 923 (except any amounts directly chargeable to ANPP pursuant to Section E.1.3),°and 932, (c) the product of the portion of labor charges included within (a) and (b) above multiplied by the Payroll Tax Ratio computed in accordance with Section E.4 hereof (d) the product of the labor charges included within (a) and (b) above multiplied by the Benefits Ratio computed in accordance with Section E.5 hereof, and (e) the product of the labor charges included within (a) and (b) above multiplied by the Compensation Insurance Ratio computed in accordance with Section E.7 hereof, less (f) that portion of the administrative and general expenses charged to FPC Accounts 920 and 921 allocable to contract operations and maintenance for ANPP by (ii) the total labor charged to the Operating Agent's system operations and maintenance less the labor charged to administrative and general expenses.

The following example sets forth the method to be employed by the Operating Agent to determine the Operation and Maintenance A & G Ratio:

EXAMPLE COMPUTATION OF OPERATIONS AND MAINTENANCE A & G RATIO
(Based on the Operating Agent's 1972 Experience)

<table>
<thead>
<tr>
<th></th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries</td>
<td>$ 2,522,177</td>
<td>$ 2,522,177</td>
</tr>
<tr>
<td>charged to FPC Account 920</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office Supplies and Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>charged to FPC Account 921</td>
<td>$ 936,388</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$ 2,522,177</td>
<td>$ 3,458,565</td>
</tr>
<tr>
<td>(Line 7, multiplied by O &amp; M Ratio @ 41.421%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Example in Section E.8.4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FPC Account 923</td>
<td>$ 1,044,711</td>
<td>$ 1,432,572</td>
</tr>
<tr>
<td>FPC Account 932</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>$ 1,535,406</td>
<td>$ 2,795,108</td>
</tr>
<tr>
<td>Payroll Taxes @ 3.746% (See Example in Section E.4.2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>on labor charges shown on line 11 above</td>
<td></td>
<td>57,516</td>
</tr>
<tr>
<td>Pensions and Benefits @ 12.811% (See Example in Section E.5.2)</td>
<td></td>
<td>197,039</td>
</tr>
<tr>
<td>on labor charges shown on line 11 above</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compensation Insurance @ 1.204% (See Example in Section E.7.2)</td>
<td></td>
<td>18,486</td>
</tr>
<tr>
<td>on labor charges shown on line 11 above</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less that portion of A &amp; G allocable to Contract Operation and Maintenance for ANPP</td>
<td></td>
<td>-0-</td>
</tr>
<tr>
<td>Total administrative and general expenses allocable to operations and maintenance</td>
<td></td>
<td>$ 3,068,149</td>
</tr>
</tbody>
</table>

**Labor Base**

- Labor charged to system operations and maintenance $ 15,696,110
- Less labor charged to administrative and general expenses $ 2,672,578
- Labor Base $ 13,023,532

Operating and Maintenance A & G Ratio for 1972 $3,068,149 ÷ $13,023,532 = 23.566%
E.7 Compensation Insurance Ratio

E.7.1 The Compensation Insurance Ratio set forth below shall be applied to the labor expense portion of the ANPP operation and maintenance expenses, to the Operating Agent's direct labor charges incurred in effecting Capital Improvements, and to the labor expenses included in the Operating Agent's supervisory and administrative and general accounts. Estimated and actual Compensation Insurance Ratios shall be determined, adjusted and used in the manner set forth in Section E.10 hereof.

Compensation Insurance Ratio = $I \over P$

Where:  
$I$ = The Operating Agent's total system workmen's compensation insurance premiums and accruals for self-insurance as defined in FPC Account 925.
$P$ = The Operating Agent's total labor distributed including accruals.

E.7.2 The following example sets forth the method to be employed by the Operating Agent to determine the Compensation Insurance Ratio:

EXAMPLE COMPUTATION
OF COMPENSATION INSURANCE RATIO
(Based on Operating Agent's 1972 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workmen's Compensation Insurance premiums, payments and accruals as defined</td>
<td>$534,767</td>
</tr>
<tr>
<td>in FPC Account 925</td>
<td></td>
</tr>
<tr>
<td><strong>Labor Base</strong></td>
<td></td>
</tr>
<tr>
<td>Total labor in operations and maintenance, construction and miscellaneous</td>
<td>$44,502,733</td>
</tr>
<tr>
<td>general ledger accounts</td>
<td></td>
</tr>
<tr>
<td>Less labor charged to Compensation Account</td>
<td>91,905</td>
</tr>
<tr>
<td>Total applicable labor</td>
<td>$44,410,828</td>
</tr>
<tr>
<td>Compensation Insurance Ratio</td>
<td>$534,767 ÷ $44,410,828</td>
</tr>
</tbody>
</table>

E.8 O & M Ratio and Construction Ratio.

E.8.1 The O & M Ratio set forth below shall be applied to the amounts chargeable to FPC Accounts 920 and 921 for the purpose of determining one component in the computation of the Operations and Maintenance A & G Ratio as provided in Section E.6 hereof.

O&M Ratio = $O \over L$

Where:  
$O$ = The Operating Agent's total labor charged to operation and maintenance accounts, less labor chargeable to FPC Accounts 920 through 932.
$L$ = The Operating Agent's total labor distributed, including accruals, less labor charged to FPC Accounts 920 through 932.

E.8.2 The Construction Ratio set forth below shall be applied to the amounts chargeable to FPC Accounts 920 and 921 for the purpose of determining one component in the computation of the Capital A & G Ratio as provided in Section E.9 hereof.

Construction Ratio = $C \over L$

Where:  
$C$ = The Operating Agent's total labor in construction accounts.
$L$ = The Operating Agent's total labor distributed, including accruals, less labor chargeable to FPC Accounts 920 through 932.
E.8.3 Estimated and actual O & M Ratios and Construction Ratios shall be determined, adjusted and used in the manner set forth in Section E.10 hereof.
The following example sets forth the method to be employed by the Operating Agent to determine the O & M Ratio and the Construction Ratio:

**EXAMPLE COMPUTATION**
O & M RATIO AND CONSTRUCTION RATIO
(Based on the Operating Agent's 1972 Experience)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Labor in Operations and Maintenance Accounts</td>
<td>$15,696,110</td>
</tr>
<tr>
<td>Less: Labor charged to FPC Accounts 920 through 932, inclusive</td>
<td>$2,672,578</td>
</tr>
<tr>
<td>Net Labor in O &amp; M Accounts</td>
<td>$13,023,532</td>
</tr>
<tr>
<td>Total Labor charged to General Ledger Accounts</td>
<td>$4,217,335</td>
</tr>
<tr>
<td>Total Labor in Construction Accounts</td>
<td>$14,200,724</td>
</tr>
<tr>
<td>Total Labor Base</td>
<td>$31,441,591</td>
</tr>
<tr>
<td>Ratio of Net O &amp; M Labor to Total Labor</td>
<td>$13,023,532</td>
</tr>
<tr>
<td>= 41.421%</td>
<td></td>
</tr>
<tr>
<td>Ratio of Construction Labor to Total Labor</td>
<td>$14,200,724</td>
</tr>
<tr>
<td>= 45.165%</td>
<td></td>
</tr>
</tbody>
</table>

Note: All labor figures include loading for allowed time.

### E.9 Capital A & G Ratio

**E.9.1** The Capital A & G Ratio shall be the percentage computed by dividing (i) the amounts equal to (A) the sum of (a) the total amounts charged to FPC Accounts 920 and 921 multiplied by the Construction Ratio computed in accordance with Section E.8 hereof, (b) the product of the portion of labor charges included in (a) above multiplied by the sum of the Payroll Tax Ratio, the Benefits Ratio and the Compensation Insurance Ratio and (c) the product of the total labor in construction accounts multiplied by the Benefits Ratio less (B) the portion of administrative and general expenses charged to FPC Accounts 920 and 921 allocable to contract construction for ANPP by (ii) the total labor in construction accounts (exclusive of overheads).

**E.9.2** The following example sets forth the method to be employed by the Operating Agent to determine the Capital A & G Ratio:

**EXAMPLE COMPUTATION OF CAPITAL A & G RATIO**
(Based on the Operating Agent's 1972 Experience)

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FPC Account 920</td>
<td>$2,522,177</td>
<td>$2,522,177</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FPC Account 921</td>
<td></td>
<td>936,388</td>
</tr>
<tr>
<td>Total</td>
<td>$2,522,177</td>
<td>$3,458,565</td>
</tr>
<tr>
<td>Line 7, multiplied by Construction Ratio @ 45.165%</td>
<td>$1,139,141</td>
<td>$1,562,061</td>
</tr>
<tr>
<td>(See Example in Section E.8.4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payroll Taxes @ 3.746% (See Example in Section E.4.2) on labor charges shown on line 9 above</td>
<td></td>
<td>42,672</td>
</tr>
<tr>
<td>Pensions and Benefits @ 12.811% (See Example in Section E.5.2) on labor charges shown on line 9 above</td>
<td>$145,935</td>
<td></td>
</tr>
<tr>
<td>Compensation Insurance @ 1.204% (See Example in Section E.7.2) on labor charges shown on line 9 above</td>
<td></td>
<td>13,715</td>
</tr>
<tr>
<td>Total administrative and general expenses allocable to Construction</td>
<td>$1,764,383</td>
<td></td>
</tr>
<tr>
<td>Pensions and Benefits applicable to Construction labor @12.811%</td>
<td>$14,200,724</td>
<td>$1,819,255</td>
</tr>
<tr>
<td>Less that portion allocable to Contract Construction for ANPP</td>
<td></td>
<td>-0-</td>
</tr>
<tr>
<td>Total A &amp; G Expense plus pensions and benefits allocable to Construction</td>
<td>$3,583,638</td>
<td></td>
</tr>
<tr>
<td>Construction Labor Base</td>
<td>$14,200,724</td>
<td></td>
</tr>
<tr>
<td>Capital A &amp; G Ratio for 1972 $3,583,638 ÷ $14,200,724</td>
<td></td>
<td>25.236%</td>
</tr>
</tbody>
</table>
E.10 Use and Adjustment of Estimated Ratios

E.10.1 At the start of each calendar year an estimated Payroll Tax Ratio, Benefits Ratio, Operation and Maintenance A & G Ratio, Compensation Insurance Ratio, 0 & M Ratio, Construction Ratio and Capital A & G Ratio shall be used, and such rates shall be determined in accordance with the methods set forth in Sections E.4, E.5, E.6, E.7, E.8, and E.9, respectively. Such rates shall be based on the Operating Agent's system-wide expenses for the preceding calendar year; provided, that by agreement of the Auditing Committee, such rates may be adjusted to more nearly reflect the expenses of the current year because of tax legislation, labor contract negotiations, or other factors no reflected in the prior year's costs.

E.10.2 As soon as practicable after the end of each calendar year the actual Payroll Tax Ratio, Benefits Ratio, Operation and Maintenance A & G Ratio, Compensation Insurance Ratio, 0 & M Ratio, Construction Ratio and Capital A & G Ratio for such year shall be determined in accordance with the method set forth in Sections E.4, E.5, E.6, E.7, E.8, and E.9 respectively, by using said year's actual system-wide expenses of the Operating Agent. Using said actual ratios, the portions of the Operating Agent's Payroll Taxes, workmen's compensation expenses, employee pensions and benefits expenses, and administrative and general expenses for which the Participants are obligated hereunder for costs of Operating Work and Capital Improvements shall be determined for such year. To the extent that such expenses are more than or less than those already paid by the Participants during said year, the Operating Agent shall bill or reimburse the Participants for the amount of such difference.

E.11 Modifications of Rate Computations and Application

E.11.1 If any Participant believes that the application of or the method used in determining the Payroll Tax Ratio, Benefit Ratio, Operation and Maintenance A & G Ratio, Compensation Insurance Ratio, 0 & M Ratio, Construction Ratio or Capital A & G Ratio results in an unreasonable burden on said Participant, that Participant may request that such application or method be submitted to the Auditing Committee for review; provided, that such review shall not be requested prior to June 1, 1983, and thereafter at intervals of not less than two (2) years each. After any such request, subject to the time limitations set forth above, the Auditing Committee shall review such application or method and shall endeavor to agree upon whether or not said believed unreasonable burden does actually exist. If after such review, the Auditing Committee determines that such application or method does result in an unreasonable burden on one or more of the Participants, the Auditing Committee shall determine and recommend a modified application or method to the Administrative Committee so that such unreasonable burden would be eliminated if such modified application or method is adopted by the Administrative Committee.

E.11.2 The Administrative Committee shall review the recommendations submitted by the Auditing Committee, and if as a result of such review, the Administrative Committee agrees that such unreasonable burden does exist and that said modified application or method eliminates such unreasonable burden, then the Administrative Committee shall adopt said modified application or method. If the Auditing Committee has not submitted a recommendation and the Administrative Committee agrees that such unreasonable burden does exist, the Administrative Committee shall endeavor to agree on a modified application or method. If the Administrative Committee is unable to agree on any matter brought before it under this Section E.11.2, then any Participant may call for arbitration of such matter pursuant to Section 24 provided the procedures set forth in Section 6.10 of the Participation Agreement shall have been first invoked.

E.11.3 Any modified method adopted by the Administrative Committee or determined through arbitration shall be retroactive to the first day of the month in which the unreasonable burden began except that the retroactive period can be no more than two (2) years from the date of the requested review. Said modified method shall stay in effect until a new modified method is approved, but in no event less than two (2) years from the date of such adoption or determination.
APPENDIX F

INVESTMENTS IN AND ACCOUNTING FOR NUCLEAR FUEL

F.1 General Principles. The following principles shall govern the joint ownership and investments by Participants and their respective Fuel Lessors, if any, in Nuclear Fuel for ANPP, the amortization of such investments, the allocation of amortization charges among Participants and their sharing and payment, directly or by their respective Fuel Lessors, of costs incurred in connection with the acquisition, use and disposal of Nuclear Fuel. Such principles recognize that (i) investments in Nuclear Fuel will be made considerably in advance of its use, (ii) some elements affecting Fuel Expense may not be known until several years after the related Nuclear Fuel is used, and (iii) the FPC Accounts impose certain requirements respecting Nuclear Fuel cost accounting:

F.1.1 Ownership of and investments in Nuclear Fuel in any form acquired, used or held for use for ANPP, including each Fuel Assembly or portion thereof, all costs to obtain such Nuclear Fuel incurred up to the time of its delivery to the Nuclear Plant Site in a form ready for use in a Reactor, but excluding from such costs any interest during construction as well as any other interest, rental, carrying or use charges and, except as provided in Section 13.3 of the Participation Agreement, any ad valorem taxes or payments in lieu thereof, shall be shared by the Participants and their respective Fuel Lessors, if any, in accordance with the Participants' respective Generation Entitlement Shares.

F.1.1.1 Subject to Section F.1.1.3 hereof, any Participant may at its option sell and assign to and leaseback from a Fuel Lessor such Participant's undivided interest in any discrete portion or portions of the Nuclear Fuel or enter into such other leasing arrangements by which a Fuel Lessor shall (i) undertake such Participant's obligations to pay its share of the investments in any discrete portion or portions of the Nuclear Fuel and to advance funds as required under this Appendix F and (ii) lease to such Participant the undivided interest so acquired in such portion or portions of the Nuclear Fuel.

F.1.1.2 As an alternative to the leasing of Nuclear Fuel provided in Section F.1.1.1 hereof and subject to Section F.1.1.3 hereof, each Participant shall be entitled to provide its undivided interest in any discrete portion or portions of the Nuclear Fuel from time to time required for or resident in any Reactor or Reactors by requesting the Project Manager or the Operating Agent, as the case may be, to enter into a Nuclear Fuel Agreement on behalf of such Participant, providing for the acquisition by a Fuel Lessor and its lease or leaseback to such Participant of the undivided interest share of the Nuclear Fuel involved, upon terms which shall have been approved by such Participant.

F.1.1.3 Each sale and leaseback or other leasing arrangement by any Participant under Section F.1.1.1 hereof and each Nuclear Fuel Agreement entered into by the Project Manager or Operating Agent on behalf of any Participant under Section F.1.1.2 shall be consistent with and shall not give or purport to give any Fuel Lessor any different rights or obligations in respect of the leased undivided interest in the Nuclear Fuel than would be possessed or imposed hereunder by or upon the leasing Participant in the absence of such sale and leaseback, other leasing arrangement or Nuclear Fuel Agreement. For the purpose of assuring compliance with this Section F.1.1.3, no such sale and leaseback, other leasing arrangement or Nuclear Fuel Agreement shall be valid and enforceable against any other Participants or the Project Manager or the Operating Agent until it has been approved by the Administrative Committee as being consistent with this Appendix F, the Participation Agreement and the other Appendices thereto.

F.1.2 Each Participant, directly or by its Fuel Lessor or Lessors, shall pay such Participant's share of such investments in advance of the dates on which the payments therefor become due under any Nuclear Fuel Agreement.
F.1.3 Such investments, less or plus the related expected Net Salvage Values (which, as defined in Section F.2.19 hereof, makes allowance for all salvage costs), shall be amortized during those periods when the Nuclear Fuel is in a Reactor on the basis of the thermal energy produced in such periods (i.e., the thermal output from such Nuclear Fuel in such periods) to start up the Reactor, to hold the Reactor at hot stand-by or to generate Energy.

F.1.4 Such amortization charges shall be considered Fuel Expense which shall be shared by the Participants in accordance with the ratio of the Nuclear Fuel's thermal output used by them, respectively, to the total thermal output from the Nuclear Fuel.

F.1.5 To the extent that the thermal output used by any Participant from time to time exceeds its Generation Entitlement Share of the total thermal output, such Participant shall compensate the other Participants for the use of such excess thermal output by payments of the Fuel Expense therefor to the Operating Agent who shall reimburse the other Participants as appropriate from such payments received.

F.1.6 For the purpose of determining the amount of the Fuel Expense to be charged over any accounting period, estimates of total thermal output, reprocessing costs and salvage values shall be used which shall be changed from time to time as actual data becomes available or at such other times as the Administrative Committee shall direct.

F.1.7 Whenever changes are made in any factor which affects the determination of the Fuel Expense, the payments theretofore made or received by, or thereafter to become due from or to, each Participant shall be adjusted as may be appropriate so that at all times with the use of the best data available, Fuel Expense (i.e., accumulated amortization of net investment in Nuclear Fuel) shall be shared in accordance with each Participant's use of the thermal output obtained from the Nuclear Fuel.

F.1.8 All expenses incurred in connection with the receipt, storage and handling of Nuclear Fuel at the Nuclear Plant Site and the preparation for shipment of Nuclear Fuel from the Nuclear Plant Site, all Fuel Management Expenses including without limitation administration of this Appendix F, and all costs of fuels for ancillary facilities shall be determined, accounted for and shared in the same manner as any other operation costs governed by Sections 11.1 and 11.2 of the Participation Agreement.

F.1.9 Investments in Nuclear Fuel from and after its receipt at the Nuclear Plant Site, Estimated Fuel Expense and Fuel Expense, Estimated and Actual Reprocessing Costs and Estimated Net Salvage Value and Net Salvage Value shall be determined and accounted for upon a per Fuel Assembly basis and the Operating Agent shall keep such records and follow such procedures as may be required to determine as accurately as is reasonably feasible the thermal output from each Fuel Assembly inserted into a Reactor.

F.1.10 The foregoing principles and their application as hereinafter set forth are subject to such changes as the Administrative Committee may from time to time determine, and any disputes in respect thereof shall be resolved in the same manner as any other dispute under the Participation Agreement.

F.2 Definitions. The following terms, when used herein shall have the meanings hereinafter specified:

F.2.1 ACTUAL THERMAL OUTPUT (ATO): The thermal energy expressed in megawatt days (MWD) produced from one or more Fuel Assemblies during any given period or periods of residence in a Reactor or Reactors which has or have been used to start up and operate such Reactor or Reactors at any Power level or levels.
F.2.2 ACTUAL REPROCESSING COSTS (ARC): The sum of (i) all costs of reprocessing one or more Fuel Assemblies or components thereof, including costs of handling, shipment and storage incidental thereto and disposal of wastes (but excluding all costs of handling, shipment and storage chargeable as either Fuel Handling Expenses or Fuel Management Expenses) (ii) all costs of storage and disposal of Recovered Materials incurred within thirty (30) days after completion of reprocessing and receipt of the final assay report or reports for the reprocessing batch or batches involved and (iii) all costs for storage, surveillance and/or disposal of waste materials resulting from reprocessing.

F.2.3 ACTUAL SALVAGE VALUE (ASV): The sum of (i) the refunds or reimbursements, if any, received from any fuel vendor because of the failure of one or [more] Fuel Assemblies to meet any warranty or other performance obligations in the relevant Nuclear Fuel Agreement, and (ii) the net proceeds realized from the sale of any Fuel Assembly or Assemblies or components thereof disposed of by the Operating Agent prior to reprocessing or (iii) the value of all Recovered Materials to be established not later than thirty (30) days after the date of receipt of the final assay report or reports for the reprocessing batch or batches of which any Fuel Assembly or Assemblies or components thereof was or were a part at the price or respective prices under any contract to sell such Recovered Materials entered into within thirty (30) days after such date, or, if no such contract has been entered into within thirty (30) days after such date, then at the price or respective prices determined on the basis of the last sale of similar Recovered Materials, F.O.B the reprocessing plant or any storage facility operated in conjunction therewith, less (iv) payments, if any, to any fuel vendor under any Nuclear Fuel Agreement providing for the sharing of benefits accruing from production of thermal energy from any such Fuel Assembly or Assemblies in excess of a warranted or otherwise stipulated amount(s). For purposes of any such determination of value, the several Recovered Materials will be deemed similar even though there may be differences in enrichment, grade, quality or quantity if there is an accepted means for converting any such differences into monetary values.

F.2.4 ACCUMULATED FUEL EXPENSE (AFE): The accumulated Estimated Fuel Expenses and all adjustments made pursuant to Sections 4.2 to 4.6, inclusive, hereof amortizing the Estimated Net Assembly Costs of one or more Fuel Assemblies on the basis of its or their Estimated Thermal Output.

F.2.5 ASSEMBLY COST (AC): The total costs incurred for a complete new Fuel Assembly ready for insertion, or for a complete partially irradiated Fuel Assembly ready for reinserterion, into a Reactor and recordation in FPC Account 120.3, but excluding from such costs (i) any interest during construction as well as any other interest, rental, carrying or use charges and, except as provided in Section 13.3 of the Participation Agreement, any ad valorem taxes or payments in lieu thereof, (ii) all Fuel Handling Expenses, and (iii) all Fuel Management Expenses.

F.2.6 ASSIGNED ACTUAL THERMAL OUTPUT (AATO): In respect of each Reactor, the portion of the Actual Thermal Output of one or more Fuel Assemblies during any given period assignable to each Participant which shall be equal to the sum of (i) the product computed separately for each resident Fuel Assembly of (a) its total Actual Thermal Output during such period required for start-up and during operation of such Reactor at any Power level up to and including that required for such Reactor's Generating Unit to produce its Zero Net Load multiplied by (b) a percentage equal to such Participant's Generation Entitlement Share, and (ii) the product computed separately for each resident Fuel Assembly of (a) its total Actual Thermal Output during such period used for Net Energy Generation multiplied by (b) the percentage of the total Net Energy Generation from all Generating Units during such period delivered to such Participant.

F.2.7 ESTIMATED FUEL EXPENSE (EFE): The expense of the character chargeable for any month to FPC Account 518 in accordance with Instruction A for said account, including
any adjustments as may be made from time to time in accordance with Instruction D for said account, in respect of one or more Fuel Assemblies determined by multiplying (i) its or their Estimated Net Assembly Cost by (ii) the quotient of the Actual Thermal Output from such Fuel Assembly or Assemblies in such month divided by the Estimated Thermal Output from such Fuel Assembly or Assemblies.

F.2.8 ESTIMATED NET ASSEMBLY COST (ENAC): The Assembly Cost less the Estimated Net Salvage Value.

F.2.9 ESTIMATED NET SALVAGE VALUE (ENSV): The Estimated Salvage Value less the Estimated Reprocessing Cost.

F.2.10 ESTIMATED REPROCESSING COST (ERC): The sum of (i) estimated average cost of reprocessing a Fuel Assembly in an optimum size batch of Nuclear Fuel which may reasonably be expected to be available for reprocessing from all Reactors with reasonable shipping, storage and reprocessing charges under any contract entered into by the Operating Agent pursuant to the Participation Agreement; or in the absence of such a reprocessing contract, the estimated average cost of reprocessing a Fuel Assembly as recommended by the Operating Agent and approved by the Engineering and Operating Committee, (ii) the estimated average cost per Fuel Assembly of shipment of irradiated Fuel Assemblies in optimum batches, including all transportation charges, car, truck or trailer and container rental charges, and other incidental costs of shipment, (iii) estimated storage charges per Fuel Assembly for storage of irradiated Nuclear Fuel at any location other than the Nuclear Plant Site prior to reprocessing and of Recovered Materials for up to thirty (30) days after completion of reprocessing of the optimum size batch of Nuclear Fuel, provided such storage charges are not included in the cost of reprocessing pursuant to a reprocessing contract, (iv) estimated average cost per Fuel Assembly of disposal of Recovered Materials and of storage and/or disposal of waste materials resulting from reprocessing, including costs for handling, surveillance, preparation for shipment, assaying, weighing and brokerage fees or commissions, but excluding any Fuel Management Expenses, any administrative and general expenses of the Operating Agent, and any costs included in (i), (ii), and (iii) above, and (v) any estimated liability and property insurance premiums per Fuel Assembly incurred to cover such shipment, storage, reprocessing and disposal.

F.2.11 ESTIMATED SALVAGE VALUE (ESV): An amount equal to the sum of the respective products of (i) the quantity, expressed in grams, of the several Recovered Materials which it is calculated would be recovered by reprocessing a Fuel Assembly which has been removed from the Reactor upon producing its Estimated Thermal Output multiplied by (ii) the price per gram paid for similar Recovered Material at the most recent published or recorded sale at the time of making estimate.

F.2.12 ESTIMATED THERMAL OUTPUT (ETO): The total thermal energy, expressed in megawatt-days (MWD), expected to be produced from one or more Fuel Assemblies as specified in the applicable fuel management plan(s) in effect from time to time as proposed by the Operating Agent and approved by the Engineering and Operating Committee pursuant to Section 6.3.2 of the Participation Agreement.

F.2.13 FUEL EXPENSE ALLOCATION (FEA): In respect of each Reactor, the portion of Estimated Fuel Expense for one or more Fuel Assemblies chargeable to each Participant for any month which shall be equal to the product computed separately for each resident Fuel Assembly of (i) the Estimated Fuel Expense for such month for such Fuel Assembly multiplied by (ii) the quotient of (a) the Assigned Actual Thermal Output of such Participant from such Fuel Assembly during such month divided by (b) the Actual Thermal Output of such Fuel Assembly during such month.

F.2.14 FUEL EXPENSE CREDIT (FEC): The amount by which the Fuel Expense Allocation to any Participant for one or more Fuel Assemblies for any month is less than the product
of (i) the Estimated Fuel Expense for such Fuel Assembly or Assemblies for such month multiplied by (ii) such Participant's Generation Entitlement Share.

F.2.15 FUEL EXPENSE DEBIT (FED): The amount by which the Fuel Expense Allocation to any Participant for one or more Fuel Assemblies for any month exceeds the product of (i) the Estimated Fuel Expense for such Fuel Assembly or Assemblies for such month multiplied by (ii) such Participant's Generation Entitlement Share.

F.2.16 FUEL HANDLING EXPENSES (FHE): All costs incurred by the Operating Agent at the Nuclear Plant Site in connection with the receipt, inspection, storage, insertion, removal, preparation for shipment and other handling of Nuclear Fuel at the Nuclear Plant Site.

F.2.17 FUEL MANAGEMENT EXPENSE (FME): All costs incurred by the Operating Agent in connection with planning and ordering of, contracting, accounting for, and scheduling and managing the use of Nuclear Fuel, including any computer charges, consultant's fees, costs of any advisory or management services furnished by any Nuclear Fuel supplier, payroll and associated costs of the Operating Agent's personnel and an allowance for administrative and general expense of the Operating Agent, but excluding Fuel Handling Expenses and any expense incurred by the Project Manager in connection with contracting for nuclear steam supply systems and for each Reactor's initially purchased supply of Fuel Assemblies which expense shall be capitalized in accordance with Accounting Practice.

F.2.18 NET ASSEMBLY COST (NAC): The Assembly Cost less its Net Salvage Value.

F.2.19 NET SALVAGE VALUE (NSV): Actual Salvage Value of one or more Fuel Assemblies less the Actual Reprocessing Costs.

F.2.20 NUCLEAR FUEL EXPENDITURES (NFE): All expenditures which are made or scheduled pursuant to any Nuclear Fuel Agreement, but excluding any expenditures payable to any Fuel Lessor.

F.2.21 RECOVERED MATERIALS: Any source, special nuclear or by-product material, as such terms are defined in the Atomic Energy Act of 1954, as amended, and any other materials which are recovered or expected to be recovered during the reprocessing of one or more Fuel Assemblies for the purpose of reuse or sale in the form or forms in which such materials are recovered or expected to be recovered as a result of such reprocessing.

F.2.22 REFUELING CYCLE (RC): The interval between initial fuel loading of a Reactor and the first refueling thereof or between successive refuelings thereof whenever a significant number of Fuel Assemblies are removed from or inserted into such Reactor.

F.3 Forecasts of Cash Requirements and Advances of Funds

F.3.1 Within thirty (30) days after the execution of the initial Nuclear Fuel Agreement and quarterly on the first day of each January, April, July and October thereafter, the Operating Agent shall furnish to each Participant and its Fuel Lessor, if any, a forecast of its cash requirements to pay its share of all Nuclear Fuel Expenditures, including all payments to become due under each Nuclear Fuel Agreement then in effect and estimates of all other expenditures, including without limitation shipping charges, cask rentals, charges for storage at places other than the Nuclear Plant Site, reprocessing costs, enrichment services and conversion costs, of the character indirectly or directly chargeable to FPC Account 518, which it is reasonably expected will be made within two years of the date of the forecast. Such forecast shall set forth such cash requirements (i) for each quarterly period, commencing on the first day of January, April, July and October, in which Nuclear Fuel Expenditures shall become due and (ii) for each month of the first two quarterly periods covered by the forecast. Such forecast shall be revised and furnished to each Participant every three months thereafter.
F.3.2 Ten (10) days in advance of the date on which any Nuclear Fuel Expenditure shall become due the Operating Agent shall send a request for funds to each Participant and its Fuel Lessor, if any, for its share of such Nuclear Fuel Expenditure. Each Participant, or its Fuel Lessor, if any, shall advance or cause to be advanced to the Operating Agent the funds so requested not less than three (3) days before said due date. In the event the total amount advanced by all Participants or their respective Fuel Lessors shall exceed the amount of Nuclear Fuel Expenditures actually made, then any such excess advance shall be promptly returned to the Participants or their respective Fuel Lessors pro rata.

F.3.3 Funds not advanced to the Operating Agent as required pursuant to Section F.3.2 hereof shall be payable with interest, if any, accrued as provided in Section 23.3 of the Participation Agreement.

F.3.4 If a Participant or any Fuel Lessor shall dispute any portion of any amount specified in a forecast of Nuclear Fuel Expenditures or a request for funds, it shall make the total payment or advance specified in the request for funds and follow the procedures set forth in Section 23.4 of the Participation Agreement.

F.4 Determinations, Estimates and Reports

F.4.1 Upon Execution of the Nuclear Fuel Agreements: Within a reasonable time after execution of each Nuclear Fuel Agreement for Fuel Assemblies, the Operating Agent shall determine for each Fuel Assembly acquired or to be acquired under such Nuclear Fuel Agreement, and for all such Fuel Assemblies the totals of, the following:

F.4.1.1 Assembly Cost
F.4.1.2 Estimated Thermal Output
F.4.1.3 Estimated Reprocessing Cost
F.4.1.4 Estimated Salvage Value
F.4.1.5 Estimated Net Salvage Value
F.4.1.6 Estimated Net Assembly Cost

In addition, the Operating Agent at such time shall also estimate the total Net Energy Generation to be produced from the use of all such Fuel Assemblies and the average fuel cost per kilowatt-hour for such Net Energy Generation using such assumptions as the Operating Agent deems reasonable.

F.4.2 Upon Initial Fuel Loading: At the time of the initial loading of Fuel Assemblies into a Reactor the Operating Agent shall update its determinations made in accordance with Section F.4.1 hereof making such adjustments as may be warranted due to changes in any factor affecting the Estimated Thermal Output, Estimated Net Assembly Cost or estimated total Net Energy Generation to be produced from, the use of such Fuel Assemblies.

F.4.3 Monthly Determinations: Not later than ten (10) days after the end of each month after the initial fuel loading, the Operating Agent shall determine in respect of each Fuel Assembly:

F.4.3.1 Actual Thermal Output and Assigned Actual Thermal Outputs during such month (i) for Reactor operation at any Power level up to that required for Zero Net Load and (ii) for Net Energy Generation.
F.4.3.2 Actual Thermal Output and Assigned Actual Thermal Outputs during entire period of residence in a Reactor or Reactors to the end of such month.
F.4.3.3 Estimated Fuel Expense and Fuel Expense Allocations for such month.
F.4.3.4 Fuel Expense Debits and Fuel Expense Credits for such month.
F.4.3.5 Accumulated Fuel Expense as of the beginning and the end of such month.

F.4.3.6 In the event the Actual Thermal Output determined pursuant to Section F.4.3.2 shall exceed the Estimated Thermal Output, net adjustments to be made in Accumulated Fuel Expense and Fuel Expense allocations previously reported to Participants.

F.4.4 Upon Removal of Fuel Assemblies for Reprocessing or Other Disposal: Within thirty (30) days after the removal of any Fuel Assembly for reprocessing or other disposal, the Operating Agent shall determine on the basis of the best information then available in respect of such Fuel Assembly:

F.4.4.1 Estimated Net Assembly Cost
F.4.4.2 Estimated Net Salvage Value
F.4.4.3 Actual Thermal Output during entire period of residence in a Reactor or Reactors.
F.4.4.4 Assigned Actual Thermal Output during such period for each Participant.
F.4.4.5 Net adjustments, for each annual reporting period affected, to the Accumulated Fuel Expense and Fuel Expense Allocations due to (i) differences between Estimated and Actual Thermal Output and (ii) changes in any factor affecting the Estimated Net Salvage Value.

F.4.5 Prior to Reactor Start-up After Refueling: Prior to start-up of a Reactor after any refueling, the Operating Agent shall determine with respect to each new Fuel Assembly inserted and each partially irradiated Fuel Assembly reinserted into the Reactor during such refueling the same data as that required under Section F.4.2.

F.4.6 Upon Completion of Reprocessing: Within thirty (30) days after the date of receipt of the final assay report or reports for each batch of reprocessed Fuel Assemblies or after other disposal of any Fuel Assemblies, the Operating Agent shall determine per Fuel Assembly:

F.4.6.1 Actual Reprocessing Cost
F.4.6.2 Actual Salvage Value
F.4.6.3 Net Salvage Value
F.4.6.4 Net Assembly Cost (using average Actual Reprocessing Costs and average Actual Salvage Values where appropriate).
F.4.6.5 Adjustments in Accumulated Fuel Expense and Fuel Expense Allocations due to differences not previously accounted for between Net Assembly Cost and Estimated Net Assembly Cost.

F.4.7 The Operating Agent shall furnish to each participant such written reports of the determinations made pursuant to this Section F.4 as the Auditing Committee shall direct.

F.5 Bills for Fuel Expense Debits and Net Adjustments

F.5.1 Promptly after making the determinations required under Section F.4.3, the Operating Agent shall bill each Participant having an aggregate Fuel Expense Debit for the purpose of reimbursing those Participants having aggregate Fuel Expense Credits.

F.5.2 Whenever the Operating Agent determines, pursuant to Sections F.4.3.6, F.4.4.5 or F.4.6.5, that net adjustments should be made in the Fuel Expense Allocations previously reported to Participants, the Operating Agent shall concurrently bill each Participant whose aggregate Fuel Expense Allocations should be increased in the amount of any such net adjustment for the purpose of reimbursing those Participants whose aggregate Fuel Expense Allocations should be decreased.
F.5.3 Promptly upon receipt of payment of any such bills for Fuel Expense Debits or for net adjustments, including any interest thereon pursuant to Section F.5.4 hereof, the Operating Agent shall pay the amounts so received to those Participants entitled thereto pro rata.

F.5.4 Bills rendered pursuant to Sections F.5.1 and F.5.2 shall be due and payable fifteen (15) days after receipt. Any bill not paid on its due date shall bear interest from and after said due date at the rate of ten percent (10%) per annum or the maximum rate of interest legally chargeable, whichever is lesser.

F.5.5 If any Participant shall dispute any determination made by the Operating Agent pursuant to Section F.4 or any bill rendered pursuant to this Section F.5, the disputant shall make the total payment billed or accept the payment rendered and follow the procedures set forth in Section 23.4 of the Participation Agreement.
APPENDIX G
PRE-OPERATIONAL OPERATING WORK

G.1 Training

G.1.1 The Operating Agent shall be responsible for the recruitment, employment, training and licensing of all personnel required for the operation and maintenance of ANPP, including without limitation senior reactor operators, reactor operators, equipment and maintenance personnel, fuel handling crews, engineering, nuclear, radiation protection and other supporting staff personnel and supervisors.

G.1.2 Within 90 days after execution of the contract for one or more nuclear steam supply systems, the Operating Agent shall prepare an ANPP operating and maintenance organization chart and a program, schedule and budget of employment, training and licensing requirements. Such organization chart, program, schedule and budget shall be submitted to the Administrative Committee for its review and approval. Following such review the Operating Agent shall proceed with the implementation thereof with such changes as may be directed by the Administrative Committee.

G.2 Monitoring Programs

G.2.1 From and after the issuance of a construction permit by the U.S. Atomic Energy Commission the Operating Agent shall assume responsibility for the conduct of all on-site and off-site environmental monitoring programs, including those continuing environmental monitoring programs initiated by the Project Manager, relevant to the protection of the environment, the implementation of Section 29 of the Participation Agreement or as required by law.

G.2.2 In carrying out the responsibilities set forth in Section G.2.1 hereof the Operating Agent shall coordinate its activities, including those performed by any contractor, with the Project Manager so as to avoid or minimize any interference with any Construction Work.

G.2.3 The transfer of responsibility for environmental monitoring programs to the Operating Agent shall not relieve the Project Manager of its responsibilities of conducting Construction Work in compliance with Section 29 of the Participation Agreement.

G.3 Pre-Operational Testing

G.3.1 The Operating Agent shall participate in and furnish the personnel required for the pre-operational testing of all systems and components of each Generating Unit as such systems are turned over to ANPP for such testing.

G.3.2 Such activities of the Operating Agent shall be coordinated with the Project Manager, and the Project Manager shall not accept any such systems or components without the consent of the Operating Agent.

G.4 Acceptance, Storage and Loading of Nuclear Fuel. In coordination with the Project Manager the Operating Agent shall be responsible, subject to the terms of any Nuclear Fuel Agreement, for delivery, schedules, inspection, acceptance and storage of Nuclear Fuel to or at the Nuclear Plant Site.

G.5 Operating Procedures and Equipment. The Operating Agent shall review, comment on and approve all operating procedures and equipment manuals prepared by any contractor or supplier of any system or component of each Generating Unit.
G.6 **Fuel Loading and Initial Start-up.** In coordination with the Project Manager and subject to the provisions of any Construction Agreement, the Operating Agent shall furnish such personnel as may be required to load Nuclear Fuel into each Reactor, conduct the initial start-up of each Generating Unit, including all operational testing of the systems and components thereof and all subsequent operation of the Generating Unit or any portion thereof prior to the Date of Firm Operation.

G.7 **Pre-Operational and Training Expenses**

G.7.1 The Operating Agent shall establish a separate account for accumulation of all charges incurred (except training expenses) relating to the operation of each Generating Unit prior to its Date of Firm Operation. Charges to this separate account shall include (a) the Estimated Fuel Expense and other consumable supplies, items and equipment incidental to start-up and (b) the cost of all operation and maintenance expenses (exclusive of the cost of all operation and maintenance performed by start-up crews furnished by any contractor) determined in accordance with Section 11 of the Participation Agreement.

G.7.2 The Project Manager shall charge all costs accumulated in such separate account to Construction Costs.

G.7.3 The initial training expenses shall consist of labor (except for maintenance personnel engaged in actual construction), material, transportation, services and any other costs applicable to hiring and training, including any relocation of personnel, for Operating Work.

G.7.4 Initial training expenses shall also include departmental overheads, time-off allowances, Payroll Taxes, employee pensions and benefits, workmen's compensation expenses and administrative and general expenses determined in accordance with Section 11 of the Participation Agreement.

G.7.5 The Operating Agent shall accumulate the initial training expenses up to but not beyond the Date of Firm Operation in a manner to provide identification and basis for the monthly billing to the Participants in accordance with Section G.7.6 hereof.

G.7.6 The Operating Agent shall bill each Participant and each Participant shall advance funds to the Operating Agent for the payment of training expenses in the manner set forth in Section 12 of the Participation Agreement.
APPENDIX H
OPERATING EMERGENCY

H.1 In the event of an Operating Emergency, the Operating Agent shall, in addition to the action required to be taken pursuant to Section 8.3.26 of the Participation Agreement, take such steps as are required in this Appendix H.

H.2 As soon as practicable after the commencement of an Operating Emergency, the Operating Agent shall advise each Participant of the occurrence of the Operating Emergency, its nature and the steps taken or to be taken to terminate the Operating Emergency.

H.3 As soon as practicable after giving the advice required pursuant to Section H.2 hereof, the Operating Agent shall submit an estimate of expenses, incurred and projected, required to terminate the Operating Emergency and to restore the availability of each Generating Unit affected and the estimated time schedule within which such measures can be accomplished. In the event the uninsured cost of restoring the availability of such Generating Unit to its Rated Capacity shall exceed 10% of its original cost as defined in the FPC Accounts, the Operating Agent shall obtain the approval of the Administrative Committee before committing any expenditures therefor; provided however, that nothing herein shall prevent the Operating Agent from incurring any expense it deems in its sole discretion necessary to protect the health and safety of the public.

H.4 Subject to Section H.3 hereof and Section 16 of the Participation Agreement, costs incurred in terminating an Operating Emergency and restoring the availability of each Generating Unit affected may be billed to the Participants by the Operating Agent on the basis of its estimate of such costs with adjustment to be made in accordance with Sections H.6 and H.7 hereof when a final cost determination has been made.

H.5 Following the termination of the Operating Emergency, the Operating Agent shall submit to each Participant a report containing a summary of the costs incurred and expenditures made in connection with the repair, restoration or reconstruction and such other information as may be required by the Administrative Committee.

H.6 The Operating Agent shall allocate to the Participants, in accordance with Section 11 of the Participation Agreement, the costs incurred or expenditures made in such repair, restoration or reconstruction which are charged as maintenance expense.

H.7 The Operating Agent shall allocate to the Participants, in accordance with their respective Generation Entitlement Shares the costs incurred or expenditures made in such repair, restoration or reconstruction which are capitalized.
I.1 **Components of ANPP High Voltage Switchyard(s):** The ANPP High Voltage Switchyard(s) shall consist, as generally depicted on Exhibit I-1 attached to this Appendix I, of a basic breaker-and-a-half scheme, comprising the termination facilities for the transmission lines, generator step-up transformer high voltage leads and auxiliaries, including, but not limited to, the high voltage busses, structures, power circuit breakers, disconnect switches, control building, switchyard auxiliary and protection systems and fencing.

I.2 **Ownership, Titles and Cost Responsibilities:** The Participants shall acquire firm entitlement and shall acquire and own undivided interests as tenants in common in the components of the ANPP High Voltage Switchyard(s) as follows:

I.2.1 Description of facilities associated with generator and auxiliary terminations to be developed, which facilities shall be owned and the cost responsibility shared by the Participants in proportion to their respective Generation Entitlement Shares.

I.2.2 Description of facilities associated with outgoing lines to be developed, which facilities shall be owned and the cost responsibility shared by the Participants on the basis of the ratio of the number of their respective bay positions to the total number of bay positions.

I.3 **Project Manager and Operating Agent:**

I.3.1 Salt River Project shall be the "project manager" and "operating agent" for the ANPP High Voltage Switchyard(s), shall carry out the duties and responsibilities associated therewith pursuant to the provisions of the Participation Agreement applicable to the Project Manager and Operating Agent except as such provisions shall be inappropriate to a high voltage switchyard(s).

I.3.2 The system studies, engineering, design, construction, operation and maintenance of the ANPP High Voltage Switchyard(s) performed by the "project manager" and "operating agent" shall be coordinated with ANPP and shall meet all requirements, including without limitation, reliability and quality assurance criteria, imposed by industry codes and standards and Federal and state regulatory agencies.

I.3.3 The "project manager" for the ANPP High Voltage Switchyard(s) shall provide the Project Manager with such information, studies and documents respecting the ANPP High Voltage Switchyard(s) as it may request for the purpose of obtaining any requisite permit, license, certificate or authority to construct and operate ANPP, and shall make available to the Project Manager for ANPP qualified personnel for appearance at any meetings, conferences or hearings with or before any regulatory agency.

I.4 **Use of High Voltage Switchyard(s)**

I.4.1 Each Participant shall have the right to use its firm entitlement in the ANPP High Voltage Switchyard(s) according to its cost responsibility to transmit to or from its designated delivery points under normal operating conditions Power in an amount equivalent to the sum of its Power entitlements in each Generating Unit when operated at its Target Capacity and to reserve the ANPP High Voltage Switchyard(s) for such other equivalent transmission capacity without regard to the origin, source, ownership or type of generation used to produce such Power.

I.4.2 Any Participant may acquire firm entitlement, including additional delivery points, in and the right to use the ANPP High Voltage Switchyard(s) in addition to that provided for.
in Section 1.4.1 hereof, upon the written agreement of all Participants having cost responsibility under the Participation Agreement for the facilities over which such firm entitlement is sought, provided that said firm entitlement does not materially interfere with the right of any other Participant to utilize its entitlement as provided in Section 1.4.1 hereof. Such written agreement shall specify the amount of monetary compensation to be paid to and the allocation among the Participants for such firm entitlement.

I.4.3 Any Participant may make non-firm use of ANPP High Voltage Switchyard(s) capacity in addition to its uses under Sections I.4.1 and I.4.2 hereof to the extent that such capacity is determined to be available by the "operating agent" for the ANPP High Voltage Switchyard(s) in accordance with criteria to be approved by the Administrative Committee.

I.4.4 If two or more Participants concurrently desire to make non-firm use of ANPP High Voltage Switchyard(s) capacity in the same segment of the ANPP High Voltage Switchyard(s) pursuant to Section I.4.3 hereof and the available capacity in such segment is not adequate to satisfy all such requests, then, unless otherwise agreed, the available capacity will be shared by those Participants concurrently requesting such capacity in proportion to their respective cost responsibilities in such segment.

I.4.5 The Participant's designated points of delivery shall be determined by system studies; however, each Participant shall have at least one designated delivery point at the ANPP High Voltage Switchyard(s).

I.4.6 Each Participant shall be entitled to interconnect its transmission system with the ANPP High Voltage Switchyard(s), and the costs of such interconnection shall be paid by such Participant.

I.4.7 It is not the intention of the Participants to dedicate any capacity in the ANPP High Voltage Switchyard(s) for use by third parties.

I.5 Additions to ANPP High Voltage Switchyard(s)

I.5.1 In the event a Participant desires an additional bay position(s) in the ANPP High Voltage Switchyard(s), the ownership ratios prescribed in Section I.2.2 hereof, and the cost responsibility associated therewith, shall be reallocated among all Participants having an interest therein based upon the ratio of the "revised" number of their respective bay positions to the "revised" total number of bay positions.

I.5.2 A Participant desiring an additional bay position in the ANPP High Voltage Switchyard(s) pursuant to this Section 1.5, shall furnish, at its own expense, sufficient breakers to maintain the basic breaker-and-a-half scheme, and such other facilities as are necessary to provide an additional bay position, which facilities upon installation shall become part of the ANPP High Voltage Switchyard(s).

I.5.3 The design of switchyard additions shall be approved by the "operating agent".

I.6 Transfer or Assignment of Interest

I.6.1 The provisions of Section 15 of the Participation Agreement shall apply to the ANPP High Voltage Switchyard(s) subject to the following:

I.6.1.1 Any transfer or assignment by a Participant of all or part of its Generation Entitlement Share, together with an equal interest in the ownership of ANPP and in the Project Agreements, shall include the transfer or assignment, as the case may be, of an equal interest in that portion of the ANPP High Voltage Switchyard(s) described in Section I.2.1 hereof attributable to said Participant.

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I.6.1.2 In the event of a transfer or assignment by a Participant of part of its ownership interest in that portion of the ANPP High Voltage Switchyard(s) described in Section I.2.2 hereof, the ownership ratios and cost responsibilities associated therewith shall be reallocated among all Participants having an ownership interest therein, said reallocation to be based on the ratio of the "revised" number of their respective bay positions to the "revised" total number of bay positions.

I.6.1.3 Any transferee or assignee of that portion of the ANPP High Voltage Switchyard(s) described in Section I.2.2 hereof, shall furnish, if necessary, at its own expense, sufficient breakers to maintain the basic breaker-and-a-half scheme, and such other facilities as are necessary to provide said transferee or assignee a bay position within the ANPP High Voltage Switchyard(s), which facilities, upon installation, shall become part of the ANPP High Voltage Switchyard(s).
APPENDIX J

PRINCIPLES OF INTERCONNECTED OPERATION
FOR FOUR CORNERS INTERCONNECTION AGREEMENT

The following principles with respect to Forecast Capacity Resources Margin, Spinning Reserve Capacity, Emergency Service, Interruptible Load as a substitute for Spinning Reserve Capacity, and System Operations are agreed to and shall be incorporated in the Four Corners Interconnection Agreement:

1.0 Forecast Capacity Resources Margin

1.1 The Forecast Capacity Resources Margin of each Participant for any month is the difference between its Capacity Resources for that month and its Estimated Peak Demand for that month where:

1.1.1 Except as provided in Section 1.9 hereof, Capacity Resources are the sum of such Participant's Existing Capacity Resources and Planned Capacity Resources which have been accredited by the Interconnection Committee under the criteria set forth in Exhibit I hereto.

1.1.2 Except as provided in Section 1.3 hereof, Estimated Peak Demand shall be based on historical Peak Demands and shall include provisions for such things as anticipated load growth and anticipated additions or deletions of large loads.

1.2 The Participants recognize that it is prudent practice that each provide a Forecast Capacity Resources Margin at least equal to 15% of the Estimated Peak Demand for each month of each calendar year, but the Interconnection Agreement shall not obligate any Participant to do so.

1.3 Except for uncontrollable forces, if any Participant is unable to provide an Actual Capacity Resources Margin at least equal to 15% of the Peak Demand for each month of any three consecutive calendar years when its Forecast Capacity Resources Margin has been 15% or greater for each month of the same three years, the Estimated Peak Demand to be submitted by such Participant during the next three consecutive calendar years shall be at least equal to the Estimated Peak Demand computed using the arithmetic average of such Participant's electric system load growth rate in per cent for the immediate preceding five years.

1.4 The Forecast Capacity Resources Margin factor of 15% referred to in Sections 1.2 and 1.3 hereof shall be subject to review by the Interconnection Committee at any time upon the request of any Participant and may be changed only by unanimous agreement of the Participants, acting through the Interconnection Committee.

1.5 Except as provided in Section 1.6 hereof, on or before November 1 of each calendar year until termination of the Interconnection Agreement, each Participant (hereinafter referred to as "First Participant") shall, and at any other time may, prepare for its electric system and submit to each other Participant (hereinafter referred to as "Second Participant") for review, its history and forecast, prepared on a monthly basis, of (i) Peak Demands, Existing Capacity Resources and Actual Capacity Resources Margin for the preceding calendar year, and (ii) Estimated Peak Demands, Existing Capacity Resources and Planned Capacity Resources for the next three consecutive calendar years (such history and forecast are hereinafter referred to as "Program"). Each Program shall contain such detailed information, be based on such assumptions and be in such form as the Interconnection Committee may from time to time specify. The three-year period may be changed only by unanimous agreement of the Participants, acting through the Interconnection Committee.

1.6 The initial Program submitted by each First Participant in accordance with Section 1.5 hereof shall contain information for the calendar year 1969 and the next three consecutive calendar years. Such initial Program of each First Participant shall not be subject to objection by any Second Participant.
1.7 Each Participant shall take all steps reasonably necessary to carry out its most recently submitted Program. Each First Participant shall promptly submit to each Second Participant a new Program if at any time such First Participant (i) establishes a new forecast of Estimated Peak Demand which differs from that in its most recently submitted Program, or (ii) determines it will be unable to retain the Existing Capacity Resources or provide the Planned Capacity Resources shown in its most recently submitted Program, or (iii) chooses to change its Capacity Resources as shown in its most recently submitted Program. Such new Program shall reflect such differences or changes and shall state the reasons therefor. The Program previously accepted will stay in force for sixty (60) days after submittal of the revised Program.

1.8 Each Program submitted in accordance with Section 1.5 hereof and each revised Program submitted in accordance with Section 1.7 hereof shall be reviewed by each Second Participant; provided, however, that:

1.8.1 For any Program submitted in accordance with Section 1.5 hereof, only the new information submitted for the calendar year furthest in the future in each Program shall be subject to acceptance or objection by each Second Participant. Each First Participant's Program shall be deemed to have been accepted by each Second Participant which has not notified such First Participant and all other Second Participants of an objection within sixty (60) days following submittal of the Program.

1.8.2 For any revised Program submitted in accordance with Section 1.7 hereof, only that portion of the original Program which has been revised shall be subject to acceptance or objection by any Second Participant. Each revised Program shall be deemed to have been accepted by each Second Participant which has not notified the First Participant submitting such revised Program and all other Second Participants of an objection within sixty (60) days following submittal of the revised Program.

1.8.3 If any Second Participant objects to the Program or the revised Program of any First Participant and so notifies such First Participant and all other Second Participants within sixty (60) days, such Second Participant shall be relieved of its obligation specified under Section 3.2 hereof to provide Emergency Service to such First Participant during the calendar year or portion thereof, as the case may be, corresponding to the part of the Program or revised Program to which the objection was made by such Second Participant. Such First Participant shall also be relieved of its obligation specified under Section 3.3 hereof to schedule Emergency Service from such Second Participant during such calendar year or such portion thereof.

1.8.4 Except for uncontrollable forces, if under the revised Program submitted in accordance with Section 1.7 hereof, any First Participant (i) defers construction of a Planned Capacity Resource, or (ii) retires an Existing Capacity Resource included in its Program during the period of applicability of such revised Program, or (iii) terminates or fails to effect any purchase of a Capacity Resource during the period of applicability of such revised Program, which in any case causes such revised Program to result in a Forecast Capacity Resources Margin of less than 15% of the Estimated Peak Demand in any month, and such deficiency has not been waived by all Second Participants, the rate to such First Participant for purchasing Emergency Service from any Second Participant scheduled under this Interconnection Agreement during the period of applicability of such revised Program shall be as provided in Section 3.4.2 hereof.

1.8.5 If under any revised Program submitted in accordance with Section 1.7 hereof, such First Participant's Capacity Resources are reduced because of uncontrollable forces, resulting in a Forecast Capacity Resources Margin of less than 15%, the rate to a First Participant for purchasing Emergency Service scheduled under this Interconnection Agreement during the period of such deficiency shall be as provided in Section 3.4.1 hereof.
1.9 If a Second Participant objects to a Planned Capacity Resource of a First Participant, the matter shall not be resolved until such Planned Capacity Resource under dispute is, in the opinion of such First Participant, capable of becoming an Existing Capacity Resource. At that time the Second Participant may request that the Interconnection Committee accredit the Existing Capacity Resource. If the Interconnection Committee is unable to make such accreditation, then either the First Participant or the Second Participant may submit the matter to arbitration. Prior to and during the dispute, and during arbitration, the Capacity Resource shall be deemed to have been accredited by the Interconnection Committee in accordance with Section 1.1.1 hereof as claimed by the First Participant submitting the Program.

1.10 When a Participant is involved in a future multiple-ownership Planned Capacity Resource, to the extent that such resource is planned for service at a date later within the same calendar year than such Participant would have been able to place an alternative resource in service on its own electric system during such calendar year, such Participant shall be allowed to include the amount of its participation in such resource in its Planned Capacity Resources beginning with the date it can demonstrate it would have been capable of placing such alternative resource in service.

2.0 **Spinning Reserve Capacity**

2.1 Except as provided in Section 3.3.1 hereof, each Participant shall at all times be obligated to maintain a minimum amount of Spinning Reserve Capacity equal to the larger of:

2.1.1 Seven per cent (7%) of its electric system Demand for the then-current clock-hour; or

2.1.2 The Existing Capacity Resources associated with the largest single contingency loss of generation due to the loss of any single synchronized generating unit or single transmission circuit on or serving its electric system.

2.2 During any period in any day when a Participant is receiving energy from any other Participant and/or third party pursuant to a contract which provides that such energy is interruptible at the discretion of the supplier, such receiving Participant shall maintain, in addition to the Spinning Reserve Capacity required under Section 2.1 hereof, an amount of Spinning Reserve Capacity equivalent to that generating capacity which would be required to generate such interruptible energy on the electric system of such receiving Participant.

2.3 The following constitutes Spinning Reserve Capacity or shall be considered a substitute for Spinning Reserve Capacity:

2.3.1 Unloaded generating capacity synchronized to an electric system on units and at locations whereby governor, load frequency response or other control action will cause such generating capacity to assume load.

2.3.2 Interruptible Load meeting the criteria set forth in Exhibit II hereto but not to exceed 15% of a Participant's obligation to maintain Spinning Reserve Capacity, as set forth in Section 2.1 hereof.

2.3.3 Existing Capacity Resources which are loaded with energy being supplied to another Participant and/or third party pursuant to contracts which provide that such energy is interruptible without notice at the discretion of such supplying Participant, and for which the purchaser is carrying an amount of Spinning Reserve Capacity equivalent to the amount of generating capacity required to generate such energy, in addition to the purchaser's other obligations to carry Spinning Reserve Capacity.

2.4 The obligation of each Participant to maintain the amount of Spinning Reserve Capacity set forth in Section 2.1 hereof shall be met:

2.4.1 By such Participant maintaining Spinning Reserve Capacity on its own electric system which is not contractually committed to other Participants and/or third parties as Spinning Reserve Capacity;

2.4.2 By such Participant purchasing Spinning Reserve Capacity from any other Participant or third party which is not being used by the seller to meet its obligation to maintain Spinning Reserve Capacity and which is not contractually committed to other Participants or third parties as Spinning Reserve
Capacity; provided that sufficient unloaded transmission capacity and/or transmission capacity loaded with energy which is interruptible exists and is available between the electric systems of such Participant and the seller to enable such Participant to meet the obligation of Section 2.1 hereof;

2.4.3 By such Participant sharing Spinning Reserve Capacity with other Participants and/or third parties under contractual arrangements in full force; provided that the total amount of Spinning Reserve Capacity available to the sharing Participants and/or third parties must be at least equal to the greater of (i) 7% of the coincident clock-hour Demand on the combined electric systems of the sharing Participants and/or third parties for the then-current clock-hour, or (ii) the generating capacity associated with the largest single contingency loss of generation due to the loss of any single, synchronized generating unit or single transmission circuit on the combined electric systems of the sharing Participants and/or third parties or serving the combined electric systems of the sharing Participants and/or third parties for the purpose of transmitting generating capacity to which such sharing Participants and/or third parties are entitled from other electric systems; provided further, that sufficient unloaded transmission capacity and/or transmission capacity loaded with energy which is interruptible exists and is available between the electric systems of such Participant and the seller to enable such Participant to meet the obligation of Section 2.1 hereof; or

2.4.4 By any combination of Sections 2.4.1, 2.4.2 and 2.4.3 hereof.

3.0 Emergency Service

3.1 Emergency Service under this Interconnection Agreement shall consist of:

3.1.1 Spinning Reserve Capacity (without energy) scheduled and purchased by a Participant from other Participants to meet the obligation of the purchasing Participant to maintain Spinning Reserve Capacity.

3.1.2 Capacity Resources and associated energy scheduled and purchased by a Participant from another Participant to meet a part of the purchasing Participant's electric system load requirements.

3.2 Except as provided in Section 1.8.3 hereof, in the event of an Emergency affecting the electric system of any Participant, each other Participant shall make every reasonable effort to schedule requested Emergency Service to such Participant during the period of the Emergency as requested by such Participant; provided, that the supplying Participant shall be the sole judge of its ability to provide such Emergency Service without impairing reliability of service to its customers and its ability to fulfill its obligations to others.

3.3 Except as provided in Section 1.8.3 hereof, each Participant suffering an Emergency on its electric system shall be obligated to schedule Emergency Service under this Interconnection Agreement or similar service under contracts or arrangements with others as follows:

3.3.1 Such Participant shall be relieved of its obligation to maintain the amount of Spinning Reserve Capacity set forth in Section 2.1 hereof, but not the obligation set forth in Section 2.2 hereof, for a period equal to the longer of (i) 12 hours or (ii) the remainder of that calendar day. Due diligence shall be used by such Participant to restore its Spinning Reserve Capacity and meet its obligation for maintaining Spinning Reserve Capacity as soon as practicable after the commencement of such Emergency. If such Participant, by utilizing Spinning Reserve Capacity on its own electric system and/or Spinning Reserve Capacity of the other Participants and/or third parties with which it has contractual arrangements in full force to share Spinning Reserve
Capacity, is unable to meet its obligation under Section 2.1 hereof by the time of the expiration of the aforesaid period of (i) 12 hours or (ii) the remainder of that calendar day, then such Participant shall purchase and schedule from other Participants and/or third parties the Spinning Reserve Capacity required to meet its obligation under Section 2.1 hereof.

3.3.2 Notwithstanding Section 3.3.1 hereof, if such Emergency causes Existing Capacity Resources to be less than load plus minimum regulating margin on a Participant's electric system, such Participant shall within one-half hour (i) schedule Emergency Service or similar service and/or (ii) reduce load on its electric system, in amounts sufficient to provide at least a minimum regulating margin on its electric system.

3.4 The rates for Emergency Service scheduled by a Participant under this Interconnection Agreement shall be as follows:

3.4.1 Except as provided in Section 3.4.2 hereof, if Emergency Service is scheduled by any Participant with any other Participant under this Interconnection Agreement, the receiving Participant shall pay the supplying Participant at a rate of $0.10 per day for each kilowatt of demand scheduled up to a maximum of $2.00 per kilowatt-month. The minimum rate for any Emergency Service scheduled for less than one day under this Section 3.4.1 shall be $0.10 per kilowatt.

3.4.2 If Emergency Service shall be scheduled at any time during the calendar year for which the scheduling Participant has submitted a Program, in accordance with Section 1.5 hereof, or a revised Program in accordance with Section 1.7 hereof which shows the Forecast Capacity Resources Margin to be less than 15% of its Estimated Peak Demand for any month of the said calendar year then the receiving Participant shall pay the supplying Participant at a rate of $1.00 per kilowatt per week for each week in such calendar year in which it schedules Emergency Service under this Section 3. The minimum rate for any Emergency Service scheduled for less than one week under this Section 3.4.2 shall be $1.00 per kilowatt.

3.4.3 The Participant furnishing energy with said Emergency Service shall receive payment for such energy at the rate of 115% of the Incremental Cost incurred by such Participant in furnishing such energy.

3.5 If an Emergency on a Participant's electric system causes its Existing Capacity Resources available to meet load to be less than load plus minimum regulating margin and such Participant has not within one-half hour (i) scheduled Emergency Service under this Interconnection Agreement or similar service under other contracts in full force and/or (ii) reduced load on its electric system in amounts sufficient to provide at least a minimum regulating margin on its electric system, then such Participant shall be deemed to have scheduled Emergency Service from the other Participants for the duration of such period in an amount equal to that which would have been required to meet its load and maintain such minimum regulating margin. Such Participant shall pay the other Participants at a rate of $1.00 per kilowatt per week for each week in such calendar year in which such Emergency Service was deemed to have been scheduled. The minimum period for any such Emergency Service so deemed to have been scheduled shall be at least one week.

3.6 Payments made by a Participant under Section 3.5 hereof shall be distributed among the other Participants in proportion to their respective Participation Shares; provided, that, if any Participant has entered into any other interconnection agreement containing provisions similar to Section 3.5 hereof, the payment of $1.00 per kilowatt per week shall be divided equally among each of such interconnection agreements, including this Interconnection Agreement, and the total of such payments shall be $1.00 per kilowatt per week.

4.0 Interruptible Load as a Substitute for Spinning Reserve Capacity

4.1 The amount of Interruptible Load which any Participant may use for Spinning Reserve Capacity shall not exceed 15% of such Participant's obligation to maintain Spinning Reserve Capacity in
accordance with Section 2.1 hereof. The factor of 15% shall be reviewed from time to time by the Interconnection Committee and may be changed only by unanimous agreement of the Participants acting through the Interconnection Committee.

4.2 Interruptible Load shall meet the criteria set forth in Exhibit II hereto to be includible as a substitute for Spinning Reserve Capacity; provided, however, that each Participant shall submit evidence to the Interconnection Committee to verify that the proposed Interruptible Load meets the criteria set forth in Exhibit II hereto before such Participant may use Interruptible Load to meet a portion of its obligation to maintain Spinning Reserve Capacity. If none of the members of the Interconnection Committee object to such evidence within sixty (60) days of its submission, it shall be deemed to have met such criteria. If one or more members object and the matter cannot be resolved, then the matter of whether or not such criteria has been met by a Participant shall be submitted to arbitration. Such disputed Interruptible Load shall not be included as Spinning Reserve Capacity prior to completion of arbitration in this matter.

4.3 Interruptible Load shall not be included in Estimated Peak Demands or as a substitute for a Capacity Resource.

5.0 System Operations

5.1 The Participants shall operate their electric systems continuously in parallel; provided, however, each Participant shall have the right to separate the wholly-owned facilities of its electric system from the electric system of any other Participant(s):

5.1.1 If, in the judgment of the separating Participant, abnormal operating conditions exist which require such separation to prevent damage to its facilities, injuries to personnel or unsatisfactory service to its customers; or

5.1.2 Under certain conditions of high or low frequency or voltage, which conditions shall have been reviewed and coordinated by the Participants acting through the Interconnection Committee; or

5.1.3 For necessary inspection, maintenance, repair or replacement of its facilities, or additional construction; provided, however, that reasonable advance notice of any scheduled outage of such facilities and the estimated duration thereof is given to the other Participant(s), if practicable, so as to minimize interference with the electric system operations of such other Participant(s).

5.2 Unless otherwise mutually agreed, each Participant shall provide the reactive power requirements of its own electric system, and each Participant shall cooperate to control the flow of such reactive power to prevent the introduction of objectionable operating conditions on the electric system of any Participant(s).

5.3 Each Participant shall use its best efforts to regulate continuously the generation of power within its Control Area so that the measured amount of net interchange of power between its Control Area and those Control Areas with which it is interconnected is equal to the scheduled amount of such net interchange of power, taking into account the frequency regulation contribution of its Control Area.

5.4 Operating procedures pertaining to interconnected system operations shall be established by the Participants acting through the Interconnection Committee.
EXHIBIT I
CRITERIA FOR ACCREDITING CAPACITY RESOURCES

1.0 Purchased Power

1.1 A purchased power source must be available to the purchasing Participant in a manner which is at least equivalent to a generating unit of equal size on the electric system of such purchasing Participant.

1.2 A purchased seasonal power source which meets the criteria of Section 1.1 shall be accredited to the extent it is capable of being used to meet electric system load requirements.

1.3 A power source which is secondary or interruptible will not be considered as a Capacity Resource.

2.0 Generation

2.1 Generating resources must meet the following requirements:

2.1.1 All essential equipment is available for service, except during planned maintenance or Emergencies.

2.1.2 The amount of capacity to be accredited is at that kilowatt rating for individual generating units which the owner is willing to use for continuous full-load operation as shown by each Participant's plant logs or documents issued to system dispatchers authorizing such unit loadings.

2.1.3 Shall not be shut down or taken out of service without anticipation of being used again for any purpose, including cold stand-by.

2.1.4 If a hydro resource, it shall be accredited to the extent it is capable of being used to meet electric system load requirements.
EXHIBIT II

CRITERIA FOR INTERRUPTIBLE LOAD

Interruptible Load can be used as Spinning Reserve Capacity when:

1.0 The Participant is legally entitled, and has made or will make a practice of curtailing such Interruptible Load, and is willing to so curtail for an Emergency on its own or another Participant's system.

2.0 All Interruptible Loads are isolated from firm loads on a separate circuit with appropriate circuit breakers.

3.0 Adequate telemetering equipment is available at the Participant's dispatching office for continuous recording of power on the interruptible circuit.

4.0 Underfrequency relays are in service at all times such that the Interruptible Load will be instantaneously tripped under predetermined conditions.

5.0 The necessary equipment is in service at all times such that the Interruptible Load will be automatically tripped for rapid changes in system area requirements of a predetermined magnitude as sensed by the automatic generating dispatching equipment on the Participant's electric system. The automatic tripping equipment shall respond at least as fast as generation under control.

6.0 The necessary equipment is provided for remote tripping and indication of the status of the circuit breakers on the customer's Interruptible Load.

7.0 The necessary facilities are installed to prevent unauthorized customer closure of the circuit breakers associated with the Interruptible Load.
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July 6, 1981
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APPENDICES

Section

A  DESCRIPTION OF ANPP TRANSMISSION SYSTEM
B  PARTICIPANTS' RESPONSIBILITY FOR COSTS (% TOTAL COSTS)
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D  CONSTRUCTION COSTS
E  EXPENSES OF OPERATING WORK
F  PAYROLL TAX RATIO
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I  OPERATION AND MAINTENANCE A&G RATIO
J  CAPITAL IMPROVEMENTS A&G RATIO
K  O&M RATIO AND CONSTRUCTION RATIO
L  ALLOCATION OF OVERHEAD EXPENSES
M  MICROWAVE SYSTEM
PARTIES: The Parties to this ANPP Valley Transmission System Participation Agreement, hereinafter referred to as “Participation Agreement” or “Agreement”, are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”, PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”, and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “El Paso”, all hereinafter referred to singularly as Participant or collectively as Participants.

RECITALS: This Participation Agreement is made with reference to the following facts, among others:

2.1 The Participants are engaged in the development of the Arizona Nuclear Power Project.
2.2 The Participants recognize that it is in their mutual interest to participate in the ownership, construction, maintenance and operation of the Transmission System described in this Participation Agreement to insure that the Transmission System and the Palo Verde-East 500 kV Transmission Line are capable of delivering certain planned Capacity and Energy from the Arizona Nuclear Power Project to the Participants’ designated points of delivery described in Section 6.6 hereof.

2.3 The Participants executed the Letter Agreement-Construction Work Associated with the Palo Verde-Westwing 500 kV Transmission Line, dated October 24, 1978, for the construction of the Palo Verde-Westwing 500 kV Line and expansion of the Westwing 500 kV Switchyard. On July 24, 1980, the Participants executed the Letter Agreement-Construction Work and Operating Work Associated with the Palo Verde-Westwing 500 kV Transmission Line, Westwing 500 kV Switchyard Expansion, Palo Verde-Kyrene 500 kV Transmission Line, the Kyrene 230 kV Switchyard Expansion, and the New Kyrene 500/230 kV Switchyard, superseding the Letter Agreement dated October 24, 1978, for the construction, operation and maintenance of the named facilities. The Participants desire to terminate, simultaneously with the execution of this Participation Agreement, the Letter Agreement dated
July 24, 1980. The Participants further desire that any differences between this Participation Agreement and the Letter Agreements, referred to above, be governed by this Participation Agreement.

3. **AGREEMENT**: In consideration of the mutual covenants herein, the Parties agree as follows:

4. **DEFINITIONS**: The following terms, when used herein and in the Appendices attached hereto, shall have the meanings specified:

   4.1 Account(s): Any bank account or accounts selected and established by the Project Manager and Operating Agent to receive and disburse funds, pursuant to Section 15 hereof, for Construction Work, Operating Work and Capital Improvements.

   4.2 Accounting Practice: Generally accepted accounting principles in accordance with the FERC System of Accounts.

   4.3 Administrative Committee: The committee established pursuant to Section 7.1.1.1 hereof.

   4.4 ANPP High Voltage Switchyard: The facilities, also referred to herein as the “Palo Verde 500 kV Switchyard,” described generally in the ANPP Participation Agreement and more specifically in the ANPP High Voltage Switchyard Participation Agreement among: Arizona, Salt River Project, PNM, El Paso and the Southern California Edison Company.
4.5 ANPP Participation Agreement: The Arizona Nuclear Power Project Participation Agreement, dated August 23, 1973, as amended and supplemented, which provides the basic principles related to participation in the Arizona Nuclear Power Project.

4.6 Arizona Nuclear Power Project (“ANPP”): Three nuclear steam electric generating units, together with all facilities and structures used or to be used therewith or related thereto, all as described generally in Appendix A to the ANPP Participation Agreement, and sometimes referred to herein as “PVNGS”.

4.7 Auditing Committee: The committee established pursuant to Section 7.1.1.3 hereof.

4.8 Capacity: Electrical rating expressed in megawatts electric (MWe) or kilowatts electric (KWe).

4.9 Capital Improvements: Any Units of Property, land or land rights which are added to the Transmission System or the Microwave System, the betterment of land or land rights or the enlargement or betterment of any Units of Property constituting a part of the Transmission System or the Microwave System, and the replacement of any Units of Property for other Units of Property or the replacement of land or land rights constituting a part of the Transmission System or the Microwave System, irrespective of whether such replacement constitutes an enlargement or betterment of that which it replaces,
which additions, betterments, enlargements and replacements in accordance with Accounting Practice would be capitalized and are not included or reflected in the Final Completion Report.

4.10 Common Facilities: Those facilities required for a total switchyard in general including, but not limited to: site preparation - grading, fencing, surfacing; grounding; trenching and conduit; yard lighting; control house and equipment therein (except certain terminal related equipment); switchyard service power facilities; and power and control cables.

4.11 Component(s): Any component(s) of the Transmission System described in Appendix A hereto, including associated land and land rights.

4.12 Construction Agreement: Any agreement entered into by the Project Manager for the design, engineering, construction or installation of the Microwave System or of any Component of the Transmission System including without limitation engineering, design, construction, supervisory, licensing or consulting services in connection with the Construction Work, corridor studies, pre-operational environmental studies or reports, and for any other services or things necessary or useful in the performance of the Construction Work.

4.13 Construction Costs: The costs of constructing the Transmission System or the Microwave System as
described in Section 13 hereof.

4.14 Construction Funds: Monies advanced to the Project Manager for Construction Work by or on behalf of the Participants in accordance with this Participation Agreement.

4.15 Construction Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Project Manager in accordance with Sections 22 and 23 hereof.

4.16 Construction Schedule: The schedule of Construction Work to be updated as required and approved by the Engineering and Operating Committee as set forth in Appendix C hereto.

4.17 Construction Work: All engineering, design, contract preparation, purchasing, construction, excess material and equipment disposal, supervision, negotiation, preparation and performance of Construction Agreements, acquisition of land rights, expediting, inspection, accounting, testing and start-up of each Component or the Microwave System and preparation of operating and equipment manuals, all reports required by regulatory authorities and the conduct of hearings, conferences and other activities incidental to obtaining requisite permits, licenses and certificates for the construction and operation of each Component or the Microwave System prior to the completion of Construction
Work for such Component or the Microwave System.

4.18 Cost Responsibility: The percentage financial liability of each Participant for Construction Costs and Operating Funds concerning each Component or Components of the Transmission System or for the Microwave System, as shown in Appendix B hereto.

4.19 Engineering and Operating Committee: The committee established pursuant to Section 7.1.1.2 hereof.

4.20 Date of Firm Operation: The date with respect to each Component on which the Engineering and Operating Committee determines such Component to be reliable for the transmission of Power and such Component can be expected to operate continuously at any load up to its Capacity.

4.21 Energy: Megawatt-hours (mwh) or kilowatt-hours (kwh).

4.22 Entitlement Share: The percentage ownership interest of each Participant in units one, two and three of ANPP at the time of execution of this Agreement. Each Participant’s generation entitlement share as of the effective date of this Agreement is as follows:

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<tr>
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<th>Arizona</th>
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<tr>
<td>4.22.1</td>
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<tr>
<td>4.22.2</td>
<td>Salt River Project</td>
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<td>4.22.3</td>
<td>PNM</td>
<td>= 10.2%</td>
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<tr>
<td>4.22.4</td>
<td>El Paso</td>
<td>= 15.8%</td>
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4.23 Final Completion Report: A complete summary of Construction Costs, a description of the Transmission System and the Microwave System and a summary of each
Participant’s contributions to Construction Costs.

4.24 FERC System of Accounts: The Federal Energy Regulatory Commission’s “Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)”, in effect as of the date of this Participation Agreement, and as such system of accounts may be in effect from time to time. References in this Participation Agreement to any specific FERC Account number shall mean the FERC Account number in effect as of the effective date of this Participation Agreement or any successor FERC Account.

4.25 Load Center: A point at which the load of a given party is assumed to be concentrated.

4.26 Materials and Supplies: Materials and supplies which are stocked as defined in FERC Account 154.

4.27 Microwave System: The communication equipment as generally described in Appendix M hereto which is necessary to control the operation of the ANPP High Voltage Switchyard and Transmission System.

4.28 Operating Agent: The Participant responsible for the performance of Operating Work and making Capital Improvements as more particularly described in Section 9 hereof.

4.29 Operating Emergency: An unplanned event or circumstance which reduces or may reduce the amount of
transmission Capacity in the Transmission System that would otherwise be made available to the Participants under normal system operating conditions.

4.30 Operating Funds: Monies advanced to the Operating Agent for Operating Work and/or Capital Improvements by or on behalf of the Participants in accordance with this Participation Agreement.

4.31 Operating Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Operating Agent in accordance with Sections 22 and 23 hereof.

4.32 Operating Work: Engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, accounting, testing, protection, operation, use, management, retirement, reconstruction, and maintenance associated with operating the Transmission System or the Microwave System, including any work undertaken by the Operating Agent pursuant to Section 19 hereof and any work necessitated by an Operating Emergency, but excluding all work undertaken to make any Capital Improvements.

4.33 Palo Verde-East 500 kV Transmission Line: A 500 kV Transmission line to be constructed from a bay position within the ANPP High Voltage Switchyard to a termination point, the location of which is presently under study by the Engineering and Operating Committee,
located east of the ANPP High Voltage Switchyard.

4.34 Participant: Any Party hereto and any Successor assignee of such Party under Section 18 hereof.

4.35 Payroll Taxes: Taxes of a Participant based on remuneration paid to its employees.

4.36 Power: Megawatts electric (MWe).

4.37 Project Agreements: An agreement for the Transmission System or the Microwave System including this Participation Agreement, any Construction Agreement, any agreements between the Participants or any of them and any third party for associated land or land rights, as such agreements are originally executed or as they may thereafter be supplemented or amended, and any other agreements as the Participants agree to designate as Project Agreements.

4.38 Project Insurance: Construction Insurance and Operating Insurance.

4.39 Project Manager: The Participant responsible for the performance of Construction Work as more particularly described in Section 8 hereof.

4.40 Spare Parts: Spare parts or equipment, the cost of which is capitalized, which are stocked for the Transmission System or the Microwave System.

4.41 Transmission System: The following transmission facilities including associated land and land rights, as described in Appendix A hereto, to be
constructed and operated by the Participants: (i) the Palo Verde-Westwing 500 kV Line, (ii) the Palo Verde-Kyrene 500 kV Line, (iii) the Westwing 500 kV Switchyard expansion and the Westwing 230 kV Switchyard expansion, and (iv) the Kyrene existing and new 230 kV Switchyard expansion/construction (including any such 500 kV equipment or facilities which are required to terminate the Palo Verde-Kyrene 500 kV Line at Kyrene).

4.42 Units of Property: Units of property as described in the Federal Energy Regulatory Commission’s “List of Units of Property for Use in Connection with Uniform System of Accounts Prescribed for Public Utilities and Licensees” in effect as of the date of this Participation Agreement, and as such list may be amended from time to time.

4.43 Willful Action:

4.43.1 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom. Willful Action does not include any act or failure to act which is
merely involuntary, accidental or negligent.

4.43.2 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default.

4.43.3 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with the knowledge that such action taken or failed to be taken is a material default under any of the Project Agreements.

4.43.4 The phrase “employees having management responsibility” as used in this Section 4.43 means employees of a Participant who are
responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Participant’s performance under any of the Project Agreements.

4.44 Work Liability: Liability of one or more Participants for damage suffered by anyone other than a Participant, whether or not resulting from the negligence of any Participant, its directors, officers, employees or any other person or entity whose negligence could be imputed to such Participant, resulting from:

- 4.44.1 The performance or non-performance of Construction Work, Operating Work or construction, operation and maintenance of Capital Improvements.
- 4.44.2 The use or ownership of the Transmission System or the Microwave System.

5. OWNERSHIP OF AND TITLE TO THE COMPONENTS

5.1 Each Participant shall accept and hold title to an undivided interest as a tenant in common in the Transmission System and all Project Agreements in proportion to its Cost Responsibility in each Component.

5.2 The ownership of and title to the Components described in this Participation Agreement and all Capital Improvements shall vest simultaneously in the Participants so that the estate of each of them shall be deemed to be concurrent as to time, right and priority.
5.3 At any time as any Participant may reasonably demand in writing, the Participants shall jointly make, execute and deliver one or more supplements to this Participation Agreement in recordable form which shall describe with such particularity and detail as may be appropriate under the circumstances the property and facilities then constituting the Transmission System and the rights, titles and interests of each Participant therein.

5.4 In the event any Participant transfers or assigns any of its rights, title or interest in and to the Transmission System in accordance with Section 18 hereof and other terms and conditions of this Participation Agreement, the Participants and any successor shall jointly make, execute and deliver a supplement to this Participation Agreement in recordable form which shall describe with such particularity and detail as may be appropriate under the circumstances the rights, titles and interests of each Participant and any successor following such transfer or assignment.

5.5 The portion of the Microwave System as described in Appendix M hereto, all Capital Improvements thereto, and all equipment, apparatus, machinery, Materials and Supplies and Spare Parts necessary for the performance of Operating Work and Capital Improvements associated with the portion of the Microwave System
USE OF COMPONENTS

6.1 It is agreed the Participants have designed the Transmission System and the Palo Verde-East 500 kV Transmission Line in conjunction with the existing Arizona-New Mexico-West Texas transmission systems functioning as a part of the interconnected transmission system of the Western United States to be adequate under single contingency conditions to deliver power and associated energy from: (i) resources existing as of the effective date of this Participation Agreement; and (ii) the below named generating units, to the Participants’ Load Centers:

6.1.1 Arizona’s Generation Entitlement Share of ANPP Units 1-3 and associated Energy.
6.1.2 El Paso’s Generation Entitlement Share of ANPP Units 1-3 and associated Energy.
6.1.3 PNM’s Generation Entitlement Share of ANPP Units 1-3 and associated Energy.
6.1.4 Salt River Project’s Generation Entitlement Share of ANPP Units 1-3 and associated Energy.

6.2 Under normal operating conditions, each Participant shall have the right to use the Components to the extent such Components are useful for transmitting...
Capacity referred to in Sections 6.1.1 through 6.1.4 hereof to its designated points of delivery as described in Section 6.6 hereof, or direct substitution therefor at the switchyard of the generator for which the substitution is made, without regard to origin, source or ownership of such substituted Capacity.

6.3 Any Participant may make firm use of Capacity in a Component(s) between its designated points of delivery in proportion to its Cost Responsibility in said Component(s), provided that such use does not materially interfere with the right of any other Participant to utilize its entitlement as provided in Section 6.2 hereof.

6.4 Any Participant may make non-firm use of a Component(s) in which it has a Cost Responsibility in addition to its use under Sections 6.2 and 6.3 hereof to the extent that Capacity is determined to be available by the Operating Agent(s) in accordance with criteria to be developed by the Engineering and Operating Committee.

6.5 If two or more Participants concurrently desire to make non-firm use of Capacity in the same Component(s) pursuant to Section 6.4 hereof and the available Capacity in such Component(s) is not adequate to satisfy all such requests, the available Capacity will be shared by those Participants concurrently requesting such Capacity in proportion to their Cost Responsibility in such
6.6 The Participants’ designated points of delivery with respect to the Transmission System shall be as follows:

6.6.1 Arizona: The Palo Verde 500 kV Switchyard, Kyrene new and existing 230 kV Switchyards, Westwing 500 kV Switchyard, and Westwing 230 KV Switchyard.

6.6.2 Salt River Project: The Palo Verde 500 kV Switchyard, Westwing 500 kV Switchyard, Westwing 230 kV Switchyard, Kyrene new and existing 230 KV Switchyards.


6.7 Each Participant shall be entitled to interconnect its transmission system with the Components at Kyrene if Kyrene is a designated point of delivery for such Participant under the following conditions:

6.7.1 Such Participant shall pay all costs of the interconnection, including, where applicable, a proportionate share of the cost of common facilities
previously installed.

6.7.2 Such Participant shall secure the consent of any other Participant which owns or otherwise controls the use of the real property on which facilities required for the interconnection are to be installed, and such consent shall not be unreasonably withheld (but such consent shall not be required when all real property is owned or controlled by the Participants in proportion to their Cost Responsibility in the Component);

6.7.3 Such Participant shall reach agreement with any third party where required.

6.8 Upon written agreement with the Participants affected, a Participant may at its expense make interconnections to the Transmission System at points other than its designated points of delivery. Such agreement shall specify the terms and conditions under which such interconnections may be made, the charges, if any, to the interconnecting Participant, and the distribution of the proceeds therefrom to the other Participants.

6.9 Unless otherwise agreed by the Engineering and Operating Committee, when the Capacity available to the Participants in any Component is insufficient to accommodate all of the firm rights to Capacity pursuant to Section 6.2 hereof, then the use of the available Capacity of that Component will be allocated in
proportion to each Participant’s Cost Responsibility in such Component.

7. **ADMINISTRATION AND COMMITTEES**

7.1 As a means of securing effective cooperation and interchange of information and of providing consultation on a prompt and orderly basis among the Participants in connection with various administrative and technical matters which may arise from time to time in connection with the terms and conditions of the Project Agreements, the Participants establish the committees described in this Section 7. The chairman for each of the Committees shall be the representative of the Project Manager or Operating Agent of the Palo Verde-Westwing 500 kV Line and shall be responsible for calling meetings and establishing agendas, at his discretion or upon the request of another Participant.

7.1.1 The following committees are hereby established and shall have the functions and responsibilities described herein and in the Project Agreements.

7.1.1.1 An Administrative Committee consisting of one representative appointed by each Participant, which representative shall be an officer or the general manager of said Participant or the authorized designee of the officer or the general manager of the
Participant.

7.1.1.2 An Engineering and Operating Committee consisting of not more than two (2) representatives appointed by each Participant; provided, however, in respect to each matter brought before the committee, that if any Participant appoints two (2) representatives, only one of such representatives shall have the right to vote thereon.

7.1.1.3 An Auditing Committee consisting of not more than two (2) representatives appointed by each Participant; provided that in respect to each matter brought before the committee, if any Participant appoints two (2) representatives, only one of such representatives shall have the right to vote.

7.2 The Administrative Committee shall have the following functions, among others:

7.2.1 Provide liaison between the Participants at the management level.

7.2.2 Exercise general supervision over the Engineering and Operating Committee, the Auditing Committee and any other standing or ad hoc committees established pursuant to Section 7.13 hereof.
7.2.3 Consider and resolve matters referred to it by the other Committees and standing or ad hoc committees.

7.2.4 Perform such other functions and duties as may be assigned to it in the Project Agreements.

7.2.5 Review, discuss, resolve or make recommendations relating to disputes among the Participants arising under the Project Agreements.

7.2.6 Provide liaison between the Participants, the Project Manager(s) and the Operating Agent(s) with respect to the progress, performance and completion of Construction Work, the performance of Operating Work, and the progress, performance and completion of Capital Improvements and the financial and accounting aspects thereof.

7.2.7 At the request of any Participant, on such terms and conditions as the Administrative Committee may deem appropriate, authorize the installation on the property comprising the Transmission System of any structures, facilities or equipment by any one or more Participants or any third party for its or their own use, which structures, facilities or equipment shall not become a part of the Transmission System.

7.3 The Engineering and Operating Committee shall have the following functions:
7.3.1 Provide liaison between the Participants and the Project Manager(s) with regard to Construction Work and perform such functions as indicated in Sections 8.5.4, 8.5.16, 8.5.30, 8.9 hereof and Sections B.II and D.2 hereto.

7.3.2 Review and approve, modify or otherwise act upon recommendations of the Operating Agent(s) concerning the following items related to the performance of Operating Work or making Capital Improvements:

7.3.2.1 The annual capital expenditures budget, annual manpower table and budget, and annual operation and maintenance budget.

7.3.2.2 The planned outages for scheduled maintenance.

7.3.2.3 The policies for establishing the Spare Parts inventory and Materials and Supplies inventory.

7.3.2.4 The written statistical and administrative reports, written budgets, and information and other similar records, and the form thereof, to be kept and furnished by the Operating Agent (excluding accounting records used internally by the Operating Agent for the purpose of accumulating financial and
7.3.2.5 The policies, criteria and procedures for determining Capacities of facilities.
7.3.2.6 The procedures for Power and Energy accounting.
7.3.2.7 The Operating Agent’s analysis of the total expenditures caused by an Operating Emergency.
7.3.2.8 The written statement of operating practices and procedures.
7.3.2.9 The practices and procedures for the delivery of Power and Energy by the Components in accordance with the Participants’ schedules. Such practices and procedures shall provide for modifying said schedules to meet the needs of day-to-day or hour-by-hour operation, including emergencies on a Participant’s system.
7.3.2.10 The establishment of procedures for dealing with Operating Emergencies or curtailed operations of the Components.
7.3.2.11 The establishment of procedures and calculations for determining energy losses of the Components.

7.3.3 Determine the Date of Firm Operation for each Component.

7.3.4 Perform such other duties as may be assigned to it by the Administrative Committee.

7.3.5 Establish the minimum balance to be maintained in the Account for Operating Funds pursuant to Section 15 hereof.

7.3.6 Review and approve, modify or otherwise act upon the Project Manager’s recommended list of acceptable architects, engineers, and/or constructors within ten (10) working days of receipt by the Engineering and Operating Committee members. Should the Engineering and Operating Committee fail to reach agreement within the allowed ten (10) working days after receipt, the Project Manager shall proceed with the above lists as recommended.

7.3.7 Review and approve, modify or otherwise act upon the recommendation of the Project Manager for revision of the Construction Schedule.

7.3.8 By May 1 of each year determine and set for at least the next two calendar years the Capacity of each Component of the Transmission System.
7.4 The Auditing Committee shall have the following functions:

7.4.1 Development of procedures for accounting and auditing Construction Costs, and costs of Operating Work and Capital Improvements and advances of Construction Funds and Operating Funds consistent with the provisions hereof and Accounting Practices and development of procedures for making forecasts and requests for funds pursuant to Sections 15 and 21 hereof.

7.4.2 Audit or cause to be audited the books of the Project Manager, Operating Agent and any other Participant or contractor relevant to the performance of Construction Work and Operating Work or the construction of Capital Improvements.

7.4.3 Review and approve the Project Manager’s and Operating Agent’s Account for Construction Funds and Account for Operating Funds.

7.4.4 Perform such other duties as may be assigned to it in any Project Agreement or by the Administrative Committee.

7.5 Within thirty (30) days after the execution of this Participation Agreement, each Participant shall designate its representatives on the Committees hereby established, with notice thereof given to the other Participants.
7.6 Any action or determination of a Committee must be unanimous.

7.7 The Administrative Committee, the Engineering and Operating Committee and the Auditing Committee shall keep written minutes and records of all meetings and all actions, agreements or determinations made by such Committee shall be reduced to writing and shall be signed by a representative of each Participant on said Committee or an authorized alternate.

7.8 The Committees shall have no authority to modify any of the terms, covenants or conditions of the Project Agreements except as specifically authorized in this Participation Agreement.

7.9 If the Engineering and Operating Committee or the Auditing Committee fails to reach agreement while performing the functions and duties delegated to it in this Participation Agreement or in the Project Agreements, then such disagreement shall be referred to the Administrative Committee for resolution.

7.10 If the Administrative Committee fails to reach agreement while performing the respective functions and duties assigned to it in this Participation Agreement or in the other Project Agreements, then such disagreement shall be referred to higher authority within each Participant’s organization before proceeding to arbitration as provided in Section 27 hereof.
7.11 In the event any Committee established in accordance with this Section 7 is unable or fails to agree in respect of any matter which such Committee is authorized to determine, approve or otherwise act upon after a reasonable opportunity so to do, then the Project Manager or the Operating Agent, as appropriate, shall take such action as in its discretion is necessary, pending the resolution of any such inability or failure to agree by arbitration pursuant to Section 27 hereof or otherwise, to the successful and proper construction, operation and maintenance of the Transmission System as contemplated hereby.

7.12 Each Participant shall notify the other Participants promptly of any change in the designation of its representatives on the Committees. A Participant may designate an alternate to act as its representative on any Committee in the absence of the regular member or to act on specified occasions with respect to specified matters. Any alternate representative appearing at a Committee meeting shall be deemed to have authority to act on behalf of the Participant he represents unless the Committee chairman is furnished with written notice to the contrary.

7.13 The Participants, acting through the Administrative Committee, shall have the right to establish standing or ad hoc committees. The authority
and duties of any such committee shall be set forth in writing by the Administrative Committee and shall be subject to the provisions of the Project Agreements.

7.14 Any expenses incurred by any member of the Administrative Committee or any standing or ad hoc committees in connection with his duties on such committee shall be paid and borne by the Participant whom he represents and shall not be included in Construction Costs or in costs for Operating Work or costs of Capital Improvements.

8. **PERFORMANCE AND COMPLETION OF CONSTRUCTION WORK; PROJECT MANAGER(S)**

Construction Work shall be performed and completed as follows:

8.1 The Transmission System shall be designed and constructed in accordance with practices generally accepted in the electric utility industry with the objective of permitting each Participant to transmit under normal operating conditions its share of entitlement in generation as described in Section 6.1 hereof to its designated points of delivery in a manner which will not unreasonably affect the operation of the electric systems of the Participants, and so that when operated in parallel with such systems, the loss of any one circuit of the Transmission System will not cause any other circuit or element of any of the parallel
transmission systems of a Participant to carry Power in excess of the short-time rating of such parallel transmission system as may be established by the owner of such system. The Project Manager(s) shall coordinate the design and construction of the Transmission System and the Microwave System.

8.2 Salt River Project shall be the Project Manager for the Microwave System described in Appendix M hereto and for the following Components described in Appendix A hereto:

8.2.1 Palo Verde-Westwing 500 kV Line
8.2.2 Palo Verde-Kyrene 500 kV Line
8.2.3 Existing and New Kyrene 230 kV Switchyard expansion/construction (including any such 500 kV equipment or facilities which are required to terminate the Palo Verde-Kyrene 500 kV Line at Kyrene).

8.3 Arizona shall be Project Manager for the following Components described in Appendix A hereto:

8.3.1 Westwing 500 kV Switchyard Expansion
8.3.2 Westwing 230 kV Switchyard Expansion

8.4 The Participants hereby appoint the Project Managers as their agents, and the Project Managers shall undertake as their agents and as principals on their own behalf to perform the Construction Work and to carry out the duties and responsibilities provided hereunder.
8.5 The Project Manager(s) shall on behalf of the Participants:

8.5.1 Negotiate and enter into any Construction Agreement and purchase and procure such equipment, apparatus, machinery, materials, tools, supplies and services as it in its sole discretion may deem necessary or useful for the performance and completion of the Construction Work from any source or sources it may select, subject to Section 7.3.6 hereof.

8.5.2 Execute, perform and enforce all Construction Agreements in the name of the Project Manager, acting as principal on its own behalf and as agent for all Participants, in which all Participants shall have undivided interests as tenants in common equal to their respective Cost Responsibility in each Component.

8.5.3 Furnish each member of the Administrative Committee upon request with copies of all contracts with the architect, engineer, constructor, contractors and principal subcontractors, vendors and consultants.

8.5.4 Notwithstanding the provisions of Section 8.5.1, review with the Engineering and Operating Committee in a timely manner the Project Manager’s bid evaluation process and all major
design aspects in advance of action involving a commitment for major equipment at either a meeting called for such purpose by the Project Manager or by conference telephone call.

8.5.5 Arrange for placement of Construction Insurance pursuant to Sections 22 and 23 hereof.

8.5.6 Determine which contractors, if any, shall be required to furnish any portion of the Construction Insurance, other insurance and faithful performance and payment bonds.

8.5.7 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Construction Insurance.

8.5.8 Present and prosecute claims against insurers and indemnitors providing Construction Insurance or indemnities with respect to any loss of or damage to any property of the Transmission System or the Microwave System or liability of any Participant to third parties covered by Construction Insurance or indemnity agreement, and to the extent that any such loss or damage is not covered by Construction Insurance, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds
$250,000, the Project Manager shall not make any settlement of any claims in respect thereof without the written consent and approval of the Administrative Committee.

8.5.9 Subject to the provisions of Section 24 hereof and except as hereinafter provided in this Section 8.5.9, investigate, adjust, defend and settle third party claims against any or all Participants arising out of or attributable to Construction Work, or the past or future performance or non-performance of the obligations and duties of any Participant, including the Project Manager, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered by valid and collectible Construction Insurance or other valid and collectible insurance carried by any Participant, and whenever and to the extent warranted, present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by the Project Manager before any said claim or combination of said claims against any or all Participants arising out of the
same transaction or incident is settled for more than $250,000 unless it shall be established that the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Construction Insurance.

8.5.10 Comply with (i) any and all laws applicable to the performance of Construction Work, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any worker’s compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to the Transmission System or the Microwave System.

8.5.11 Expend the funds advanced to the Project Manager only in the manner and for the purposes set forth in Sections 13 and 15 hereof.

8.5.12 Keep and maintain records of monies received and expended, obligations incurred, credits accrued, estimates of Construction Costs (excluding, subject to Section 16.3 hereof, ad valorem taxes or payments in lieu thereof and allowance for funds used during construction) and contracts entered into in the performance of Construction Work, and make such records available for inspection by the Auditing Committee at reasonable times and places.
8.5.13 Not suffer any liens to remain in effect unsatisfied against the Transmission System or the Microwave System (other than liens permitted under the Project Agreements, liens for taxes or assessments not yet delinquent, liens for labor and material not yet perfected, or undetermined charges or liens incidental to the performance of Construction Work); provided, however, that the Project Manager shall not be required to pay or discharge any such lien as long as the Project Manager in good faith shall be contesting the same, which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

8.5.14 Obtain or cause to be obtained necessary construction permits, temporary access rights and other licenses and approvals requisite to the performance and completion of Construction Work and initiation of Operating Work.

8.5.15 As soon as practicable after the completion of Construction Work on each Component and the Microwave System, provide each Participant with a summary of the Construction Costs classified to appropriate FERC Accounts.

8.5.16 Provide the Participants with all necessary and required records and information
Pertaining to the performance of Construction Work, including progress reports at such regular intervals as the Administrative Committee or the Engineering and Operating Committee shall determine.

8.5.17 Keep the Participants fully and promptly informed of any known default by any Participant under the provisions of this Participation Agreement.

8.5.18 As soon as practicable after the commencement of Construction Work, furnish each Participant an estimate of total Construction Costs broken down by major categories of equipment and services and a forecast of the cash requirements of each Participant to meet such Construction Costs. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which Construction Costs will become due and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of Construction Work.

8.5.19 Furnish a Participant any information reasonably available pertaining to the construction of the Transmission System or the Microwave System
that will assist said Participant in responding to a request for such information by any federal, state or local regulatory authority.

8.5.20 Use its best efforts in the performance of its responsibilities hereunder to effect the completion of Construction Work in accordance with the Construction Schedule set forth in Appendix C hereto.

8.5.21 Keep the Participants fully and promptly advised of significant developments in connection with the progress, performance and completion of Construction Work.

8.5.22 Prepare and distribute the Final Completion Reports to each Participant as soon as practicable but not later than twenty-four (24) months after completion of Construction Work performed by each Project Manager on the final Component to be completed by such Project Manager unless such time is extended by the Administrative Committee.

8.5.23 Provide the Administrative Committee with all necessary and required records and information for its use in the performance of its responsibilities under this Participation Agreement.

8.5.24 Construct the Transmission System and the Microwave System so as to comply with the
8.5.25 Conduct appropriate tests to verify that specified characteristics of major equipment items have been achieved and, if necessary, make or cause to be made final equipment modifications to meet the specified requirements thereof.

8.5.26 Provide for and enforce any and all warranties on equipment, facilities, materials and services sold to or furnished for the Transmission System or the Microwave System except that any equipment warranties which expire more than one (1) year after the completion of Construction Work for the final Component to be Constructed by the particular Project Manager shall be enforced by the Operating Agent.

8.5.27 Conduct such environmental and economic studies of alternative routes as the Administrative Committee directs or as the Project Manager in its discretion deems necessary or appropriate in arriving at a recommendation to the Administrative Committee of suitable routes for the Transmission System.

8.5.28 Secure or cause to be secured the necessary land and land rights for the Transmission System and the Microwave System. Rights of way required for construction, operation and maintenance
of the Transmission System across patented lands shall be procured by the Project Manager for itself as a Participant and as agent for all other Participants. Such rights of way may be procured by purchase or by the exercise of the power of eminent domain and may include (i) a fee interest in, or (ii) a grant of easement across or (iii) a license to or lease of any parcel of such lands as the Project Manager shall, in its sole discretion, deem advantageous to the Participants. In the event the Project Manager deems it prudent so to do in order to expedite acquisition, avoid exercise of the power of eminent domain, or obtain an advantageous price, the Project Manager is authorized to acquire lands not required for any segment of such rights of way either (i) for subsequent resale (“excess lands”), if such excess lands are acquired from the grantor(s) of a contiguous segment of such rights of way or (ii) for exchange (“exchange lands”) for lands required for a segment of such rights of way. Title to all segments of such rights of way, whether in fee or by easement, and any excess and exchange lands shall be held in one or more land trusts which the Project Manager shall establish with a corporate trustee duly authorized to engage in such business in the State of Arizona for the benefit of the
Participants whose respective beneficial interests in such trust(s) shall be the same as their respective responsibilities for the sharing of costs pursuant to Appendix B hereto. With respect to any specific portion of the Transmission System the Project Manager shall at such times it deems advisable terminate the trust(s) applicable thereto and direct the trustee to convey title to the rights of way therefor to the Participants thereof. All excess lands shall continue to be held in trust until disposed of by the Project Manager. Applications for rights of way across federal and state lands shall be filed in the name of each of the Participants.

8.5.29 Dispose of excess material and equipment after completion of Construction Work and distribute proceeds from such disposal to the Participants in proportion to their Cost Responsibility for the associated Component.

8.5.30 Furnish each member of the Engineering and Operating Committee upon their request any studies, specifications, drawings and any documentation related to the foregoing received from the architect, engineer, constructor, consultants,
contractors or vendors involved in Construction Work.

8.6 Each Participant shall provide to the extent possible all assistance as may be requested by the Project Manager in the performance of its obligations hereunder and such Participant shall be reimbursed for its costs and expenses incurred in providing such assistance under such terms and conditions as may be agreed upon by such Participant and the Project Manager.

8.7 Each Participant shall, within sixty (60) days after the execution of the Participation Agreement, submit to the Project Manager any special requirement it may have regarding accounting, records or information in order that all required records may be maintained in the same manner throughout the construction and final completion of the Transmission System and the Microwave System. The Project Manager(s) shall use their best efforts to accommodate said special requirements.

8.8 The Project Manager shall have the full responsibility and authority for the employment and organization of the personnel and staff required to complete the Construction Work.
8.9 The Project Manager shall construct the Transmission System with the objective of having the respective Components available for energization, for tests and for operation in accordance with Appendix C hereto, unless and until Appendix C is revised by the Engineering and Operating Committee.

8.10 In the event the Project Manager desires to construct any Component with its own forces, the Engineering and Operating Committee shall exercise the option of approving the Project Manager’s cost reimbursable bid or approving the use of the Project Manager’s forces at a fixed cost equivalent to the lowest acceptable bid other than the Project Manager’s bid. Should the Engineering and Operating Committee elect to approve the use of the Project Manager’s forces at a fixed cost equivalent to the lowest acceptable bid other than the Project Manager’s bid, the Project Manager at its sole discretion may withdraw its bid.

9. OPERATING AGENT

9.1 Salt River Project shall be the operating Agent for the Microwave System described in Appendix M hereto and for the following Components described in Appendix A
9.1.1 Palo Verde-Westwing 500 kV line
9.1.2 Palo Verde-Kyrene 500 kV line
9.1.3 Existing and new Kyrene 230 kV Switchyard expansion/construction (including any such 500 kV equipment or facilities which are required to terminate the Palo Verde-Kyrene 500 kV line at Kyrene).

9.2 Arizona shall be the Operating Agent for the following Components described in Appendix A hereto:
   9.2.1 Westwing 500 kV Switchyard expansion
   9.2.2 Westwing 230 kV Switchyard expansion

9.3 The Participants hereby appoint the Operating Agents as their agents, and the Operating Agents shall undertake as their agents and as principals on their own behalf to perform the Operating Work and Capital Improvements and to carry out the duties and responsibilities provided hereunder:

9.4 The Operating Agent(s) shall:
   9.4.1 Administer, enforce and perform the Operating Work and Capital Improvements so as to comply with Project Agreements and
in a manner consistent with generally accepted practices in the electric utility industry recognizing that such practices may be affected by the design and operational characteristics of the Transmission System, the rights and obligations of the Participants under this Participation Agreement and other special circumstances affecting the Operating Work and Capital Improvements.

9.4.2 Furnish from its own resources or contract for and obtain from any other sources it may select, including any Participant, the services and studies necessary for performance of Operating Work and Capital Improvements.

9.4.3 Execute, administer, perform and enforce contracts in the name of the Operating Agent, acting as principal on its own behalf and as agent for all of the other Participants, for Operating Work and Capital Improvements, including without limitation any and all warranties on equipment, facilities, materials and services furnished pursuant to any such contracts.
9.4.4 Administer, perform and enforce all other contractual obligations and arrangements, including all warranties applicable thereto, entered into by the Project Manager and continuing beyond the period ending one year after the completion of Construction Work for the final Component.

9.4.5 Furnish or recruit the necessary personnel and provide for such training as may be required to qualify them to perform the Operating Work or Capital Improvements and to meet all requirements established by law.

9.4.6 Comply with (i) any and all laws applicable to the performance of Operating Work and Capital Improvements, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any worker's compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to the Transmission System or the Microwave System.
9.4.7 Except as otherwise provided in Appendix M hereto, purchase and procure, through and from any source it may select, in the name of the Participants, with undivided interests as tenants in common in accordance with this Participation Agreement, the equipment, apparatus, machinery, tools, Materials and Supplies and Spare Parts necessary for the performance of Operating Work and Capital Improvements.

9.4.8 Expend the Operating Funds advanced to the Operating Agent in accordance with the terms and conditions of this Participation Agreement.

9.4.9 Keep and maintain such records of monies received and expended, obligations incurred, credits accrued, the conduct of Operating Work and making Capital Improvements, and of contracts entered into in the performance of Operating Work and Capital Improvements as may be necessary or useful in carrying out Project Agreements or required to permit an audit of the Operating Work and Capital Improvements, and make such records available for inspection by the Auditing Committee.
9.4.10 Not suffer any liens to remain in effect unsatisfied against the Transmission System or the Microwave System (other than the liens permitted under the Project Agreements, liens for taxes and assessments not yet delinquent, liens for labor and material not yet perfected or undetermined charges or liens incidental to the performance of the Operating Work); provided that the Operating Agent shall not be required to pay or discharge any lien as long as the Operating Agent in good faith shall be contesting the same which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

9.4.11 Arrange for the placement and maintenance of Operating Insurance as provided in Sections 22 and 23 hereof.

9.4.12 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Operating Insurance.

9.4.13 Present and prosecute claims against insurers and indemnitors providing Operating Insurance or indemnities in
respect to any loss of or damage to any property of the Transmission System or the Microwave System or liability of any Participant to third parties covered by Operating Insurance or any indemnity agreement, and to the extent that any such loss, damage or liability is not covered by Operating Insurance, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, the Operating Agent shall not make any settlement of any claims in respect thereof without the consent and approval of the Administrative Committee.

9.4.14 Subject to the provisions of Section 24 hereof and except as hereinafter provided in this Section 9.4.14, investigate, adjust, defend and settle third party claims against any or all Participants arising out of or attributable to Operating Work or Capital Improvements, or the past or future performance or non-performance of the obligations and duties of any Participant,
including the Operating Agent, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when such claims are not covered by valid and collectible Operating Insurance or other valid or collectible insurance carried by any Participant, and whenever and to the extent reasonable present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with such claims. The approval of the Administrative Committee shall be obtained by the Operating Agent before any such claim or combination of such claims against any or all Participants arising out of the same transaction or incident is settled for more than $250,000 unless the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Operating Insurance.

9.4.15 Keep the Participants fully and promptly advised of material changes in conditions or other material developments affecting the performance of Operating Work
or Capital Improvements and furnish the other Participants with copies of any notices given or received pursuant to the Project Agreements.

9.4.16 Provide the Administrative, Engineering and Operating and Auditing Committees with all written statistical and administrative reports, accounting records, written budgets, information and other records relating to Operating Work and Capital Improvements necessary or useful in the performance of their respective responsibilities under this Participation Agreement.

9.4.17 Upon the request of any Participant, provide such Participant, in reasonable quantity without direct charge therefor, a copy or copies of any report, record, list, budget, manual, accounting or billing summary, classification of accounts or other documents or revisions of any of the aforesaid items, all as prepared in accordance with this Participation Agreement.

9.4.18 Keep the Participants fully and promptly informed of any known default
of the Project Agreements and submit to the Participants any recommendations for amendments of the Project Agreements.

9.4.19 Prepare recommendations covering the matters which are to be reviewed and acted upon by the Engineering and Operating Committee pursuant to Section 7.3.2 hereof.

9.4.20 Carry out and follow the practices and procedures and directions which have been approved and issued by the Administrative Committee, the Engineering and Operating Committee, or the Auditing Committee pursuant to the Project Agreements, except as otherwise provided in Section 9.4.21 hereof.

9.4.21 In the event of an Operating Emergency take such action as the Operating Agent in its sole discretion may deem prudent or necessary, notwithstanding any practices and procedures and directions approved and issued by the Administrative Committee or the Engineering and Operating Committee, to terminate the Operating Emergency, to preserve and maintain the safety, integrity and operability of the
Transmission System, to maintain the maximum transfer capability of each Component, to protect the health and safety of the public or to minimize any adverse environmental effects and such other action as required by Section 11 hereof.

9.4.22 Coordinate scheduled outages of the Transmission System with the other Participants.

9.5 The other Participants shall lend and be properly reimbursed for all necessary and available assistance as may be requested by and rendered to the Operating Agent in the performance of Operating Work or Capital Improvements.

10. CURTAILMENT OF TRANSMISSION CAPACITY IN THE TRANSMISSION SYSTEM

10.1 The Operating Agent shall as soon as practicable notify the dispatchers of each Participant of the occurrence of an Operating Emergency, and the amount of any resulting curtailment which shall be determined by the Operating Agent in accordance with criteria approved by the Engineering and Operating Committee.
10.2 The Operating Agent shall notify the Participants of the maximum transmission Capacity available to each of the Participants during periods of curtailment.

11. **OPERATING EMERGENCY**

11.1 In the event of an Operating Emergency:

11.1.1 The Operating Agent(s) shall take any and all steps reasonably necessary and required to terminate the Operating Emergency, in accordance with generally accepted practices in the electric utility industry.

11.1.2 The Operating Agent(s) shall make every effort to furnish temporary alternate service through a Component of the Transmission System, and the Participants shall make every effort to furnish temporary alternate service to the other Participants over available parallel transmission systems. In the event of any outage or curtailment of any such parallel transmission system of a Participant, the Operating Agent(s) shall make every effort to furnish temporary alternate service over the Transmission System. There will be no charge to any Participant for such service.
provided pursuant to this Section 11.1 except for compensation to the Participant(s) providing alternate service. The recipient(s) of said alternate service shall provide compensation in Energy to the Participant(s) providing such alternate service in an amount equal to the additional losses incurred by the Participant(s) as a result of providing such alternate service.

11.2 As soon as practicable after the commencement of an Operating Emergency, the Operating Agent shall advise the Participants of the occurrence of the Operating Emergency, its nature and the steps taken or to be taken to terminate the Operating Emergency, including a preliminary estimate of the expenditures required to terminate the Operating Emergency.

11.3 The costs incurred and amounts expended and charged to maintenance expenses by the Operating Agent for repair, restoration and reconstruction of the Transmission System as a result of an Operating Emergency shall be allocated to the Participants in proportion to their Cost Responsibility for the Component(s) being repaired, restored or reconstructed and shall be billed to the appropriate Participants.
in accordance with Section 15 hereof. Such costs incurred and amounts expended by the Operating Agent for Capital Improvements shall be allocated to the Participants in proportion to their Cost Responsibility in the Components to which such Capital Improvements are made, and the Operating Agent shall bill the appropriate Participants therefor.

11.4 Following the termination of the Operating Emergency, the Operating Agent(s) shall submit to the Participants a report containing a summary of the costs incurred and expenditures made in connection with the repair, restoration, reconstruction or Capital Improvements and such other information as may be required by the Engineering and Operating Committee.

11.5 Transmission losses pursuant to Section 11.1.2 shall be determined in accordance with criteria approved by the Engineering and Operating Committee.

12. **SPARE PARTS**

12.1 In accordance with policies prepared by the Operating Agent(s) and approved by the Engineering and Operating Committee, each Project Manager shall purchase all initial Spare Parts for the Components or microwave facilities and
the Operating Agent(s) shall thereafter maintain a Spare Parts inventory for the Transmission System and the Microwave System.

12.2 The Operating Agent(s) shall purchase all replacements of Spare Parts and shall allocate the costs thereof to the Participants in proportion to their Cost Responsibility for the Component for which the Spare Part is committed or in proportion to their Cost Responsibility for the Microwave System if said Spare Part is committed for the Microwave System.

13. CONSTRUCTION COSTS

13.1 Construction Costs of the Transmission System and the Microwave System shall include all payments made and obligations incurred by the Project Manager for or in connection with Construction Work, including but not limited to those costs specified in Appendix D attached hereto and in Section 13.4 hereof.

13.2 All Construction Costs for each Component shall be shared by the Participants in proportion to their respective Cost Responsibility in such Component and shall be advanced by them and disbursed and accounted for by the Project Manager in accordance with Section 15 hereof.
13.3 All Construction Costs for the Microwave System shall be shared by the Participants in proportion to their respective Cost Responsibility in the Microwave System and shall be advanced by them and disbursed and accounted for by the Project Manager in accordance with Section 15 hereof.

13.4 Upon execution of this Participation Agreement, all costs incurred prior to such execution by the Participants for Construction Work hereunder, minus any payments made and/or incurred by any terminating Participant, shall be reallocated among the continuing Participants hereunder in proportion to each Participant’s Cost Responsibility in the respective Components where such Construction Work is associated with the Transmission System, and in proportion to the Participant’s Cost Responsibility in the Microwave System where such Construction Work is associated with the Microwave System.

14. **OPERATION AND MAINTENANCE COSTS:**

14.1 Operation and maintenance costs of the Transmission System and the Microwave System shall include all payments made and obligations incurred by the Operating Agent for or in connection with the performance of Operating
Work, including (i) those costs of Operating Work specified in Appendix E hereto, (ii) those costs specified in Section 16 hereof to the extent any tax or payment in lieu thereof is levied against a Participant on behalf of all of the Participants, and in Section 22.2 hereof (excluding workers’ compensation expense for the Operating Agent’s employees), and (iii) those costs and expenses described in Section 24.3 hereof.

14.2 The costs of Operating Work for each Component shall be shared by the Participants in proportion to their respective Cost Responsibilities in the Component(s), and the costs of Operating Work for the Microwave System shall be shared by the Participants in proportion to their respective Cost Responsibility in the Microwave System.

14.3 The costs of Operating Work shall be advanced by the Participants to the Operating Agent(s) and disbursed and accounted for by the Operating Agent(s) in accordance with Section 15 hereof.

15. ADVANCEMENT OF FUNDS

15.1 Each Participant shall advance its share of Construction Funds and Operating Funds
prior to the date when funds are required by the Project Manager or Operating Agent to pay for Construction Work, Operating Work and Capital Improvements so that neither the Project Manager nor the Operating Agent in its capacity as such will have to advance any funds on behalf of another Participant.

15.2 Each Participant shall pay monthly in advance, on or before a due date as specified by the Project Manager, its share (equal to its Cost Responsibility in the Components or, where applicable, equal to its Cost Responsibility in the Microwave System) of all Construction Costs in accordance with the quarterly forecasts, or revisions thereof, of estimated monthly expenditures for Construction Work prepared by the Project Manager and furnished to each Participant pursuant to Section 8.5.18 hereof. Construction Funds on hand which are not required for working capital needs shall be invested to the maximum extent feasible in direct obligations or obligations guaranteed by the federal government or agencies of the federal government in a manner legal for all Participants. Earnings and losses, if any, shall be allocated to the Participants in proportion to the funds advanced.
by each Participant. Following completion of all Construction Work, the Project Manager shall compute the total Construction Costs of the Transmission System and the Microwave System and each Participant shall promptly settle any balance of its share of such total Construction Costs in accordance therewith.

15.3 The sum of the advances by the Participants hereunder to the Project Manager shall not exceed one hundred percent (100%) of the total Construction Costs forecasted to be expended as of the date specified in the detailed monthly forecast furnished to the Participants pursuant to Section 8.5.18 hereof plus or minus any adjustments of previous estimates to actual costs.

15.4 The Project Manager(s) and the Operating Agent(s), with the approval of the Auditing Committee, shall establish Account(s) for Construction Funds and Operating Funds at a bank of their choice and notify the Participants in writing of the establishment of the Account(s) not later than five (5) days following its establishment.

15.5 Construction Funds and Operating Funds required to be advanced by the Participants in
accordance with this Participation Agreement shall be deposited in the Account(s), and the Project Manager and Operating Agent shall, unless otherwise agreed to by the Participants, make disbursements from the Account(s) only for expenditures or obligations incurred in the performance of Construction Work, Operating Work and Capital Improvements or for the investment of Construction Funds pursuant to Section 15.2 hereof.

15.6 The Engineering and Operating Committee shall establish a minimum balance for the Operating Funds so that the Operating Agent will have Operating Funds to pay for expenditures or obligations incurred by the Operating Agent pursuant to this Participation Agreement. Such minimum balance may be revised by the Engineering and Operating Committee at any time. The original minimum balance and any increase therein shall be allocated among the Participants on the basis of their respective Cost Responsibilities for Components or, when applicable, on the basis of their respective Cost Responsibilities for the Microwave System and shall be due and payable within fifteen (15) business days following billing notification of the establishment of the
month shall be billed on an estimated basis on or before the first business day of each such month and payment shall be due and payable by the fifteenth
day of such month, provided that adjustments for actual expenses incurred for such month shall be reflected in the bill for the month which follows the
date of determination of such actual expenses.

15.7.2 Expenses described in Sections 11, 16 (to the extent that any tax or payment in lieu thereof is levied against a Participant on behalf of all
Participants), 22, 23 (excluding worker’s compensation insurance) and 24 hereof shall be billed not less than ten (10) business days prior to their due date
and shall be due and payable within seven (7) business days following receipt of the invoice. If such expenditures or obligations do not have a specified
due date, they shall be billed within a reasonable time following the incurrence of such expenditures or obligations and shall be due and payable within
seven (7) business days following receipt of the bill.
15.8 The Operating Agent shall establish the Account for Operating Funds at least thirty (30) days prior to incurring any cost for Operating Work on behalf of the Participants pursuant to this Participation Agreement. The Operating Agent shall notify the Participants in writing of the establishment of the Account for Operating Funds no later than five (5) days following its establishment.

15.9 Funds not advanced to the Project Manager or the Operating Agent on or before the due date specified in Sections 15.2, 15.6 and 15.7 hereof shall be payable with interest, if any, accrued as provided in Section 26.3 hereof.

15.10 If a Participant shall dispute any portion of any amount specified in a monthly forecast, billing or a request for funds, the disputant shall make the total payment specified in said forecast, billing or request for funds pursuant to Section 26.4 hereof.

16. TAXES

16.1 The Participants shall use their best efforts to have any taxing or other authority levying any taxes or assessments, or payments in lieu thereof, or making any valuations for the purpose of levying any taxes or assessments or
payments in lieu thereof, on the Transmission System, or any beneficial interest or rights therein, assess and levy such taxes or assessments or payments in lieu thereof directly against the ownership or beneficial interest of each Participant in the Transmission System.

16.2 All taxes or assessments or payments in lieu thereof levied against each Participant’s ownership or beneficial interest in the Transmission System, excepting those taxes or assessments or payments in lieu thereof levied against an individual Participant on behalf of any or all of the other Participants, shall be the sole responsibility of the Participant upon whose ownership or beneficial interest said taxes or assessments or payments in lieu thereof are levied.

16.3 If any property taxes or payments in lieu thereof or any other taxes or assessments are levied or assessed in a manner other than as specified in Section 16.1 hereof (except as otherwise provided in Section 16.5), it shall be the responsibility of the Administrative Committee to establish equitable practices and procedures for the apportionment among the Participants of such taxes and assessments or
16.4 No Participant who is exempt from any taxes or payments in lieu thereof assessed against any or all of the other Participants shall be obligated to make any contribution toward such taxes to the extent of the exemption.

16.5 The Participants shall reimburse the Project Manager for all taxes or assessments or payments in lieu thereof levied against the Microwave System. Such reimbursement shall be shared by the Participants in proportion to their respective Cost Responsibility for the Microwave System.

17. NONPARTITIONMENT

17.1 Each Participant hereby waives any rights it may have to partition any Component of the Transmission System or the Project Agreements, whether by partitionment in kind or by sale and division of the proceeds, and further agrees that it will not resort to any action in law or in equity to partition such Component of the Transmission System or the Project Agreements. Each Participant waives the benefits of all laws that may now or hereafter authorize such partition for a term (i) which shall be coterminal with this Participation Agreement, or
(ii) which shall be for such lesser period as may be required under applicable law.

18. **MORTGAGE AND TRANSFER OF INTEREST**

18.1 Each Participant shall have the right at any time and from time to time to mortgage, create or provide for a security interest in or convey in trust all or a part of its ownership share in the Transmission System, together with an equal interest in the Project Agreements to a trustee or trustees under deed of trust, mortgage or indenture or to a secured party or parties under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without the need for the prior written consent of any other Participant and without such mortgagee, trustee or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Participants.

18.2 Any mortgagee, trustee or secured party under present or future deeds of trust, mortgages, indentures or security agreements of any of the Participants and any successor or assignee thereof, and any receiver, referee or trustee in bankruptcy or reorganization of any of the Participants, and any successor by action of
law or otherwise, and any purchaser, transferee or assignee of any thereof may, without need for the prior written consent of any other Participant, succeed to and acquire all the rights, titles and interest of such Participant in the Transmission System, the Microwave System, and the Project Agreements, and may take over possession of or foreclose upon said property, rights, titles and interests of such Participant, and in such event shall assume and be obligated fully to perform and discharge all of the obligations of such Participant hereunder and under any other Project Agreement.

18.3 Without the prior written consent of any other Participant, each Participant shall have the right to transfer or assign all or part of its interest in the ownership of the Transmission System, together with an equal interest in the Project Agreements, to any person, partnership, corporation or governmental corporation or agency engaged in the generation, transmission or distribution of Energy.

18.4 Except as otherwise provided in Sections 18.1, 18.2 and 35 hereof, any successor to the rights, titles and interests of a Participant in the Microwave System or in the
Transmission System, together with an equal interest in the Project Agreements, shall assume and agree fully to perform and discharge all of the obligations hereunder of such Participant, and such successor shall notify each of the other Participants in writing of such transfer, assignment or merger, and shall furnish to each Participant evidence of such transfer, assignment or merger and thereupon shall be considered to be a Participant in the Microwave System or in the Transmission System, together with an equal interest in the Project Agreements, and the transferring Participant shall thereupon, without the consent of any other Participant, be released from all obligations under the Project Agreements so assumed and agreed to by such successor. Provided, however, that no assignment of any interest in the Transmission System shall relieve the assigning Participant of any obligation hereunder until the assignor shall have delivered to the other Participants the written assumption and agreement of such successor to fully perform and discharge all of the obligations hereunder of the assigning Participant.

18.5 Each Participant shall have the right, without the need for the prior written consent of
any other Participant, to assign its right, title and interest in the Transmission System and the Project Agreements to any entity into which such Participant may be merged or consolidated and which assumes the obligations of such Participant hereunder, but such assignment shall not relieve the Participant from said obligations.

18.6 Each Participant shall have the right at any time, and from time to time, without the need for the prior written consent of any other Participant, to assign and/or convey its right, title and interest in the Transmission System and the Project Agreements to a trustee or trustees for the purpose of enabling the Participant to finance its obligations hereunder, and such trustee or trustees shall be entitled, without the prior written consent of any other Participant, to mortgage or grant a security interest in the said assets to accomplish such financing, provided that such transfers will not relieve the Participant from any of its obligations hereunder.

19. DESTRUCTION

19.1 Subject to Section 19.2, if any Components of the Transmission System or any facilities of the Microwave System should be
damaged or destroyed, the Participants shall, unless otherwise agreed, repair or reconstruct such Components or facilities. The Participants shall share the costs of such repair or reconstruction in proportion to their Cost Responsibility for the Components so damaged or destroyed or in proportion to their Cost Responsibility for the Microwave System, whichever is applicable.

19.2 If any Components of the Transmission System should be destroyed after the retirement of Unit one, two or three of the Arizona Nuclear Power Project, the Participants shall share the costs of such repairs or reconstruction in proportion to their Cost Responsibility in the Component damaged or destroyed; provided, however, that should all of the Participants not agree to restore or reconstruct the damaged portion of the Transmission System, but some of the Participants nevertheless desire to do so, then any Participant who does not agree to restore or reconstruct shall sell its ownership interest in the Component to the remaining Participants for a price equal in amount to its Cost Responsibility of the salvage value thereof. The Participants agreeing to repair or

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reconstruct such Component shall contribute to the costs of such repair or reconstruction in proportion to the ratio of each Participant’s Cost Responsibility in such Component to the total sum of the Cost Responsibilities of all Participants agreeing to repair or reconstruct such Component.

20. **SEVERANCE OF IMPROVEMENTS**

20.1 The Participants agree that all facilities, structures, improvements, equipment and property of whatever kind and nature constructed, placed or affixed on the rights-of-way, easements, patented and leased lands as part of or as a Capital Improvement to the Transmission System or the Microwave System as against all parties and persons whmsoever (including without limitation any party acquiring any interest in the rights-of-way, easements, patented or leased lands or any interest in or lien, claim or encumbrance against any of such facilities, structures, improvements, equipment and property of whatever kind and nature), shall be deemed to be and remain personal property of the Participant(s), not affixed to the realty.

21. **CAPITAL IMPROVEMENTS**

21.1 The Participants recognize that from
time to time it may be necessary or desirable to make Capital Improvements or that Capital Improvements may be required by laws and regulations applicable to the Transmission System or the Microwave System.

21.2 If requested by a Participant, any such Capital Improvement shall be described in a supplement to this Participation Agreement executed in recordable form.

21.3 All Capital Improvements shall be included in the annual capital expenditures budget. After such budget has been approved by the Engineering and Operating Committee, each Participant shall be obligated for the costs incurred for such Capital Improvements in proportion to its Cost Responsibility in the Component to which the Capital Improvement is made or in proportion to its Cost Responsibility for the Microwave System, where applicable.

21.4 At any time the Engineering and Operating Committee may authorize Capital Improvements not included in the annual capital expenditures budget if any such Capital Improvement is required to comply with any lawful order, rule or regulation of a state, federal, or local regulatory agency or if the cost of any
such Capital Improvement is less than $50,000. All other Capital Improvements not included in the annual capital expenditures budget may only be authorized by the Administrative Committee.

21.5 The Operating Agent shall submit to the Participants a forecast of cash requirements for each authorized Capital Improvement. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which costs for such Capital Improvement shall become due, and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of the Capital Improvement.

21.6 The Operating Agent shall be responsible for the design and construction of all Capital Improvements unless otherwise agreed by the Administrative Committee.

21.7 The costs of Capital Improvements shall include but not be limited to:

21.7.1 All costs, including time off allowance, incurred by the Operating Agent (other than allowance for funds used during
construction) which conform to the provisions of Electric Plant Instruction 3 of the FERC System of Accounts entitled, “Components of Construction Cost.” These costs shall not include any taxes shared by the Participants pursuant to Section 16 hereof. However, such charges shall include costs of any injuries or damages arising out of and occurring during the course of construction of Capital Improvements and the cost of any additional insurance which the Operating Agent deems necessary to protect the interests of the Participants during the effectuation of such Capital Improvements prior to the time the coverage provided in Section 22 hereof becomes applicable thereto.

21.7.2 All other applicable overhead costs incurred by the Operating Agent which conform to the provisions of Electric Plant Instruction 4 of the FERC System of Accounts entitled “Overhead Construction Costs.”

21.7.3 If any Capital Improvements are made by the Operating Agent’s employees, the labor loading charges shall be determined by multiplying the sum of the
Operating Agent's labor charges included in Section 21.7.1 hereof by the “Payroll Tax Ratio,” the “Worker’s Compensation Ratio” and the “Benefits Ratio” determined pursuant to Appendix F, H and G, respectively hereto. Estimated ratios shall be used and year-end adjustments shall be made in a manner similar to that described in Sections E.2 and E.3 of Appendix E hereto.

21.7.4 If any Capital Improvements are made by the Operating Agent’s employees, the amount of the Operating Agent’s administrative and general expenses allocable to such Capital Improvements shall be determined by multiplying the sum of the Operating Agent’s labor charges included in Section 21.7.1 hereof by a decimal fraction hereinafter referred to as the “Capital Improvements A&G Ratio” as determined pursuant to Appendix J hereto. Estimated ratios shall be used and year-end adjustments shall be made in a manner similar to that described in Sections E.2 and E.3 of Appendix E hereto.

21.8 If any Capital Improvements are made by a contractor, the amount of the Operating
Agent’s administrative and general expenses allocable to such Capital Improvements shall be determined by multiplying the total work order cost thereof by one percent (1.00%). As used herein, “total work order cost” does not include the costs of injuries and damages, claims, taxes, other than sales and use taxes, and interest incurred by the Operating Agent or any other of the Operating Agent’s noncontracted costs during the construction of Capital Improvements; however, costs of administration of the injuries and damages program are included.

21.9 Units of Property retired from service, whether considered original construction or Capital Improvements, shall be disposed of by the Operating Agent on the best available terms as soon as practicable, and the proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Cost Responsibility in the Component of which the Units of Property retired from service are a part.

22. **PROJECT INSURANCE**

22.1 Unless otherwise specified by the Administrative Committee, during the performance of Construction Work, the Project Manager shall,
subject to the provisions hereof, procure and maintain in force, or cause to be procured and maintained in force, so as to be effective not later than the date on which the Project Manager shall first incur a risk of loss, damage or liability, Construction Insurance for the following casualty, property, and surety exposures.

22.1.1 Casualty Exposures

22.1.1.1 Comprehensive bodily injury, and property damage insurance, in an amount not less than $10 million. Policy extensions shall include coverage for:

1. Personal Injury
2. Explosion, Collapse and Underground (X.C.U.)
3. Broad Form Property Damage
4. Employees as Additional Insureds
5. Blanket Contractual Liability
6. Owners and Contractors Protective Liability
7. Products and/or Completed Operations
8. Liability arising out of the ownership, maintenance or use of
all vehicles, owned, non-owned, or hired.

22.1.1.2 The Project Manager shall evaluate the feasibility of obtaining (1) Architects and Engineers Errors and Omissions Coverage for any outside contractor, if applicable and (2) Incidental Malpractice and Errors and Omissions Coverage if the contractor is one of the Participants, and shall promptly make a recommendation regarding the necessity of such insurance coverage to the Administrative Committee.

22.1.1.3 Aircraft Liability Coverage for aircraft, owned, non-owned or hired, in an amount not less than $10 million, if applicable.

22.1.1.4 The standard form of worker’s compensation and employers’ liability insurance, covering officers and employees of the Project Manager, and any persons engaged in the performance of the Construction Work. The worker’s compensation policy will include coverage for the states where
the workers are hired, the state of principal operation of the contractor, and Arizona. Such coverage will be in the form of an insurance policy or a qualified self-insured program.

22.1.2 Property Exposures

22.1.2.1 The standard form of All Risk Builders Risk Insurance, including the transportation hazard. Such insurance shall afford coverage from the time that Construction Work is commenced or material and equipment are at risk to the Participants, until such date as the coverages of such risk are provided by the Project Insurance required to be obtained pursuant to Section 22.2 hereof.

22.1.2.2 The standard form of All Risk Contractors Equipment Floater Insurance covering owned, non-owned and leased equipment used in connection with the performance of Construction Work for such equipment at risk to the Participants.

22.1.3 Surety Exposures

The standard form of Employees
Dishonesty Bond covering loss of property of the Transmission System or the Microwave System or funds of the Participants due to the dishonest or fraudulent acts committed by an officer or employee of the Project Manager and any Participant or contractor who is engaged in the Construction Work.

22.2 Unless otherwise specified by the Administrative Committee, during the performance of Operating Work or Capital Improvements, the Operating Agent shall procure and maintain in force, or cause to be procured and maintained in force, so as to be effective not later than the date on which the Operating Agent shall first incur a risk of loss, damage or liability, Operating Insurance for the following casualty, property, and surety exposures.

22.2.1 Casualty Exposures

22.2.1.1 Comprehensive bodily injury, and property damage insurance, in an amount not less than $10 million. Policy extensions shall include coverage for:
1. Personal Injury
2. Explosion, Collapse and Underground (X.C.U.)
3. Broad Form Property Damage
4. Employees as Additional Insureds
5. Blanket Contractual Liability
6. Owners and Contractors Protective Liability
7. Products and/or Completed Operations
8. Liability arising out of the ownership, maintenance or use of all vehicles, owned, non-owned, or hired.

22.2.1.2 The Operating Agent shall evaluate the feasibility of obtaining (1) Architects and Engineers Errors and Omissions Coverage for any outside contractor, if applicable and (2) Incidental Malpractice and Errors and Omissions Coverage if the contractor is one of the Participants, and shall promptly make a recommendation regarding the necessity of such insurance coverage to the Administrative Committee.
22.2.1.3 Aircraft Liability Coverage for aircraft, owned, non-owned or hired in an amount not less than $10 million, if applicable.

22.2.1.4 The standard form of worker’s compensation and employers’ liability insurance, covering officers and employees of the Operating Agent, and any persons engaged in the performance of Operating Work or Capital Improvements. The worker’s compensation policy will include coverage for the states where the workers are hired, the state of principal operation of the contractor, and Arizona. Such coverage will be in the form of an insurance policy or a qualified self-insured program.

22.2.2 Property Exposures

22.2.2.1 Property insurance providing coverage against fire, extended coverage, vandalism and malicious mischief, electrical apparatus assumption as provided by the standard Insurance Services Office property forms. Such insurance shall
not be required on the transmission lines as defined in Section 4.40 (i) and (ii). Except as otherwise authorized herein or directed by the Administrative Committee, such insurance shall be maintained in an amount not less than 90% of either the actual cash value or replacement cost, as the Administrative Committee shall direct or in the absence of any such direction as the Project Manager or the Operating Agent may in its sole discretion determine, of the insurable property of the Transmission System or the Microwave System as determined from time to time by independent qualified appraisers selected by the Project Manager prior to completion of Construction Work, or the Operating Agent thereafter.

22.2.2.2 In the event any Capital Improvements are undertaken, the Operating Agent shall procure and maintain, or cause to be procured and maintained, Construction Insurance providing coverage for risks described
in Sections 22.1.1, 22.1.2 and 22.1.3 hereof in respect to the construction of such Capital Improvements.

22.2.3 Surety Exposures

The standard form of Employees Dishonesty Bond covering loss of property of the Transmission System or Microwave System or funds of the Participants due to the dishonest or fraudulent acts committed by an officer or employee of the Operating Agent and any Participant or contractor who is engaged in Operating Work or making Capital Improvements.

23. GENERAL PROVISIONS AFFECTING PROJECT INSURANCE

Except as otherwise directed by the Administrative Committee, the following provisions shall apply to the Project Insurance obtained by the Project Manager or Operating Agent in compliance with Section 22 hereof.

23.1 Except for Project Insurance described in Sections 22.1.1.4, 22.1.2.2, 22.1.3, 22.2.1.4 and 22.2.3 hereof, each Participant shall be named an additional insured, individually and jointly with the other Participants, on all policies of Project Insurance, and the policies...
of Project Insurance referred to in Sections 22.1.1 and 22.2.1 hereof shall carry cross-liability endorsements.

23.2 Such insurance coverages as required under Section 22 hereof shall be written with deductibles and limits as approved by the Administrative Committee. The Administrative Committee may, at any time, increase the policy(ies) limits, eliminate coverage(s) or require additional policies not previously specified, and shall determine appropriate deductibles, retentions and other special terms and conditions of Project Insurance.

23.3 Any deductibles shall be apportioned among the Participants on the basis set forth in Section 24.3 hereof, except that deductibles under any worker’s compensation insurance carried for officers and employees of the Project Manager and Operating Agent shall be apportioned in the manner specified in Appendix E hereto.

23.4 Project Insurance policies shall be primary insurance for all purposes and shall be so endorsed. Any other insurance carried by a Participant individually shall not participate with Project Insurance as to any loss or claim for which valid and collectible Project Insurance
shall apply. Such other insurance shall apply solely as to the individual interest of the Participant carrying such other insurance; provided, however, that each Participant shall accept any reasonably restrictive endorsement to its separate insurance policies as may be required by an insurer as a condition precedent to the issuance of a policy of Project Insurance.

23.5 At the direction of the Project Manager or Operating Agent, any party furnishing services, materials, parts or equipment in connection with the planning, design, engineering, construction, maintenance, operation or use of property of the Transmission System or the Microwave System may be named as an insured as its interest may appear in any of the Project Insurance policies, and either the Project Manager or the Operating Agent may waive on behalf of each Participant its right of recovery against any such party for insured loss for damage to any property covered by Project Insurance as required in Sections 22 and 23 hereof, provided that no such waiver shall impair the right to recover any sums otherwise payable to any Participant under the Project Insurance.
23.6 The Project Manager and Operating Agent respectively shall furnish the other Participants with a certified copy of each of the policy forms of Project Insurance, together with a line sheet therefor (and any subsequent amendments) naming the insurers and underwriters and the extent of their participation.

23.7 Each of the Project Insurance policies shall be endorsed so as to provide that the Participants and additional named insureds pursuant to Section 23.5 hereof shall be given the same advance notice of cancellation or material change as that required to be given to the Project Manager or Operating Agent.

23.8 In the event the Administrative Committee is unable to agree upon any matters relating to Project Insurance not governed by Sections 22 and 23 hereof, the Project Manager or Operating Agent, pending the resolution of such disagreement, shall procure or cause to be procured, such policies of Project Insurance as in its best judgment are necessary and required to protect the Participants against the insurable risks more particularly set forth in Section 22 hereof. During any period of negotiations with an insurer, or other negotiations which are
pending at the expiration of the period of coverage of a Project Insurance policy, or in the event a Project Insurance policy is cancelled, the Project Manager and Operating Agent shall renew or bind policies as an emergency measure or may procure policies of insurance which are identical to those which were cancelled, or may, to the extent possible, secure replacement policies which will provide substantially the same coverage as the policy expiring or cancelled.

23.9 Each Participant shall have the right to have any mortgagee, trustee or secured party named on all or any of the Project Insurance policies as loss payee or additional insured as its interest may appear, by notice to the Project Manager or Operating Agent given in writing not less than ninety (90) days prior to the procurement or renewal of the Project insurance policy(ies), which such notice shall specify the name or names of such mortgagee, trustee or secured party and such additional information as may be necessary or required to permit it to be included on the policy(ies) of Project Insurance.

23.10 Unless otherwise directed by the Administrative Committee, the Project Manager and
Operating Agent shall obtain Project Insurance from such insurers or underwriters, including stock companies, mutuals and pools or groups of insurers or underwriters, as either of them in its sole discretion may select, provided that any policy which obligates any Participant to pay any assessment shall not be obtained unless such Participant has agreed in writing to undertake such obligation.

23.11 Any refunds of premiums or dividends received by the Project Manager or Operating Agent on any Project Insurance shall be allocated among the Participants in proportion to their Cost Responsibility in the affected Component or, where applicable, in proportion to their Cost Responsibility for the Microwave System, at the time of receipt thereof, provided that any reserve premium refunds received under any policy with a retrospective rating plan shall be allocated among the Participants at the time of payment of the reserve premium in proportion to their Cost Responsibility in the Components or where applicable, in proportion to their Cost Responsibility for the Microwave System at such time.
23.12 Nothing herein shall prohibit the Project Manager or Operating Agent from combining the coverage required by this Participation Agreement with coverage outside the scope of that required by this Participation Agreement. If the Project Manager or Operating Agent does so combine coverages, the Administrative Committee shall determine the portion of the total premium cost which is allocable to Construction Insurance or Operating Insurance. If the Administrative Committee is unable to determine such allocation, the Project Manager or Operating Agent, as the case may be, may make an estimated allocation and bill the Participants on the basis thereof, with adjustment to be made when the dispute is resolved.

23.13 Except as provided in Section 23.9 hereof, if any Participant desires changes in any policy of Project Insurance, such Participant shall request in writing to the Project Manager or Operating Agent, as the case may be, to have the desired changes made. Upon receipt of any such request the Project Manager or Operating Agent shall promptly determine whether or not the desired change can be made and the effect thereof upon the coverage afforded each other Participant.
and upon insurance premiums. If the Project Manager or Operating Agent determines that the desired changes (i) can be made, (ii) will not reduce the coverage otherwise afforded to any Participant, and (iii) will not result in any increase in premium expense or if an increase in premium expense will result and the requesting Participant agrees in writing to pay such increase, then the Project Manager or Operating Agent shall cause such desired changes to be made at the earliest feasible time. If the Project Manager or Operating Agent determines that the desired changes can be made but to do so (i) will result in a reduction in coverage otherwise afforded to any Participant, or (ii) will result in an increase in premium expense shared by the Participants, such request shall be referred to the Administrative Committee for resolution.

24. **LIABILITY**

24.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid Project Insurance, each Participant hereby extends to all other Participants, and their respective directors, officers, agents and employees its covenant not to execute on any
judgment obtained against such other Participants for direct, indirect or consequential loss, damage, cost, charge or expense, whether or not resulting from the negligence of a Participant, its directors, officers, agents, employees or any other person or entity whose negligence would be imputed to such Participant, arising from physical damage to its property, which results from the performance or non-performance of the obligations of a Participant under the Project Agreements.

24.2 In the event any insurer providing Project Insurance refuses to pay any judgment obtained by a Participant against another Participant, or any of its directors, officers or employees, on account of liability referred to in Section 24.1 hereof, the Participant or any of its directors, officers or employees against whom the judgment is obtained shall, at the request of the Participant obtaining the judgment and in consideration for the covenant given in Section 24.1 hereof, execute such documents as may be necessary to effect an assignment of its or their contractual rights against the non-paying insurer.
24.3 Except for Work Liability resulting from Willful Action and except as provided in Section 24.5 hereof, the costs and expenses of discharging all Work Liability imposed upon one or more of the Participants, for which payment is not made by Project Insurance, shall be allocated among the Participants in proportion to their Cost Responsibility in the Components involved in the operative facts which give rise to the Work Liability or in proportion to their Cost Responsibility for the Microwave System if such operative facts are associated with the Microwave System. However, if the proximate cause of such liability cannot be determined or is not related to any particular Component, then such costs and expenses shall be allocated among the Participants in proportion to their composite Cost Responsibility in the Transmission System as shown in Appendix B hereto.

24.4 Each Participant shall be responsible for the consequences of its own Willful Action and shall indemnify and hold harmless the other Participants from consequences thereof to the extent that such consequences are not covered by valid and collectible Project Insurance.
24.5 Except for liability resulting from Willful Action, any Participant whose electric customer shall have a claim or bring an action against any other Participant for any death, injury, loss or damage arising out of or in connection with interruptions to or curtailment of electric service to such customer caused by the operation or failure of operation of the Transmission System or any portion thereof shall indemnify and hold harmless such other Participant, its directors, officers and employees, from and against any liability for such death, injury, loss or damage.

24.6 The provisions of this Section 24 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies.

24.7 In the event that the parties to the ANPP Participation Agreement amend Section 21 (LIABILITY) of that Agreement during the term hereof, then the Participants to this Agreement agree to negotiate in good faith to consider analogous language to replace or supplement the provisions of this Section 24. Provided,
however, that it is understood the Participants’ respective levels of authority and the monetary risks associated with Willful Action may differ between the ANPP Participation Agreement and this Agreement.

25. **AUTHORIZATIONS AND APPROVALS**

   25.1 The Project Manager shall be responsible for obtaining all licenses, permits and authorizations requisite to construct facilities of the Microwave System and each Component of the Transmission System and any portions thereof and, in coordination with the Operating Agent, for obtaining all licenses, permits and authorizations requisite to operate and maintain such facility of the Microwave System and such Component of the Transmission System prior to the completion of Construction Work. The Project Manager is authorized to submit and prosecute on behalf of each Participant any applications therefor, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearing at any hearing. The Project Manager shall furnish each Participant with copies of all documents submitted as much in advance of the filing or submission date as may
be reasonably possible without incurring a delay or risk of delay of the completion of Construction Work of any Component of the Transmission System or facility of the Microwave System and shall otherwise keep each Participant informed of the status of all applications. Each Participant shall cooperate with the Project Manager in the preparation, submission and execution of such information, records, statements or other material required to obtain any such licenses, permits or authorizations or any changes thereto.

25.2 The Operating Agent shall be responsible for obtaining and continuing in effect all licenses, permits and authorizations requisite to operate and maintain each Component of the Transmission System and facility of the Microwave System, and to construct or install any Capital Improvements. The Operating Agent is authorized on behalf of each Participant to submit and prosecute any applications therefor, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearance at any hearing. The Operating Agent shall furnish each Participant with copies of all documents
submitted and all licenses, permits and authorizations received and shall otherwise keep each Participant informed of the status of all licenses, permits and authorizations in effect and any pending or proposed applications therefor or for changes thereto. Each Participant shall cooperate with the Operating Agent in the preparation, submission and execution of such information, records, statements or other material required to obtain and continue in effect any such licenses, permits or authorizations and any changes thereto.

25.3 Except as provided in Sections 25.1 and 25.2 hereof, each Participant shall be responsible for obtaining, at its own expense, its required authorizations and approvals, if any, relating to its participation in the construction or reconstruction and operation of the Transmission System and the Microwave System and to its performance of the provisions of the Project Agreements, from federal, state or local regulatory authorities having jurisdiction to issue such authorizations and approvals, and each Participant shall keep the Project Manager and Operating Agent informed of its applications therefor.
26. DEFAULTS AND COVENANTS REGARDING OTHER AGREEMENTS

26.1 Each Participant hereby agrees that it shall pay all monies and carry out all other duties and obligations agreed to be paid and/or performed by it pursuant to all of the terms and conditions set forth and contained in the Project Agreements, and a default by any Participant in the covenants and obligations to be kept and performed pursuant to the terms and conditions set forth and contained in any of the Project Agreements shall be an act of default under this Participation Agreement.

26.2 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements, then, within ten (10) days after written notice has been given by any non-defaulting Participant to all other Participants of the existence and nature of the default, the non-defaulting Participants shall remedy such default either by advancing the necessary funds and/or commencing to render the necessary performance, with each non-defaulting Participant contributing to such remedy in the ratio of its Cost Responsibility in the Components or where applicable, in the Microwave System, to the total of the Cost Responsibilities.
in the Components, or, where applicable, in the Microwave System, of all non-defaulting Participants.

26.3 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements and the giving of notice as provided in Section 26.2 hereof, the defaulting Participant shall take all steps necessary to cure such default as promptly and completely as possible and shall pay promptly upon demand to each non-defaulting Participant the total amount of money and/or the reasonable equivalent in money of non-monetary performance, if any, paid and/or made by such non-defaulting Participant in order to cure any default by the defaulting Participant, together with interest on such money and/or the costs of non-monetary performance at the rate of ten percent (10%) per annum, or the maximum rate of interest legally chargeable, whichever is the lesser, from the date of the expenditure of such money and/or the date of completion of such non-monetary performance by each such non-defaulting Participant to the date of such reimbursement by the defaulting Participant, or such greater amount as may be otherwise provided in the
26.4 In the event that any Participant shall dispute the existence or nature of a default asserted in a notice given pursuant to Section 26.2 hereof, then such Participant shall pay the disputed payment or perform the disputed obligation but may do so under protest. The protest shall be in writing, shall precede or accompany the disputed payment or precede the performance of the disputed obligation and shall specify the reasons upon which the protest is based. Copies of such protest shall be mailed by such Participant to all other Participants. Payments not made under protest shall be deemed to be correct, except to the extent that periodic or annual audits may reveal over or under payments by Participants, necessitating adjustments. In the event it is determined by arbitration, pursuant to the provisions of this Participation Agreement or otherwise, that a protesting Participant is entitled to a refund of all or any portion of a disputed payment or payments or is entitled to the reasonable equivalent in money of non-monetary performance of a disputed obligation theretofore made, then, upon such determination, the non-protesting
Participants shall pay such amount to the protesting Participant, together with interest thereon at the rate of six percent (6%) per annum from the date of payment or from the date of completion of performance of a disputed obligation to the date of reimbursement. Reimbursement of the amount so paid shall be made by the non-protesting Participants in the ratio of their respective Cost Responsibilities in the Components or, where applicable, in the Microwave System, to the total of the Cost Responsibilities in the Components, or, where applicable, in the Microwave System, of all non-protesting Participants.

26.5 Unless otherwise determined by a board of arbitrators, in the event a default by any Participant in the payment or performance of any obligation under the Project Agreements shall continue for a period of six (6) months or more without having been cured by the defaulting Participant or without such Participant having commenced or continued action in good faith to cure such default, or in the event the question of whether an act of default exists becomes the subject of an arbitration pursuant to Section 27 hereof, and such act continues for a period of
six (6) months following a final determination by a board of arbitrators or otherwise that an act of default exists and the defaulting Participant has failed to cure such default or to commence such action during said six (6) month period, then, at any time thereafter and while said default is continuing, all of the non-defaulting Participants, by written notice to all Participants, may suspend the right of the defaulting Participant (i) to be represented on and participate in the actions of all committees, and (ii) to use all or any part of its proportionate share of rights in the Transmission System in which event:

26.5.1 During the period that such suspension is in effect, the non-defaulting Participants (i) shall bear all of the operation and maintenance costs, insurance costs and other expenses, otherwise payable by the defaulting Participant under the Project Agreements, and (ii) shall be entitled to schedule and receive for their respective accounts the transmission rights of the defaulting Participant for all Components in the ratio of their respective Cost Responsibilities in the Components to
the total of the Cost Responsibilities in the Components of all non-defaulting Participants.

26.5.2 A defaulting Participant shall be liable to the non-defaulting Participants for all costs incurred by such non-defaulting Participants pursuant to Section 26.5.1 hereof plus interest as provided in Section 26.3 hereof. The proceeds paid by any defaulting Participant to remedy any such default shall be distributed to the non-defaulting Participants in proportion to the cost actually paid by the non-defaulting Participants to remedy the default involved herein.

26.5.3 The suspension of any defaulting Participant shall be terminated and its full rights hereunder restored when all of its defaults have been cured and all costs incurred by non-defaulting Participants pursuant to Section 26.5.1 plus interest as provided in Section 26.3 hereof have been paid by the defaulting Participant or other arrangements suitable to all non-defaulting Participants have been made.

26.6 In addition to the remedies provided
in Section 26.5 hereof the non-defaulting Participants may, in submitting a dispute to arbitration in accordance with the provisions of Section 27 hereof, request that the board of arbitrators determine what additional remedies may be reasonably necessary or required under the circumstances which gave rise to the dispute. The board of arbitrators may determine what remedies are necessary or required in the premises, including but not limited to the conditions under which the Transmission System may be operated economically and efficiently during periods when the defaulting Participant's right to receive its proportionate share of the transmission rights is suspended.

26.7 The rights and remedies of the Participants set forth in this Participation Agreement shall be in addition to the rights and remedies of the Participants set forth in any other of the Project Agreements.

27. ARBITRATION

27.1 If a dispute between any of the Participants should arise under the Project Agreements, any Participant(s) may call for submission of the dispute to arbitration which shall be binding upon all of the other
27.2 The Participant(s) calling for arbitration shall give written notice to all other Participants, setting forth in such notice in adequate detail the nature of the dispute including the specific issues to be resolved by arbitration, the amount or amounts, if any, involved in such dispute, and the remedy sought by such arbitration proceedings and, within twenty (20) days from receipt of such notice, any other Participant(s) involved may, by written response to the first Participant(s) and all other Participants, submit its or their own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated. Thereafter, the Participant(s) first submitting its or their notice of the matter at issue shall have ten (10) days in which to submit a written rebuttal statement, copies of which shall be given to all other Participants.

27.3 Within forty (40) days following delivery of the written notice by a Participant calling for arbitration pursuant to Section 27.2 hereof, the Participants, acting through their representatives on the Administrative Committee,
shall meet for the purpose of selecting arbitrators. Each Participant or group of Participants representing one side of the dispute shall designate an arbitrator. The arbitrators so selected shall meet within twenty (20) days following their selection and shall select additional arbitrators, the number of which shall be one (1) less than the total number of arbitrators selected by the Participants. If the arbitrators selected by the Participants, as herein provided, shall fail to select such additional arbitrator(s) within said twenty (20) day period, then the arbitrators shall request from the American Arbitration Association (or a similar organization if the American Arbitration Association should not at the time exist) a list of arbitrators who are qualified and eligible to serve as hereinafter provided. The arbitrators selected by the Participants shall take turns striking names from the list of arbitrators furnished by the American Arbitration Association, and the last name(s) remaining on said list shall be the additional arbitrator(s). All arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute, and no person shall be eligible for
appointment as an arbitrator who is an officer or employee of any of the parties to the dispute or is otherwise interested in the matter to be arbitrated.

27.4 Except as otherwise provided in this Section 27, the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force, except that if such rules and practice, as modified herein, shall conflict with state or federal law, as the case may be, then in force which are specifically applicable to such arbitration proceedings, such law shall govern.

27.5 Included in the issues which may be submitted to arbitration pursuant to this Section 27 is the issue of whether the right to arbitrate a particular dispute is permitted under the Project Agreements.

27.6 The arbitrators shall hear evidence submitted by the respective Participants and may call for additional information, which additional information shall be furnished by the Participant(s) having such information. The
decision of a majority of the arbitrators shall be binding upon all the Participants.

27.7 The award of the arbitrators shall contain findings with respect to the issues involved in the dispute and relative to the materiality of the default, the period of time within which the defaulting party must remedy the default or commence remedial action, and the remedies which may be exercised by the non defaulting Participants in the event the default is not remedied within such period of time.

27.8 This agreement to arbitrate shall be specifically enforceable, and the award and findings of the arbitrators shall be final and binding upon the Participants to the extent permitted by applicable law. Any award may be filed with the clerk of any court having jurisdiction over the Participants, or any of them, against whom the award is rendered and, upon such filing, such award, to the extent permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgment or other similar relief.

27.9 The fees and expenses of the arbitrators shall be shared by the Participants.
equally, unless the decision of the arbitrators shall specify some other apportionment of such fees and expenses. All other expenses and costs of the arbitration shall be borne by the Participant incurring the same.

27.10 In the event that any Participant shall attempt to carry out the provisions herein set forth in regard to arbitration, and such Participant shall not be able to obtain a valid and enforceable arbitration decree, such Participant shall be entitled to seek legal remedies in the courts having jurisdiction in the premises, and the provisions of the Project Agreements referring to decisions of a board of arbitration, to the extent allowable by law, shall be then deemed applicable to final decisions of such courts.

28. ACTIONS PENDING RESOLUTION OF DISPUTES

28.1 If a dispute should arise which is not resolved by the Administrative Committee or the higher authorities within the Participants' organizations, then, pending the resolution of the dispute by arbitration or judicial proceedings, the Project Manager or Operating Agent shall proceed with Construction Work, Operating Work or Capital Improvements in a
manner consistent with the Project Agreements and generally accepted practice in the electric utility industry, and the Participants shall advance the funds required to perform such Construction Work, Operating Work or Capital Improvements in accordance with the applicable provisions of the Project Agreements. The resolution of any dispute involving the failure of the Administrative Committee to reach agreement upon matters involving future expenditures shall have prospective application from the date of final determination, and the amounts advanced by the Participants pursuant to this Section 28 during the pendency of such dispute shall not be subject to refund except upon a final determination that the expenditures were not made in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry.

29. REMOVAL OF PROJECT MANAGER OR OPERATING AGENT

29.1 The Project Manager and Operating Agent shall serve during the term of and pursuant to this Participation Agreement unless either one resigns by giving written notice to the Participants at least one (1) year in advance of the date of resignation or until receipt by
either one of notice of its removal following a determination that it is in default of this Participation Agreement as provided in Section 29.2.2 hereof. Upon the effective date of such resignation or removal, the Participants shall designate a new Project Manager or Operating Agent by written agreement.

29.2 The following provisions shall apply solely in regard to violations or allegations of violations of this Participation Agreement by the Project Manager or the Operating Agent of a Component or Components of the Transmission System on the basis of which removal of either one is sought:

29.2.1 In the event any Participant shall be of the opinion that an action taken or not taken by the Project Manager or Operating Agent constitutes a violation of this Participation Agreement, it may give written notice thereof to the Project Manager or the Operating Agent as the case may be and the other Participants, together with a statement of the reasons for its opinion. Thereupon, the Project Manager or the Operating Agent may prepare a statement of the reasons justifying its action or
failure to take action. If agreement in settling the dispute is not reached between the Project Manager or the Operating Agent and the Participant which gave such notice, then the matter shall be submitted to arbitration in the manner provided in Section 27 hereof. During the continuance of the arbitration proceedings, the Project Manager or the Operating Agent may continue such action taken or not taken in the manner it deems most advisable and consistent with this Participation Agreement.

29.2.2 If it is determined by arbitration that the Project Manager or the Operating Agent is violating this Participation Agreement, then it shall act with due diligence to end such violation and shall, within six (6) months or within such lesser time following the determination as may be prescribed in the determination, take action or commence action in good faith to terminate such violation. In the event that the Project Manager or the Operating Agent has failed either to correct, or to commence action to correct, the violation within such allowed period (which itself may be a
subject of dispute for determination as above provided) it shall be deemed to be in default under this Participation Agreement and shall be
subject to removal upon receipt of notice, executed by all the other Participants, in accordance with Section 29.1 hereof.

29.2.3 The provisions of Section 26 hereof shall not apply to disputes as to whether or not an action or non-action of the Project
Manager or the Operating Agent, in its capacity as such, is a violation or a default under this Participation Agreement.

30. RELATIONSHIP OF PARTICIPANTS

30.1 The covenants, obligations and liabilities of the Participants are intended to be several and not joint or collective and nothing herein
contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or
liability on or with regard to any one or more of the Participants. Each Participant shall be individually responsible for its own covenants, obligations and
liabilities as herein provided. No Participant or group of Participants shall be
under the control of or shall be deemed to control any other Participant or the Participants as a group. No Participant shall be the agent of or have a right or power to bind any other Participant without its express written consent, except as expressly provided in this Participation Agreement or other Project Agreements.

30.2 The Participants hereby elect to be excluded from the application of Subchapter “K” of Chapter 1 of Subtitle “A” of the Internal Revenue Code of 1954, or such portion or portions thereof as may be permitted or authorized by the Secretary of the Treasury or his delegate insofar as such Subchapter, or any portion or portions thereof, may be applicable to the Participants under the Project Agreements.

31. FEES

31.1 Except for Construction Work performed by the Project Manager on a fixed cost basis as provided for in Section 8.10 hereof, the Project Manager or Operating Agent shall not receive any fee or profit for performance of its obligations pursuant to this Participation Agreement.

32. ENVIRONMENTAL PROTECTION

32.1 The Participants will design,
construct, operate and maintain the Transmission System in a manner consistent with the Participants' objective of complying fully with applicable federal, state and local laws, orders, regulations, rules and standards relating to environmental protection.

33. **UNCONTROLLABLE FORCES**

33.1 No Participant shall be considered to be in default in the performance of any of its obligations under the Project Agreements (other than obligations of said Participant to pay costs and expenses) when a failure of performance shall be due to an uncontrollable force. The term “uncontrollable force” shall mean any cause beyond the control of the Participant affected, including but not restricted to failure of or threat of failure of facilities, flood, earthquake, tornado, volcanic eruption, 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 non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Participant could not reasonably
have been expected to avoid, and which by exercise of due diligence, it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Participant to settle any strike or labor dispute in which it may be involved. Any Participant rendered unable to fulfill any of its obligations under the Project Agreements by reason of an uncontrollable force shall give prompt written notice of such fact to the other Participants and shall exercise due diligence to remove such inability with all reasonable dispatch. The term “Participant” as used in this Section 33 shall include the Project Manager and Operating Agent in their capacities as such.

34. GOVERNING LAW

34.1 This Agreement shall be governed by and construed and enforceable in accordance with the laws of the State of Arizona.

35. BINDING OBLIGATIONS

35.1 All of the respective covenants and obligations of each of the Participants set forth and contained in the Project Agreements shall bind and shall be and become the respective covenants and obligations of:
35.1.1 Each such Participant;

35.1.2 All mortgagees, trustees, and secured parties under all present and future mortgages, indentures and deeds of trust, and security agreements which are or may become a lien upon any of the interests of such Participant in the Transmission System or the Microwave System; provided however, that such covenants and obligations shall become binding upon such parties only at the time of taking possession;

35.1.3 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such Participant;

35.1.4 All other persons, firms, partnerships or corporations claiming through or under any of the foregoing; and

35.1.5 Any successors or assigns of any of those mentioned in Sections 35.1.1 through 35.1.4 hereof, and shall be covenants and obligations running with such Participant’s respective rights, titles and interests in the Transmission System or the Microwave System and in, to and under the Project Agreements, and shall be for the benefit of the respective rights, titles and interests of the
Participants and their respective successors and assigns, in and to the Transmission System or the Microwave System. It is the specific intention of this provision that all such covenants and obligations shall be binding upon any party which acquires any of the rights, titles and interests of any such Participant in the Transmission System or the Microwave System or in, to and under the Project Agreements and that all of the above-described persons and groups shall be obligated to use such Participant's rights, titles and interests in the Transmission System or the Microwave System and/or in, to or under the Project Agreements for the purpose of discharging its covenants and obligations under the Project Agreements; except that in the case of partial assignment, the assignee shall only be required to share in the cost of fulfilling the covenants and obligations of the assigning Participant in, to and under the Project Agreements to an extent proportionate or attributable to such assignment.
36. **NONDEDICATION OF FACILITIES**

   36.1 The Participants do not intend to dedicate and nothing in this Participation Agreement or the Project Agreements shall be construed as constituting a dedication by any Participant of its properties or facilities, or any part thereof, to any other Participant or to the customers of any Participant.

37. **GENERAL PROVISIONS GOVERNING PROJECT AGREEMENTS**

   37.1 The Participants agree to negotiate in good faith and to proceed with diligence to obtain all of the Project Agreements among the Participants and between the Participants and other entities.

   37.2 It is acknowledged by the Participants that one or more of the Project Agreements may contain provisions which are in conflict with or contrary to the terms of this Participation Agreement, and any such provision in a Project Agreement executed subsequent to the execution of this Participation Agreement and agreed to by the Participants shall be deemed to supersede, amend or modify any conflicting or contrary provision herein. The mutual agreement of the Participants to supersede, amend or modify the terms hereof shall constitute the legal consideration to
support such change in the legal rights and obligations of the Participants.

37.3 Each Participant agrees, upon request by the other Participants, to make, execute and deliver any and all documents reasonably required to implement this Participation Agreement and the Project Agreements.

37.4 Each term, covenant and condition of this Participation Agreement and the Project Agreements is deemed to be an independent term, covenant and condition, and the obligation of any Participant to perform any or all of the terms, covenants and conditions to be kept and performed by it is not dependent on the performance by the other Participants of any or all of the terms, covenants and conditions to be kept and performed by them.

37.5 In the event that any of the terms, covenants or conditions of this Participation Agreement or any of the Project Agreements, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants or conditions of such agreements and their application shall not be affected thereby, but
37.6 The Project Agreements shall be subject to filing with, and to such changes or modifications as may from time to time be directed by, competent regulatory authority, if any, in the exercise of its jurisdiction.

37.7 Except as otherwise specifically provided in this Participation Agreement or the Project Agreements, the Participants do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Participation Agreement or the Project Agreements or of any duty, covenant, obligation or undertaking established therein.

37.8 Any waiver at any time by any Participant of its rights with respect to a default or any other matter arising in connection with this Participation Agreement or a Project Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

38. TERM AND TERMINATION

38.1 This Participation Agreement, when it has been duly executed by all of the Participants, shall have an effective date of October 24, 1978 and shall have a term of fifty (50) years from its effective date or forty (40)
years from the completion of Construction Work on the last Component constructed hereunder, whichever is later.

38.2 In any event this Participation Agreement shall continue in force and effect until (i) the expiration of the term set forth in Section 38.1 hereof, or (ii) all property comprising the Transmission System has been disposed of and all termination costs have been paid and audited.

39. **ASSIGNMENT OF INTERESTS**

39.1 Any Participant who acquires in its name an interest in any real or personal property or contract which is part of the Transmission System shall transfer and assign an undivided interest therein to the other Participants so that the ownership and rights of the Participants in such property or contract shall be as provided for in this Participation Agreement and the Project Agreements.

40. **EQUAL OPPORTUNITY**

40.1 During the term of this Participation Agreement, the Project Manager and the Operating Agent (hereinafter in this Section 40 referred to collectively as the “Contractor”) agree as follows:
40.1.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff 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 non-discrimination clause.

40.1.2 The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided
advising the said labor union or workers’ representative of the Contractor’s commitments under this Section 40, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

40.1.3 The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and the rules, regulations and relevant orders of the Secretary of Labor.

40.1.4 The Contractor shall furnish all information and reports required by Executive Order 11246 as amended by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

40.1.5 In the event of the Contractor’s non-compliance with the nondiscrimination clauses of this Participation Agreement or with any of the
said rules, regulations or orders, this Participation Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in said Executive Order 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order as amended or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

40.1.6 The Contractor shall include the provisions of Sections 40.1.1 through 40.1.7 hereof in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of said Executive Order 11246 as amended so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including
sanctions for non-compliance; 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 administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

40.1.7 The Contractor shall, 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 or national origin.

40.2 The Participants recognize there are a number of Indian Reservations in the area in which the Contractor operates. Pursuant to provisions of Title 42 U.S.C.A. 2000-e-2(i), the Contractor now has several agreements and contemplates it may have additional agreements with Indian Tribes providing for preference to qualified Indians for employment on the Reservation of such Indians. The Participants agree that the Contractor’s act of giving
preference to qualified Indians for employment on the Reservation of said Indians is not to be deemed inconsistent with the purposes or provisions of Section 40.1 hereof.

41. **NOTICES**

41.1 Except as set forth in Section 41.2 hereof, any notice, demand or request provided for in this Participation Agreement or any other Project Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Arizona Public Service Company  
c/o Secretary  
P. O. Box 21666  
Phoenix, Arizona 85036

Salt River Project Agricultural Improvement and Power District  
c/o Secretary  
P. O. Box 1980  
Phoenix, Arizona 85001

Public Service Co. of New Mexico  
c/o Secretary  
Alvarado Square  
Albuquerque, New Mexico 87158

El Paso Electric Company  
c/o Secretary  
P. O. Box 982  
El Paso, Texas 79960
41.2 Communications of a routine nature, including requests for funds and related matters, shall be given in such a manner as the Administrative Committee shall arrange.

41.3 Any Participant may, at any time, by written notice to all other Participants, designate different or additional persons or different addresses for the giving of notices hereunder.

42. EXECUTION

IN WITNESS WHEREOF, the Participants have caused this Participation Agreement to be executed as of the 20th day of August, 1981.

ARIZONA PUBLIC SERVICE COMPANY

By ____________________________

DGS

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

By ____________________________

Vice President

ATTEST AND COUNTERSIGN:

_____________________________

Secretary
PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Vice President

ATTEST:

Asst. Secretary

EL PASO ELECTRIC COMPANY

By

Vice-President

ATTEST:

Secretary

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STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 10th day of August, 1981, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. RICE who acknowledged themselves to be the VICE PRESIDENT and SECRETARY of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such VICE PRESIDENT and SECRETARY.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 13, day of August, 1981, before me, the undersigned Notary Public, personally appeared Thomas G. Woods, Jr. who acknowledged himself to be the Executive Vice Pres. of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Executive Vice Pres.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:
September 12, 1981
STATE OF NEW MEXICO

COUNTY OF BERNALILLO

On this the 20th day of August, 1981, before me, the undersigned Notary Public personally appeared C. D. Bedford and B. P. Lopez who acknowledged themselves to be the Vice Pres. and Asst. Secr. of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by themselves, as such Vice Pres. and Asst. Secr..

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:

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STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 20th day of Aug, 1981, before me, the undersigned Notary Public personally appeared Donald G. Isbell who acknowledged himself to be the Vice-President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes, therein contained by signing the name of the company by himself as such Vice-President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:

10/25/81

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Description of ANPP Valley Transmission System

ANPP Valley Transmission System shall consist of the following Components:

A.1 Palo Verde-Westwing 500 kV Line
The Palo Verde-Westwing 500 kV line shall consist of approximately 45 miles of 500 kV line with associated shunt compensation.

A.2 Palo Verde-Kyrene 500 kV Line
The Palo Verde-Kyrene 500 kV line shall consist of approximately 75 miles of 500 kV line with associated shunt compensation.

A.3 Westwing 500 kV Switchyard Expansion
The Westwing 500 kV Switchyard, owned by the Navajo Southern Transmission System Participants and operated by Arizona, to be expanded to provide termination for the Palo Verde-Westwing 500 kV line.

A.3.1 Facilities associated with the Westwing 500 kV Switchyard expansion shall be one-and-one-half (1-1/2) 500 kV power circuit breakers, appurtenant facilities and appropriate share of Common Facilities.

A.4 Westwing 230 kV Switchyard Expansion
The Westwing 230 kV Switchyard, owned by the Navajo Southern Transmission System Participants and operated by...
Arizona, to be expanded to provide interconnection with the Westwing 500 kV Switchyard.

A.4.1 Facilities associated with the Westwing 230 kV Switchyard expansion shall be one (1) 500/230 kV transformer (to serve as interconnection between the Westwing 500 kV and Westwing 230 kV Switchyards), one-and-one-half (1-1/2) 230 kV power circuit breakers, one-and-one-half (1-1/2) 500 kV power circuit breakers, appurtenant facilities and Common Facilities.

A.5 Kyrene 230 kV Switchyard Expansion and new 230 kV Switchyard

The existing/new Kyrene 230 kV Switchyard, owned and operated by the Salt River Project, to be expanded/constructed to provide for termination of the Palo Verde-Kyrene 500 kV line.

A.5.1 Facilities associated with the expansion of the existing Kyrene 230 kV Switchyard shall be two (2) 230 kV power circuit breakers, one (1) 500/230 kV transformer, appurtenant facilities and Common Facilities.

A.5.2 Facilities associated with the construction of the new Kyrene 230 kV Switchyard shall be one (1) 230 kV power circuit breaker, one (1) 500/230 kV transformer, appurtenant facilities and Common Facilities.
NOTE: THE KYRENE SWITCHYARD CONFIGURATION SHOWN IS PRELIMINARY. UPON FINAL ENGINEERING THIS EXHIBIT MAY BE UPDATED

ANPP
Valley Transmission System
Line & Switchyard

REV 10-20-40
## APPENDIX B

**PARTICIPANTS RESPONSIBILITY FOR COSTS (% OF COSTS)**

### I. PARTICIPANTS COST RESPONSIBILITY (% OF COSTS) FOR COMPONENTS OF TRANSMISSION SYSTEM

<table>
<thead>
<tr>
<th>Components</th>
<th>Arizona</th>
<th>Salt River Project</th>
<th>El Paso</th>
<th>PNM</th>
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<tr>
<td>A. Palo Verde-Westwing 500 kV Line</td>
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<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
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<td>B. Palo Verde-Kyrene 500 kV Line</td>
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<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
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<td>C. Westwing 500 kV Switchyard Expansion</td>
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<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>D. Kyrene 230 kV Switchyard Expansion</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>E. Westwing 230 kV Switchyard Expansion</td>
<td>43.95</td>
<td>43.95</td>
<td>-0-</td>
<td>12.1</td>
</tr>
<tr>
<td>F. Westwing 500 kV and 230 kV Switchyards (composite)</td>
<td>41.31</td>
<td>41.31</td>
<td>5.28</td>
<td>12.10</td>
</tr>
</tbody>
</table>

B-1
II. PARTICIPANTS COMPOSITE COST RESPONSIBILITY (% OF COST) FOR THE TRANSMISSION SYSTEM

<table>
<thead>
<tr>
<th>Arizona</th>
<th>36.555</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salt River Project</td>
<td>36.555</td>
</tr>
<tr>
<td>El Paso</td>
<td>14.790</td>
</tr>
<tr>
<td>PNM</td>
<td>12.100</td>
</tr>
</tbody>
</table>

These percentages are based on estimated construction costs and shall be recalculated annually by the Project Manager or Operating Agent and shall be submitted to the Engineering and Operating Committee for review.

III. PARTICIPANTS COST RESPONSIBILITY FOR THE PORTION OF THE MICROWAVE SYSTEM DESCRIBED IN APPENDIX M

<table>
<thead>
<tr>
<th>Microwave System</th>
<th>Arizona</th>
<th>Salt River Project</th>
<th>El Paso</th>
<th>PNM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
</tbody>
</table>

B-2
## APPENDIX C

### CONSTRUCTION SCHEDULE

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Palo Verde-Westwing 500 kV Transmission Line</strong></td>
<td></td>
</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>Jan. 1, 1976</td>
</tr>
<tr>
<td>Start Line Construction</td>
<td>Jan. 1, 1979</td>
</tr>
<tr>
<td>Complete Line Construction</td>
<td>Nov. 1, 1979</td>
</tr>
<tr>
<td><strong>Palo Verde-Kyrene 500 kV Transmission Line</strong></td>
<td></td>
</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>Nov. 1, 1976</td>
</tr>
<tr>
<td>Start Line Construction</td>
<td>Apr. 1, 1981</td>
</tr>
<tr>
<td>Complete Line Construction</td>
<td>Aug. 1, 1982</td>
</tr>
<tr>
<td><strong>Westwing 500 kV Switchyard Expansion</strong></td>
<td></td>
</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>Nov. 1, 1977</td>
</tr>
<tr>
<td>Start Switchyard Construction</td>
<td>Apr. 1, 1979</td>
</tr>
<tr>
<td>Complete Switchyard Construction</td>
<td>Aug. 15, 1981</td>
</tr>
<tr>
<td><strong>Westwing 230 kV Switchyard Expansion</strong></td>
<td></td>
</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>Nov. 1, 1981</td>
</tr>
<tr>
<td>Start Switchyard Construction</td>
<td>Jan. 1, 1984</td>
</tr>
<tr>
<td><strong>Kyrene 230 kV Switchyard Expansion</strong></td>
<td></td>
</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>Jun. 1, 1978</td>
</tr>
<tr>
<td>Start Switchyard Construction</td>
<td>Jul. 1, 1981</td>
</tr>
<tr>
<td>Complete Switchyard Construction</td>
<td>Aug. 1, 1982</td>
</tr>
</tbody>
</table>

C-1
APPENDIX D

CONSTRUCTION COSTS

D.1 Construction Costs shall consist of payments made and obligations incurred (other than obligations for interest during construction) for the account of Construction Work and shall consist of, but not be limited to, the following:

D.1.1 All costs of labor, services and studies performed in connection with Construction Work if authorized and approved by the Project Manager.

D.1.2 Payroll and other expenses of the Project Manager’s employees while performing Construction Work, including applicable allocated labor loading charges, such as departmental overhead, time-off allowances, payroll taxes, worker’s compensation expenses, retirement and death benefits and other employee benefits.

D.1.3 All components of Construction Costs, including overhead costs associated with construction (including properly allocated departmental overheads and the allowance for the Project Manager’s administrative and general expenses described in Section D.4 hereof), costs of temporary facilities, land and land rights, structures and improvements, and equipment for the Transmission System or the Microwave System, as set forth in the Electric Plant Instructions of the FERC System of Accounts.

D.1.4 All costs, including those of outside
consultants and attorneys, incurred by the Project Manager or other Participants with respect to land rights and the acquisition thereof and to the
preparation of agreements relating to Construction Work with entities other than the Participants. All Participants anticipating such costs shall submit an
estimate thereof to the Project Manager for authorization and approval. Any Participant incurring such costs after such authorization and approval shall
bill the Project Manager therefor.

D.1.5 Applicable costs of materials, supplies, tools, machinery, equipment, apparatus and construction power in connection with Construction
Work, including rental charges.

D.1.6 All costs of Construction Insurance, except the cost of the bond required by Section 22.1.3 of this Agreement, all costs arising out of Work
Liability except any loss, damage or liability resulting from Willful Action, which are not satisfied under the coverages of Construction Insurance, and the
expenses incurred in settlement of injury and damage claims, including the costs of labor and related supplies and expenses incurred in injury and damage
activities (all as referred to in FERC Account 925), because of any claim arising out of Work Liability, the past or future performance or non-performance
of the obligations and duties of any
Participant (including the Project Manager) or the past or future performance or non-performance of Construction Work, including but not limited to, any claim resulting from death or injury to persons or damage to property.

D.1.7 All federal, state or local taxes of any character imposed upon Construction Work, except any tax assessed directly against an individual Participant, unless such tax was assessed to such individual Participant on behalf of any or all of the Participants.

D.1.8 Expenses of other Participants incurred in the performance of Construction Work, if authorized and approved by the Project Manager, and the expenses of the Operating Agent incurred during the engineering design period, the construction period and the testing period, excluding any training expenses not properly chargeable to Construction Costs.

D.1.9 All costs of relocating existing facilities necessitated by Construction Work.

D.1.10 All costs of enforcing or attempting to enforce the provisions of Construction Insurance policies, payment and performance bonds, contracts executed as Project Manager and warranties extended to facilities which form the Components or facilities of the Microwave System.

D.2 In cases where the allocation of a cost item is made between Construction Work and other work, such allocation
shall be made on a fair and equitable basis as determined by the Engineering and Operating Committee.

D.3 The Project Manager shall use the FERC System of Accounts to account for Construction Costs in the Final Completion Report and any supplement thereto.

D.4 The allowance for the Project Manager’s administrative and general expenses to cover the costs of services rendered by it in the performance of Construction Work shall be allocated monthly at the rate of one percent (1%) of Construction Costs incurred during the preceding month, excluding from such Construction Costs:

D.4.1 Any allowance for administrative and general expenses provided for in this Section D.4.
D.4.2 Expenses incurred pursuant to Section 24.3 of this Agreement.
D.4.3 Expenses described in Section D.1.8 hereof.

D.5 At the start of each calendar year, an estimated Payroll Tax Ratio, Benefits Ratio and Worker’s Compensation Ratio shall be used, and such ratios shall be determined in accordance with the methods set forth in Appendices F, G and H hereto, respectively. Such ratios shall be based on the Project Manager’s system-wide expenses for the preceding calendar year; provided, that by agreement of the Auditing Committee, such ratios may be adjusted to more nearly reflect the expenses of the current year because of legislation, labor contract negotiations or other factors not reflected in the

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D.6 As soon as practicable after the end of each calendar year, the actual Payroll Tax Ratio, Benefits Ratio and Worker’s Compensation Ratio for such year shall be determined in accordance with the methods set forth in Appendices F, G and H hereto, respectively, by using said year’s actual system-wide expenses of the Project Manager. Using said actual ratios, the portions of the Project Manager’s payroll tax expenses, employee worker’s compensation expenses, and employee pensions and benefit expenses for which the Participants are obligated hereunder for costs of Construction Work shall be determined for such year. To the extent that such expenses are more than or less than those already paid by the Participants during said year, the Project Manager shall bill or reimburse the Participants for the amount of such difference.

D.7 If any Participant believes that the application of or the method used in determining the Payroll Tax Ratio, Benefits Ratio or Worker’s Compensation Ratio results in an unreasonable burden on said Participant, that Participant may request that such application or method be submitted to the Auditing Committee for review; provided that such review shall not be requested prior to December 1, 1981, and thereafter at intervals of not less than two (2) years each. After any such request, subject to the time limitations set forth above, the Auditing Committee shall review such application or method and
shall endeavor to agree upon whether or not an unreasonable burden does actually exist. If after such review, the Auditing Committee determines that such application or method does result in an unreasonable burden on one or more of the Participants, the Auditing Committee shall determine and recommend a modified application or method to the Administrative Committee so that such unreasonable burden would be eliminated if such modified application or method is adopted by the Administrative Committee.

D.8 The Administrative Committee shall review the recommendations submitted by the Auditing Committee, and if, as a result of such review, the Administrative Committee agrees that such unreasonable burden does exist and that said modified application or method eliminates such unreasonable burden, then the Administrative Committee shall adopt said modified application or method. If the Auditing Committee has not submitted a recommendation and the Administrative Committee agrees that such unreasonable burden does exist, the Administrative Committee shall endeavor to agree on a modified application or method. If the Administrative Committee is unable to agree on any matter brought before it under this Section D.8, then any Participant may call for arbitration of such matter pursuant to Section 27 of the Transmission System Participation Agreement.

D.9 Any modified method adopted by the Administrative Committee or determined through arbitration shall be
retroactive to the first day of the month in which the unreasonable burden began except that the retroactive period can be no more than two (2) years from the date of the requested review. Said modified method shall stay in effect until a new modified method is approved, but in no event less than two (2) years from the date of such adoption or determination.

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APPENDIX E

EXPENSES OF OPERATING WORK

E.1 The costs of Operating Work shall include the following expenses to the extent that they are chargeable to the Transmission System or the Microwave System in accordance with Accounting Practice:

E.1.1 The operation expenses chargeable to FERC Account 556 and FERC Accounts 560 through 567, inclusive.
E.1.2 The maintenance expenses chargeable to FERC Accounts 568 through 573, inclusive.
E.1.3 Overhead expenses included in Sections E.1.1 and E.1.2 hereto incurred by the Operating Agent. Such overhead expenses shall be determined in accordance with Appendix L hereto.
E.1.4 Applicable labor loading charges for the Operating Agent’s direct labor charged to operation and maintenance accounts, and applicable labor loading charges on the portion of labor included in overhead expenses loaded on such direct labor charges. Such labor loading charges shall include but not be limited to the Operating Agent’s normal time-off allowances, employee payroll taxes chargeable to FERC Account 408, employee benefits chargeable to FERC Account 926 and worker’s compensation chargeable to FERC Account 925.

E.1.4.1 Payroll tax expenses incurred by the
Operating Agent, which are allocable to operation and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix F hereto.

E.1.4.2 Employee pensions and benefits expenses incurred by the Operating Agent, which are allocable to operation and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix G hereto.

E.1.4.3 That portion of employee worker’s compensation expenses, including deductibles, and the related administrative expenses incurred by the Operating Agent which are allocable to operation and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix H hereto.

E.1.5 That portion of the Operating Agent’s administrative and general expenses which are allocable to operation and maintenance of the Transmission System or the Microwave System shall be determined annually in accordance with the example shown in Appendix I hereto.

E.1.6 All costs incurred by the Operating Agent which are chargeable to FERC Accounts 408 (excluding pay-
roll and ad valorem taxes or contribution in lieu of taxes), 924 and 925 (excluding worker’s compensation expenses).

E.2 At the start of each calendar year, an estimated Payroll Tax Ratio, Benefits Ratio, Worker’s Compensation Ratio, Operation and Maintenance A&G Ratio, Capital Improvements A&G Ratio and O&M Ratio and Construction Ratio shall be used, and such ratios shall be determined in accordance with the methods set forth in Appendices F, G, H, I, J and K hereto, respectively. Such ratios shall be based on the Operating Agent’s system-wide expenses for the preceding calendar year; provided that, by agreement of the Auditing Committee, such ratios may be adjusted to more nearly reflect the expenses of the current year because of legislation, labor contract negotiations or other factors not reflected in the prior year’s costs.

E.3 As soon as practicable after the end of each calendar year, the actual Payroll Tax Ratio, Benefits Ratio, Worker’s Compensation Ratio, Operation and Maintenance A&G Ratio, Capital Improvements A&G Ratio and O&M Ratio and Construction Ratio for such year shall be determined in accordance with the methods set forth in Appendices F, G, H, I, J and K hereto, respectively, by using said year’s actual system-wide expenses of the Operating Agent. Using said actual ratios, the portions of the Operating Agent’s payroll tax expenses, employee worker’s compensation expenses,
employee pensions and benefit expenses, and administrative and general expenses for which the Participants are obligated hereunder for costs of Operating Work shall be determined for such year. To the extent that such expenses are more than or less than those already paid by the Participants during said year, the Operating Agent shall bill, credit or reimburse the Participants for the amount of such difference.

E.4 The Operating Agent’s administrative and general expenses, for operation and maintenance performed by a contractor, allocable to such operation and maintenance shall be determined by multiplying the total contract invoice cost thereof by 0.01.

E.5 If any Participant believes that the application of or the method used in determining the Payroll Tax Ratio, Benefits Ratio, Worker’s Compensation Ratio, Operation and Maintenance A&G Ratio, Capital Improvements A&G Ratio, or O&M Ratio and Construction Ratio results in an unreasonable burden on said Participant, that Participant may request that such application or method be submitted to the Auditing Committee for review; provided that such review shall not be requested prior to December 1, 1981, and thereafter at intervals of not less than two (2) years each. After any such request, subject to the time limitations set forth above, the Auditing Committee shall review such application or method and shall endeavor to agree upon whether or not an unreasonable burden does actually exist. If, after such review, the Auditing
Committee determines that such application or method does result in an unreasonable burden on one or more of the Participants, the Auditing Committee shall determine and recommend a modified application or method to the Administrative Committee so that such unreasonable burden would be eliminated if such modified application or method is adopted by the Administrative Committee.

E.6 The Administrative Committee shall review the recommendations submitted by the Auditing Committee, and if, as a result of such review, the Administrative Committee agrees that such unreasonable burden does exist and that said modified application or method eliminates such unreasonable burden, then the Administrative Committee shall adopt said modified application or method. If the Auditing Committee has not submitted a recommendation and the Administrative Committee agrees that such unreasonable burden does exist, the Administrative Committee shall endeavor to agree on a modified application or method. If the Administrative Committee is unable to agree on any matter brought before it under this Section E.6, then any Participant may call for arbitration of such matter pursuant to Section 27 of this Agreement.

E.7 Any modified method adopted by the Administrative Committee or determined through arbitration shall be retroactive to the first day of the month in which the unreasonable burden began except that the retroactive period can be no more than two (2) years from the date of the requested review.
Said modified method shall stay in effect until a new modified method is approved, but in no event less than two (2) years from the date of such adoption or determination.
APPENDIX F

PAYROLL TAX RATIO

The Payroll Tax Ratio set forth below shall be applied to the labor expense portion of the Transmission System or the Microwave System operation and maintenance expenses, to the Project Manager’s direct labor charges incurred in effecting Construction Work, to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Project Manager’s or Operating Agent’s supervisory accounts and to the Operating Agent’s administrative and general expense accounts. Estimated and actual Payroll Tax Ratios shall be determined, adjusted and used in the manner set forth as follows:

\[
\text{Payroll Tax Ratio} = \frac{T}{P}
\]

Where:

\( T = \text{The Project Manager’s or Operating Agent’s payroll tax expenses} \)
\( P = \text{The Project Manager’s or Operating Agent’s total labor distributed including accruals} \)

The following example sets forth the method to be employed by the Project Manager and Operating Agent to determine the Payroll Tax Ratio:
## EXAMPLE COMPUTATION
### OF PAYROLL TAX RATIO
(SRP 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Payroll Taxes</td>
<td>$2,148,441</td>
</tr>
<tr>
<td>Total labor charged to operation and maintenance, construction and miscellaneous general ledger accounts</td>
<td>$44,788,141</td>
</tr>
</tbody>
</table>

**Payroll Tax Ratio:**

\[
\frac{2,148,441}{44,788,141} = 4.797\% \quad \text{(APS’s 1976 Expenses)}
\]

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Payroll Taxes</td>
<td>$3,516,515</td>
</tr>
<tr>
<td>Total labor charged to operation and maintenance, construction and miscellaneous general ledger accounts</td>
<td>$67,239,996</td>
</tr>
</tbody>
</table>

**Payroll Tax Ratio:**

\[
\frac{3,516,515}{67,239,996} = 5.230\% \quad \text{(APS’s 1976 Expenses)}
\]

The Payroll Tax Ratio shall be determined annually on the basis of the Operating Agent’s or Project Manager’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Payroll Tax Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX G

BENEFITS RATIO

The Benefits Ratio set forth below shall be applied to the labor expense portion of the Transmission System or the Microwave System operation and maintenance expenses, to the Project Manager’s direct labor charges incurred in effecting Construction Work, to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Project Manager’s or Operating Agent’s supervisory accounts and to the Operating Agent’s administrative and general expense accounts. Estimated and actual Benefits Ratios shall be determined, adjusted and used in the manner set forth as follows:

\[
\text{Benefits Ratio} = \frac{B}{L}
\]

Where:

- \( B \) = The Project Manager’s or Operating Agent’s total system employee pensions and benefits (as defined in FERC Account 926), including payroll taxes and worker’s compensation expense on labor charged to employee pensions and benefits
- \( L \) = The Project Manager’s or Operating Agent’s total labor distributed including accruals less labor charged to employee pensions and benefits

The following example sets forth the method to be em-
ployed by the Project Manager or Operating Agent to determine the Benefits Ratio:

**EXAMPLE COMPUTATION**

**OF BENEFITS RATIO**

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th><strong>Pensions and Benefits</strong></th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees Pensions and Benefits “as Defined in Account 926”</td>
<td>$346,396</td>
<td>$6,230,602</td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 4.797% of labor (See Example in Appendix F)</td>
<td>16,617</td>
<td>16,617</td>
</tr>
<tr>
<td>Worker’s Compensation Ratio @ 3.313% of labor (See Example in Appendix H)</td>
<td>11,476</td>
<td>11,476</td>
</tr>
</tbody>
</table>

**Labor Base**

<table>
<thead>
<tr>
<th></th>
<th>Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor charged to operation and maintenance, construction and miscellaneous general ledger accounts</td>
<td>$44,788,141</td>
</tr>
<tr>
<td>Less total labor charged to Pensions and Benefits</td>
<td>(346,396)</td>
</tr>
<tr>
<td>Total applicable labor</td>
<td>$44,441,745</td>
</tr>
</tbody>
</table>

**Benefits Ratio:**

$$ \frac{6,258,695}{44,441,745} = 14.083\% $$

G-2
## APS’s 1976 Expenses

<table>
<thead>
<tr>
<th>Employees Pensions and Benefits</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$637,215</td>
<td>$11,339,311</td>
</tr>
</tbody>
</table>

Payroll Tax Ratio @ 5.230% of labor (See Example in Appendix F)  
\[
\text{Payroll Tax} = 5.230\% \times 637,215 = 33,326
\]

Workmen’s Compensation Ratio @ 1.213% of labor (See example in Appendix H)  
\[
\text{Compliance Compensation} = 1.213\% \times 637,215 = 7,729
\]

Total Pensions and Benefits  
\[
\text{Total Pensions and Benefits} = 637,215 + 33,326 + 7,729 = 11,380,366
\]

### Labor Base

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor charged to operation and maintenance, construction and miscellaneous general ledger accounts</td>
<td>$67,239,996</td>
</tr>
<tr>
<td>Less Total Labor charged to Pensions and Benefits</td>
<td>(637,215)</td>
</tr>
<tr>
<td>Total applicable labor</td>
<td>$66,602,781</td>
</tr>
</tbody>
</table>

Benefits Ratio:  
\[
\text{Benefits Ratio} = \frac{11,380,366}{66,602,781} = 0.17087 = 17.087\%
\]

The Benefits Ratio shall be determined annually on the basis of the Operating Agent’s or Project Manager’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Benefits Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
The Worker’s Compensation Ratio set forth below shall be applied to the labor expense portion of the Transmission System or the Microwave System operation and maintenance expenses, to the Project Manager’s direct labor charges incurred in effecting Construction Work, to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Project Manager’s or Operating Agent’s supervisory accounts and to the Operating Agent’s administrative and general expense accounts.

\[
\text{Worker’s Compensation Ratio} = \frac{I}{P}
\]

Where:

- \( I \) = The Project Manager’s or Operating Agent’s total system compensation insurance premiums and accruals for self-insurance charges to FERC Account 925
- \( P \) = The Project Manager’s or Operating Agent’s total labor paid and accrued.
Worker’s compensation premiums, payments and accruals as defined in FERC Account 925

<table>
<thead>
<tr>
<th>Total</th>
<th>$ 1,483,737</th>
</tr>
</thead>
</table>

**Labor Base**

- Total labor in operations and maintenance, construction and miscellaneous general ledger accounts $44,788,141
- Total applicable labor $44,788,141

Worker’s Compensation Ratio:

$$ \frac{1,483,737}{44,788,141} = 3.313\% $$

(APS’s 1976 Expenses)

Workmen’s Compensation premiums, payments and accruals as defined in FERC Account 925

<table>
<thead>
<tr>
<th>Total</th>
<th>$ 812,975</th>
</tr>
</thead>
</table>

**Labor Base**

- Total labor in operations and maintenance, construction and miscellaneous general ledger accounts $67,239,996
- Less labor charged to Compensation Account $(236,566)
- Total applicable labor $67,003,430

Workmen’s Compensation Ratio:

$$ \frac{812,975}{67,003,430} = 1.213\% $$
The Worker’s Compensation Ratio shall be determined annually on the basis of the Operating Agent’s or Project Manager’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Worker’s Compensation Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX I

OPERATION AND MAINTENANCE A&G RATIO

The Operation and Maintenance A&G Ratio to be applied to the labor expenses portion of the Transmission System and Microwave System operation and maintenance expenses and to the labor included in the Operating Agent’s supervisory accounts shall be the percentage computed by dividing (i) an amount equal to (A) the sum of (a) the total amounts charged to FERC Accounts 920 and 921 multiplied by the O&M Ratio computed in accordance with Appendix K hereto, (b) the total amounts charged to FERC Accounts 923 and 932, (c) the product of the portion of labor charges included within “(a)” and “(b)” above multiplied by the Payroll Tax Ratio computed in accordance with Appendix F hereto, (d) the product of the labor charges included within “(a)” and “(b)” above multiplied by the Benefits Ratio computed in accordance with Appendix G hereto, and (e) the product of the labor charges included within “(a)” and “(b)” above multiplied by the Worker’s Compensation Ratio computed in accordance with Appendix H hereto, less (B) that portion of the administrative and general expense allocable to contract operations and maintenance for the Transmission System or Microwave System by (ii) the total labor charged to the Operating Agent’s system operations and maintenance less the labor charged to administrative and general expenses. The following example sets forth the method to be employed by the Operating Agent to determine the Operation and Maintenance A&G
### EXAMPLE COMPUTATION
(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FERC Account 920</td>
<td>$4,132,053</td>
<td>$4,132,053</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FERC Account 921</td>
<td></td>
<td>1,739,720</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,132,053</td>
<td>$5,871,773</td>
</tr>
<tr>
<td>Total charges multiplied by O&amp;M Ratio @ 73.89% (See example in Appendix K)</td>
<td>$3,053,174</td>
<td>$4,338,653</td>
</tr>
<tr>
<td>FERC Account 923</td>
<td></td>
<td>726,863</td>
</tr>
<tr>
<td>FERC Account 932</td>
<td>106,920</td>
<td>200,010</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>3,160,094</td>
<td>5,265,526</td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 4.797% (See Example in Appendix F) on labor charges</td>
<td></td>
<td>151,590</td>
</tr>
<tr>
<td></td>
<td>shown above</td>
<td></td>
</tr>
<tr>
<td>Benefits Ratio @ 14.083% (See Example in Appendix G) on labor charges</td>
<td></td>
<td>445,036</td>
</tr>
<tr>
<td></td>
<td>shown above</td>
<td></td>
</tr>
<tr>
<td>Worker’s Compensation Ratio @ 3.313% (See Example in Appendix H) on labor</td>
<td></td>
<td>105,694</td>
</tr>
<tr>
<td></td>
<td>charges shown above</td>
<td></td>
</tr>
<tr>
<td>Less that portion of A and G allocable to contract operation and maintenance</td>
<td></td>
<td>-0-</td>
</tr>
<tr>
<td>for the Transmission system or the Microwave System</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**Total administrative and general expense allocable to operations and</td>
<td></td>
<td>5,966,846</td>
</tr>
<tr>
<td>maintenance**</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

### Labor Base

<table>
<thead>
<tr>
<th>Description</th>
<th></th>
<th>$34,514,121</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor charged to system operations and maintenance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Less labor charged to administrative and general expense $(5,441,613)$

<table>
<thead>
<tr>
<th>Labor Base</th>
<th>$29,072,508</th>
</tr>
</thead>
</table>

Operation and Maintenance A&G Ratio for 1976:

$$\frac{5,966,846}{29,072,508} = 20.52\%$$

(APS’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FERC Account 920</td>
<td>$4,679,099</td>
<td>$4,679,099</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FERC Account 921</td>
<td>$1,471,566</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$4,679,099</strong></td>
<td><strong>$6,150,665</strong></td>
</tr>
<tr>
<td><strong>Total charges multiplied by O&amp;M Ratio @ 61.275%</strong> (See example in Appendix K)</td>
<td><strong>2,867,118</strong></td>
<td><strong>$3,768,820</strong></td>
</tr>
<tr>
<td>FERC Account 923</td>
<td></td>
<td>535,020</td>
</tr>
<tr>
<td>FERC Account 932</td>
<td></td>
<td>794,431</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>3,280,011</strong></td>
<td><strong>5,098,271</strong></td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 5.230% (See example in Appendix F) on labor charges</td>
<td></td>
<td>171,545</td>
</tr>
<tr>
<td>Benefits Ratio @ 17.087% See example in Appendix G) on labor charges</td>
<td></td>
<td>560,455</td>
</tr>
<tr>
<td>Workmen’s Compensation Ratio @1.213% (see example in Appendix H) on labor charges</td>
<td></td>
<td>39,787</td>
</tr>
<tr>
<td>Less that portion of A and G allocable to contract operation and maintenance for the Transmission system or the Microwave System</td>
<td></td>
<td>-0-</td>
</tr>
</tbody>
</table>
Total administrative and general expense allocable to operations and maintenance $ 5,870,058

Labor Base

- Labor charged to system operations and maintenance $ 28,822,343
- Less labor charged to administrative and general expense (excluding maintenance labor costs of the Microwave System) (4,689,518)

Labor Base $ 24,132,825

Operation and Maintenance A&G Ratio for 1976:

$5,870,058 ÷ $24,132,825 = 24.32%

The Operation and Maintenance A&G Ratio shall be determined annually on the basis of the Operating Agent’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Operation and Maintenance A&G Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
The Capital Improvements A&G Ratio to be applied to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements and to the labor included in the Operating Agent’s supervisory accounts shall be the percentage computed by dividing (i) the amount equal to (A) the sum of (a) the total amounts charged to FERC Accounts 920 and 921 multiplied by the Construction Ratio computed in accordance with Appendix K hereto, (b) the product of the portion of labor charges included in (a) above multiplied by the sum of the Payroll Tax Ratio, the Benefits Ratio and the Worker’s Compensation Ratio less (B) the portion of the administrative and general expenses allocable to contract construction for the Transmission System by (ii) the total labor in construction accounts (exclusive of A&G labor costs).

The following example sets forth the method to be employed by the Operating Agent to determine the Capital Improvements A&G Ratio:
## CAPITAL IMPROVEMENTS A&G RATIO

**EXAMPLE COMPUTATION**

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FERC Account 920</td>
<td>$4,132,053</td>
<td>$4,132,053</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FERC Account 921</td>
<td></td>
<td>1,739,720</td>
</tr>
<tr>
<td>Total</td>
<td>$4,132,053</td>
<td>$5,871,773</td>
</tr>
<tr>
<td>Total charges multiplied by Construction Ratio @ 26.04% (See Example in Appendix K)</td>
<td>$1,075,987</td>
<td>$1,529,010</td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 4.797% (See Example in Appendix F) on labor charges shown above</td>
<td></td>
<td>51,615</td>
</tr>
<tr>
<td>Benefits Ratio @ 14.083% (See Example in Appendix G) on labor charges shown above</td>
<td></td>
<td>151,531</td>
</tr>
<tr>
<td>Workmen’s Compensation Ratio @ 3.313% (See Example in Appendix H) on labor charges shown above</td>
<td></td>
<td>35,647</td>
</tr>
<tr>
<td>Less that portion allocable to contract construction for the Transmission System</td>
<td>-0-</td>
<td></td>
</tr>
<tr>
<td>Total administrative and general expense allocable to construction</td>
<td>$1,767,803</td>
<td></td>
</tr>
<tr>
<td>Total A&amp;G expense plus pensions and benefits allocable to construction</td>
<td>$1,767,803</td>
<td></td>
</tr>
<tr>
<td>Construction labor base (exclusive of A&amp;G labor costs)</td>
<td>$10,247,237</td>
<td></td>
</tr>
<tr>
<td>Capital Improvements A&amp;G Ratio for 1976: $1,767,803 ÷ $10,247,237 =</td>
<td></td>
<td>17.25%</td>
</tr>
</tbody>
</table>

J-2
Administrative and General Salaries charged to FERC Account 920 $4,679,099 $4,679,099

Office Supplies and Expenses charged to FERC Account 921 1,471,566

Total $4,679,099 $6,150,665

Total charges multiplied by Construction Ratio @ 30.504% (See example in Appendix K) $1,427,312 $1,876,199

Payroll Tax Ratio @ 5.230% (See example in Appendix F) 74,648

Benefits Ratio @ 17.087% (See example in Appendix G) 2,433,885

Workmen’s Compensation Ratio @ 1.213% (See example in Appendix H) 17,313

Less that portion allocable to contract construction for the Transmission System -0-

Total administrative and general expense allocable to construction $2,212,045

Construction labor base $11,855,088

Capital Improvements A&G Ratio for 1976: $2,212,045 ÷ $11,855,088 = 18.66%

The Capital Improvements A&G Ratio shall be determined annually on the basis of the Operating Agent’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Capital Improvements A&G Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX K

O&M RATIO AND CONSTRUCTION RATIO

The O&M Ratio shall be applied to the amounts chargeable to FERC Accounts 920 and 921 for the purpose of determining one component in the computation of the Operations and Maintenance A&G Ratio as provided in Appendix I hereto.

\[ \text{O&M Ratio} = \frac{O}{L} \]

Where:

\( O \) = The Operating Agent’s total labor charged to operation and maintenance accounts, less labor chargeable to FERC Accounts 920 through 932

\( L \) = The Operating Agent’s total labor distributed, including accruals, less labor charged to FERC Accounts 920 through 932

The Construction Ratio set forth below shall be applied to the amounts chargeable to FERC Accounts 920 and 921 for the purpose of determining one component in the computation of the Capital Improvements A&G Ratio as provided in Appendix J hereto.

\[ \text{Construction Ratio} = \frac{C}{L} \]

Where:

\( C \) = The Operating Agent’s total labor in construction accounts

K-1
L = The Operating Agent’s total labor distributed, including accruals, less labor chargeable to FERC Accounts 920 through 932

The following example sets forth the method to be employed by the Operating Agent to determine the O&M Ratio and the Construction Ratio:

### O&M Ratio and Construction Ratio

**Example Computation**

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Labor in Operation and Maintenance Accounts</td>
<td>$34,514,121</td>
</tr>
<tr>
<td>Less: Labor charged to A&amp;G Accounts 920 through 932, inclusive</td>
<td>$(5,441,613)</td>
</tr>
<tr>
<td><strong>Net Labor in O&amp;M Accounts</strong></td>
<td>$29,072,508</td>
</tr>
<tr>
<td>Total Labor charged to General Ledger Accounts</td>
<td>$26,783</td>
</tr>
<tr>
<td>Total Labor in Construction Accounts</td>
<td>$10,247,237</td>
</tr>
<tr>
<td><strong>Total Labor Base</strong></td>
<td>$39,346,528</td>
</tr>
</tbody>
</table>

Ratio of Net O&M Labor to Total Labor

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Labor in O&amp;M Accounts</td>
<td>$29,072,508</td>
<td>73.89%</td>
</tr>
<tr>
<td>Total Labor Base</td>
<td>$39,346,528</td>
<td></td>
</tr>
</tbody>
</table>

Ratio of Construction Labor to Total Labor

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Labor in Construction Accounts</td>
<td>$10,247,237</td>
<td>26.04%</td>
</tr>
<tr>
<td>Total Labor Base</td>
<td>$39,346,528</td>
<td></td>
</tr>
</tbody>
</table>

Note: All labor figures include loading for allowed time (sick, vacation and holiday).

K-2
(APS’s 1976 Expenses)

Total Labor in Operation and Maintenance Accounts $ 28,822,343

Less: Labor charged to A&G Accounts 920 through 932, inclusive (5,008,456)

Net Labor in O&M Accounts 23,813,887

Total Labor charged to General Ledger Accounts 3,194,802

Total Labor in Construction Accounts 11,855,088

Total Labor Base $ 38,863,777

Ratio of Net O&M Labor to Total Labor $ 23,813,887 = 61.275% $ 38,863,777 $ 38,863,777

Ratio of Construction Labor to Total Labor $ 11,855,088 = 30.504% $ 38,863,777

Note: All labor figures include loading for allowed time (sick, vacation and holiday).
APPENDIX L

ALLOCATION OF OVERHEAD EXPENSES

L.1 Arizona Allocation of Overhead Expenses

Departmental overhead expenses, including but not limited to payroll, office supplies and travel (other than administrative and general expenses described in Appendices I and J hereto) incurred by Arizona in one or more levels of supervision of employees directly engaged in Operating Work which are allocable to the Transmission System shall be comprised of, but not limited to, the following:

L.1.1 A portion of the overhead expenses of Arizona’s System Electric Equipment Department. Such portion shall be determined by multiplying the total department maintenance overhead expenses of Arizona’s System Electric Equipment Department as defined in FERC Account 568 by a ratio, the numerator of which is the total maintenance payroll charged to the Transmission System by Arizona’s System Electric Equipment personnel and the denominator of which is the total department direct payroll expenses.

L.1.2 A portion of the overhead expenses of Arizona’s System Overhead Lines Department. Such portion shall be determined by multiplying the total department maintenance overhead expenses of Arizona’s System Overhead Lines Department as defined in FERC Account 568.
by a ratio, the numerator of which is the total maintenance payroll charged to the Transmission System by Arizona’s System Overhead Lines Department and the denominator of which is the total department direct payroll expenses.

L.1.3 A portion of the overhead expenses of Arizona’s System Electric Operations Department. Such portion shall be determined by multiplying the total department overhead expenses of Arizona’s System Electric Operations Department as defined in FERC Account 560 by a ratio, the numerator of which is the total payroll charged to the Transmission System by Arizona’s System Electric Operations Department personnel and the denominator of which is the total department direct payroll expenses.

L.1.4 The departmental overhead expense allocations provided in Sections L.1.1, L.1.2 and L.1.3 of this Appendix L shall be allocated to the same components of the Transmission System as the direct payroll charges upon which the overhead expenses are allocated.

L.1.5 Arizona’s company organizational titles referred to in this Appendix L are subject to change during the term of this Agreement.

L.2 Salt River Project Allocation of Overhead Expenses

The departmental overhead expenses incurred by the Salt River Project which will be allocated to the accounts

L-2
described in Sections E.1.1 and E.1.2 of Appendix E hereto shall consist of and be applied as described in Sections L.2.1 and L.2.2 hereto: 

L.2.1 Departmental overhead expenses include the salaries and expenses of employees at various levels of supervision for system operation and maintenance, and system protection and communication not charged directly to the accounts described in Sections E.1.1 and E.1.2 of Appendix E hereto, and not included in A&G expenses, but which are allocable to operation and maintenance expenses.

L.2.2 These departmental overhead costs shall be applicable to the total payroll supervised by the functional areas described in Section L.2.1 hereof. The Transmission System’s share of such costs shall be the Salt River Project’s total payroll charged to the Transmission System or the Microwave System multiplied by a ratio, the numerator of which is the total applicable overhead described in Section L.2.1 hereof and the denominator of which is Salt River Project’s total payroll supervised by the functional areas described in Section L.2.1 hereof.
APPENDIX M

PALO VERDE-WESTWING-KYRENE

MICROWAVE SYSTEM

M.1 MICROWAVE FUNCTION

The Microwave System as described hereinafter is required to provide the necessary relaying, control and communications required to operate the Palo Verdes-Westwing 500 kV Line, the Palo Verde-Kyrene 500 kV Line and ANPP High Voltage Switchyard.

M.2 MICROWAVE RF SYSTEM DESCRIPTION

The Microwave System is shown on Exhibit M-2 of this Appendix M. New stations will be located at Westwing, ANPP High Voltage Switchyard, and White Tanks Mountain. There will be new microwave links from White Tanks to Westwing and White Tanks to the ANPP High Voltage Switchyard. There will also be new microwave links from White Tanks to Mount Ord and White Tanks to Pinnacle Peak. Mount Ord and Pinnacle Peak are existing Salt River Project microwave stations. These new microwave links will tie Westwing and the ANPP High Voltage Switchyard into an existing Salt River Project microwave loop, which presently includes stations at Mount Ord, Pinnacle Peak, Mesa, Santan, PDO (Salt River Project Dispatch Center), and Kyrene. An existing Salt River Project microwave link from Mesa to Mount Ord will be reused to replace a low capacity microwave link between Mesa and PDO.

M-1
M.3 MIROWAVE MULTIPLEX SYSTEM DESCRIPTION

CCITT Supergroup 2 on the Salt River Project microwave loop will be totally dedicated to ANPP Transmission System communication. Supergroup 2 will also be used for ANPP Transmission System communication on the microwave links from White Tanks to Westwing, and from White Tanks to the ANPP High Voltage Switchyard. When requirements expand beyond Supergroup 2, Supergroup 3 will next be used, exclusively, on the microwave links from White Tanks to Westwing and from White Tanks to the ANPP High Voltage Switchyard. Additional complete channel groups will be exclusively dedicated elsewhere in the Salt River Project microwave loop, as required and as solely determined by Salt River Project.

Supergroup 5 of the ANPP High Voltage Switchyard-White Tanks-Westwing microwave system is reserved for the exclusive future, personal use of the Participants. Channels in Supergroup 5 will be allocated and reserved in proportion to each Participant’s respective Cost Responsibility for the Microwave System as shown in Appendix B hereto. Initial installation costs for future allocated Supergroup 5 channels shall be borne by the Participant for which said allocated channels are reserved. Exchanges or use of another Participant’s allocated future channels in Supergroup 5 only requires mutual agreement between the involved Participants.

The costs of any future Salt River Project use of the ANPP High Voltage Switchyard-White Tanks-Westwing microwave
system, for activity not related to Transmission System communications, except for the personal channels reserved for Salt River Project in Super group 5, will be borne by Salt River Project and will be determined by the ratio of any such Salt River Project channels to total channels, including Transmission System channels, on these microwave links.

M.4 MAJOR MICROWAVE SYSTEM ELEMENTS

Elements of the Microwave System will include, but not be limited to the following:

RF Microwave Equipment
Baseband Treatment Equipment, Amplifiers, Pads and Associated Equipment
Auxiliary Power Units, Fuel Tanks, Battery Chargers, and Associated Equipment
Buildings and Associated Wiring, Lighting, and Air Conditioning Equipment
Tower Structures, Antennas, Waveguide Coaxial Cable, and Associated Equipment
Site Property, including Acquisition, Grading, Access Roads, Power Lines, Fencing, and other required improvements
Multiplex Voice Channel Equipment, Group and Supergroup Translating Equipment, and Common Equipment required for Multiplex Synchronization and other purposes

Tone Channels applied directly to the baseband
Special equipment to interface data or control with voice channel Equipment
Generic Test Equipment
Mobile Radio Units, Repeater Stations, and Control Facilities for radio operation and interface with Microwave Multiplex
Other Communication cable or media necessary to interconnect the microwave stations and the facilities with which communication is required to protect and control the ANPP High Voltage Switchyard, ANPP-Westwing, and ANPP-Kyrene 500 kV transmission lines.

Any other equipment, labor and material required to implement the Microwave System.
EXHIBIT M-1
MAJOR SUBSYSTEMS BY LOCATION

WHITE TANKS
RF Microwave Equipment
Baseband Treatment
Auxiliary Power
Buildings
Tower Structures and Antennas
Site Property
Multiplex
Tone Channels
Generic Test Equipment
Base and Mobile Radio Units

MOUNT ORD
RF Microwave Equipment (White Tanks)
Tower Structure Modification/Mounting and Antenna
Baseband Treatment

PINNACLE PEAK
RF Microwave Equipment (White Tanks)
Tower Structure Modification/Mounting and Antenna
Baseband Treatment

WESTWING
RF Microwave Equipment
Tower Structure Modification/Mounting and Antenna
Multiplex
Tone Channels

M-5
Generic Test Equipment
Building
Auxiliary Power

PALO VERDE

RF Microwave Equipment
Multiplex
Tone Channels
Generic Test Equipment
Tower Structures and Antenna

PDO

RF Microwave Equipment (Mesa)
Baseband Treatment
Multiplex
Generic Test Equipment
Tone Channels
Tower Modification/Mounting and Antenna

MESA

RF Microwave Equipment (PDO)
Tower Modification/Mounting and Antenna

KYRENE

Multiplex Equipment
Baseband Treatment
Tone Channels
Generic Test Equipment

NOTE: This list is general, not restrictive, and all items are subject to final engineering changes.
Mr. Jack E. Davis  
Arizona Public Service Company  
Post Office Box 21666  
Phoenix, Arizona 85036

Dear Jack:

SUBJECT: AMENDMENT NO. 1 TO THE ANPP VALLEY TRANSMISSION SYSTEM PARTICIPATION AGREEMENT

Attached for signature by APS’ authorized representative are four execution copies of the subject Amendment No. 1. Upon execution, please forward all four execution copies to Jeff Sterba.

By copy of this cover letter, I request Jeff forward the execution copies to John Whitacre, after execution by PNM’s authorized representative.

In turn, I request John forward all execution copies to Martin B. Ochotorena, after execution by El Paso’s authorized representative.

After execution by SRP’s authorized representative, we will send each Participant a conformed copy of Amendment No. 1.

Should you have any questions, please contact me.

Sincerely,

John F. Sullivan  
Manager, System Planning

MBO/dns

Attachments

cc: Jeff Sterba (PNM) w/o attachments  
John Whitacre (El Paso)
AMENDMENT NO. 1
TO THE
ANPP VALLEY TRANSMISSION SYSTEM PARTICIPATION AGREEMENT

EXECUTION COPY
MAY 24, 1982
AMENDMENT NO. 1
TO THE
ANPP VALLEY TRANSMISSION SYSTEM
PARTICIPATION AGREEMENT

1. PARTIES: The Parties to this Amendment No. 1 are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”, PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”, and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “El Paso”, all hereinafter referred to singularly as Participant or collectively as Participants.

2. EFFECTIVE DATE: This Amendment No. 1 shall become effective when executed by all Participants.

3. RECITALS:
   3.1 Arizona, Salt River Project, PNM and El Paso are parties to the ANPP Valley Transmission System Participation Agreement dated July 6, 1981,
3.2 The Participants recognize that it is in their mutual interest to participate in the ownership, construction, operation and maintenance of a second Palo Verde-Westwing 500kV transmission line, and appurtenant facilities, to insure the delivery of certain planned Capacity and Energy from the Arizona Nuclear Power Project (“ANPP”) to the Participants’ designated points of delivery described in Section 6.6 of the Participation Agreement.

3.3 Arizona and Salt River Project anticipate the joint development of a new 500kV Switchyard hereinafter referred to as the Estrella 500kV Switchyard.

3.4 The Participants desire to amend the Participation Agreement to (i) provide for the interconnection of the Palo Verde-Kyrene 500kV line into the Estrella 500kV Switchyard and (ii) provide for the development of a second Palo Verde-Westwing 500kV transmission line.

4. AGREEMENT: The Participants agree that the Participation Agreement be and is hereby amended as follows:

4.1 Section 2.2 shall be deleted in its entirety and a new Section 2.2 shall be added as follows:

2.2 The Participants recognize that it is in their mutual interest to participate in the
ownership, construction, maintenance and operation of the Transmission System described in this Participation Agreement to insure that the Transmission System is capable of delivering certain planned Capacity and Energy from the Arizona Nuclear Power Project to the Participants’ designated points of delivery described in Section 6.6 hereof.

4.2 Section 4.33 shall be deleted in its entirety.

4.3 Sections 4.34 through 4.44 shall be renumbered as Sections 4.33 through 4.43 respectively.

4.4 Section 4.40 shall be deleted in its entirety and a new Section 4.40 shall be added as follows:

4.40 Transmission System: The following transmission facilities including associated land and land rights, as described in Appendix A hereto, to be constructed and operated by the Participants: (i) the First Palo Verde-Westwing 500kV Line, (ii) the Second Palo Verde Westwing 500kV Line, (iii) the Palo Verde-Kyrene 500kV Line, (iv) the Westwing 500kV Switchyard expansion and the Westwing 230kV Switchyard expansion, and (v) the Kyrene existing and new 230kV Switchyard expansion/construction (including such 500kV equipment or facilities which are required to
terminate the Palo Verde-Kyrene 500kV Line at Kyrene).

4.5 Section 6.1 shall be deleted in its entirety, however Sections 6.1.1 through 6.1.4 shall remain unchanged and a new Section 6.1 shall be added as follows:

6.1 It is agreed the Participants have designed the Transmission System in conjunction with the existing Arizona-New Mexico-West Texas transmission systems functioning as a part of the interconnected transmission system of the Western United States to be adequate under single contingency conditions to deliver power and associated energy from: (i) resources existing as of the effective date of this Participation Agreement; and (ii) the below named generating units to the Participants Load Centers:

4.6 Section 6.6.1 shall be deleted in its entirety and a new Section 6.6.1 shall be added as follows:

6.6.1 Arizona: The Palo Verde 500kV Switchyard, Kyrene new and existing 230kV Switchyards, Westwing 500kV Switchyard, Westwing 230kV Switchyard, and Estrella 500kV Switchyard.

4.7 Section 6.6.2 shall be deleted in its entirety and a new Section 6.6.2 shall be added as follows:

6.6.2 Salt River Project: The Palo Verde 500kV
Switchyard, Westwing 500kV Switchyard, Westwing 230KV Switchyard, Kyrene new and existing 230kV Switchyards, and Estrella 500kV Switchyard.

4.8 A new Section 6.10 shall be added as follows:

6.10 Arizona and Salt River Project shall jointly have the exclusive right, at their own expense, to interconnect the Palo Verde-Kyrene 500kV line into the Estrella 500kV Switchyard. However, such interconnection shall not directly or indirectly increase the cost chargeable to any other Participant or materially interfere with or impair the rights of any other Participant to utilize its entitlement as provided in this Section 6.

4.9 A new Section 6.11 shall be added as follows:

6.11 El Paso and PNM shall have the option to participate with Arizona and Salt River Project in the Estrella 500kV Switchyard interconnection as discussed in Section 6.10 hereof.

4.10 Section 8.2 shall be deleted in its entirety and a new Section 8.2 shall be added as follows:

8.2 Salt River Project shall be the Project Manager for the Microwave System described in Appendix M hereto and for the following components described in Appendix A hereto:
8.2.1 The First Palo Verde-Westwing 500kV Line
8.2.2 The Second Palo Verde-Westwing 500kV Line
8.2.3 The Palo Verde-Kyrene 500kV Line
8.2.4 The existing and new Kyrene 230kV Switchyard expansion/construction (including any such 500kV equipment or facilities which are required to terminate the Palo Verde-Kyrene 500kV Line at Kyrene).

4.11 Section 9.1 shall be deleted in its entirety and a new Section 9.1 shall be added as follows:

9.1 Salt River Project shall be the Operating Agent for the Microwave System described in Appendix M hereto and for the following components described in Appendix A hereto:

9.1.1 The First Palo Verde-Westwing 500kV Line
9.1.2 The Second Palo Verde-Westwing 500kV Line
9.1.3 The Palo Verde-Kyrene 500kV Line
9.1.4 The existing and new Kyrene 230kV Switchyard expansion/construction (including any such 500kV equipment or facilities which are required to terminate the Palo Verde-Kyrene 500kV Line at Kyrene).
4.12 Section 22.2.2.1 shall be deleted in its entirety and a new Section 22.2.2.1 shall be added as follows:

22.2.2.1 Property insurance providing coverage against fire, extended coverage, vandalism and malicious mischief, electrical apparatus assumption as provided by the standard Insurance Services Office property forms. Such insurance shall not be required on the transmission lines as defined in Section 4.40 (i), (ii) and (iii). Except as otherwise authorized herein or directed by the Administrative Committee, such insurance shall be maintained in an amount not less than 90% of either the actual cash value or replacement cost, as the Administrative Committee shall direct or in the absence of any such direction as the Project Manager or the Operating Agent may in its sole discretion determine, of the insurable property of the Transmission System or the Microwave System as determined from time-to-time by independent qualified appraisers selected by the Project Manager prior to completion of Construction Work, or the Operating Agent thereafter.

-7-
Appendix A shall be deleted in its entirety and a new Appendix A shall be added as follows:

-8-
4.14 Appendix B shall be deleted in its entirety and a new Appendix B shall be added as follows:
4.15 Appendix C shall be deleted in its entirety and new Appendix C shall be added as follows:
APPENDIX A

DESCRIPTION OF ANPP VALLEY TRANSMISSION SYSTEM

The ANPP Valley Transmission System shall consist of the following Components:

A.1 The First Palo Verde-Westwing 500kV Line
The First Palo Verde-Westwing 500kV Line shall consist of approximately 45 miles of 500kV line with associated shunt compensation.

A.2 The Second Palo Verde-Westwing 500kV Line
The Second Palo Verde-Westwing 500kV line shall consist of approximately 45 miles of 500kV line with associated shunt compensation.

A.3 The Palo Verde-Kyrene 500kV line
The Palo Verde-Kyrene 500kV line shall consist of approximately 75 miles of 500kV line with associated shunt compensation.

A.4 Westwing 500kV line Switchyard Expansion
The Westwing 500kV Switchyard, owned by the Navajo Southern Transmission System Participants and operated by Arizona, to be expanded to provide termination for the First Palo Verde-Westwing 500kV line and the Second Palo Verde-Westwing 500kV line.

A.4.1 Facilities associated with the Westwing 500kV Switchyard expansion shall be three-and-one-half (3 1/2) 500kV power circuit breakers, appurtenant facilities and appropriate share of Common
Facilities.

A.5  **Westwing 230kV Switchyard Expansion**

The Westwing 230kV Switchyard, owned by the Navajo Southern Transmission System Participants and operated by Arizona, to be expanded to provide interconnection with the Westwing 500kV Switchyard.

A.5.1 Facilities associated with the Westwing 230kV Switchyard expansion shall be one (1) 500/230kV transformer (to serve as interconnection between the Westwing 500kV and Westwing 230kV Switchyards), one-and-one-half (1 1/2) 230kV power circuit breakers, one-and-one half (1 1/2) 500kV power circuit breakers, 230kV shunt reactor, appurtenant facilities and Common Facilities.

A.6  **Kyrene 230kV Switchyard Expansion and new 230kV Switchyard**

The existing and new Kyrene 230kV Switchyard, owned and operated by Salt River Project, to be expanded and constructed, as the case may be, to provide termination of the Palo Verde-Kyrene 500kV Line.

A.6.1 Facilities associated with the expansion of the existing Kyrene 230kV Switchyard shall be two (2) 230kV power circuit breakers, one (1) 500/230kV transformer, appurtenant facilities and Common Facilities.

A.6.2 Facilities associated with the construction of the new Kyrene 230kV Switchyard shall be one (1) 230kV
power circuit breaker, one (1) 500/230kV transformer, appurtenant facilities and Common Facilities.
NOTE: THE KYRENE SWITCHYARD CONFIGURATION SHOWN IS PRELIMINARY. UPON FINAL ENGINEERING THIS EXHIBIT MAY BE UPDATED.
APPENDIX B

PARTICIPANTS RESPONSIBILITY FOR COSTS (% OF COSTS)

I. PARTICIPANTS COST RESPONSIBILITY (% OF COSTS) FOR COMPONENTS OF THE TRANSMISSION SYSTEM

<table>
<thead>
<tr>
<th>COMPONENTS</th>
<th>ARIZONA</th>
<th>SALT RIVER PROJECT</th>
<th>EL PASO</th>
<th>PNM</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. The First Palo Verde-Westwing 500kV line</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>B. The Second Palo Verde-Westwing 500kV line</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>C. The Palo Verde-Kyrene 500kV line</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>D. Westwing 500kV Switchyard Expansion</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>E. Kyrene 230kV Switchyard Expansion</td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
</tr>
<tr>
<td>F. Westwing 230kV Switchyard Expansion</td>
<td>43.95</td>
<td>43.95</td>
<td>-0-</td>
<td>12.10</td>
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<tr>
<td>G. Westwing 500kV and 230kV Switchyards (composite)</td>
<td>41.19</td>
<td>41.19</td>
<td>5.52</td>
<td>12.10</td>
</tr>
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</table>

II. PARTICIPANTS COMPOSITE COST RESPONSIBILITY (% OF COST) FOR THE TRANSMISSION SYSTEM

| Arizona                      | 35.805 |
| Salt River Project          | 35.805 |
| El Paso                     | 16.290 |
| PNM                         | 12.100 |

These percentages are based on estimated construction costs and shall be recalculated annually by the Project Manager or Operating Agent and shall be submitted to the Engineering and Operating Committee for review.

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### III. PARTICIPANTS COST RESPONSIBILITY FOR THE PORTION OF THE MICROWAVE SYSTEM DESCRIBED IN APPENDIX M

<table>
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<th>ARIZONA</th>
<th>SALT RIVER PROJECT</th>
<th>EL PASO</th>
<th>PNM</th>
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<tr>
<td></td>
<td>34.6</td>
<td>34.6</td>
<td>18.7</td>
<td>12.1</td>
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<table>
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<tr>
<th>Milestone</th>
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<tr>
<td><strong>First Palo Verde-Westwing 500kV Transmission Line</strong></td>
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</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>January 1, 1976</td>
</tr>
<tr>
<td>Start Line Construction</td>
<td>January 1, 1979</td>
</tr>
<tr>
<td>Complete Line Construction</td>
<td>November 1, 1979</td>
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<tr>
<td><strong>Second Palo Verde-Westwing 500kV Transmission Line</strong></td>
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</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>June 6, 1982</td>
</tr>
<tr>
<td>Start Line Construction</td>
<td>April 1, 1985</td>
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<tr>
<td>Complete Line Construction</td>
<td>January 1, 1986</td>
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<tr>
<td><strong>Palo Verde-Kyrene 500kV Transmission Line</strong></td>
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</tr>
<tr>
<td>Start Preliminary Engineering</td>
<td>November 1, 1976</td>
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<tr>
<td>Start Line Construction</td>
<td>April 6, 1981</td>
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<tr>
<td>Complete Line Construction</td>
<td>November 1, 1982</td>
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<tr>
<td><strong>Westwing 500kV Switchyard Expansion</strong></td>
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<tr>
<td>Start Preliminary Engineering</td>
<td>November 1, 1977</td>
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<tr>
<td>Start Switchyard Construction</td>
<td>April 1, 1979</td>
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<td>Complete Switchyard Construction</td>
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<tr>
<td>(First Palo Verde-Westwing 500kV Line Termination)</td>
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<tr>
<td>(Second Palo Verde-Westwing 500kV Line Termination)</td>
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<td>Project</td>
<td>Start Preliminary Engineering</td>
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<tr>
<td>Westwing 230kV</td>
<td>November 1, 1981</td>
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<td>Switchyard Expansion</td>
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<tr>
<td>Kyrene 230kV</td>
<td>June 1, 1978</td>
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<tr>
<td>Switchyard Expansion</td>
<td>Start Switchyard Construction</td>
</tr>
<tr>
<td></td>
<td>Complete Switchyard Construction</td>
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AMENDMENT NO. 2
TO THE
ANPP VALLEY TRANSMISSION SYSTEM PARTICIPATION AGREEMENT
EXECUTION COPY
1. PARTIES: The Parties to this Amendment No. 2 to the ANPP Valley Transmission System Participation Agreement (Amendment No. 2) are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”, PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”, and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “E1 Paso”; all hereinafter referred to singularly as Participant or collectively as Participants.

2. EFFECTIVE DATE: This Amendment No. 2 shall become effective when executed by all Participants.
3. RECITALS:

3.1 Arizona, Salt River Project, PNM and El Paso are parties to the ANPP Valley Transmission System Participation Agreement dated July 6, 1981, as amended by Amendment No. 1, dated August 4, 1982, hereinafter referred to as “Participation Agreement”.

3.2 The Participants desire to amend the liability provisions contained in the Participation Agreement to conform to the liability provisions as contained in Amendment No. 9, dated June 12, 1984, to the Arizona Nuclear Power Project Participation Agreement dated August 23, 1973.

4. AGREEMENT: The Participants agree that the Participation Agreement be and is hereby amended as follows:

4.1 Section 4.42 shall be deleted in its entirety and a new Section 4.42 shall be added as follows:

“4.42 Willful Action:

4.42.1 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or
administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom.

4.42.2 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which action occurs or continues beyond the time specified in such arbitration award.
or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default.

4.42.3 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under any of the Project Agreements.

4.42.4 The phrase ‘employees having management or administrative responsibility’ as used in this Section 4.42 means employees of a
Participant who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Participant’s performance under any of the Project Agreements; provided however, that with respect to employees of the Operating Agent acting in its capacity as such and not in its capacity as a Participant, such phrase shall refer only to (i) the senior employee of the Operating Agent who is responsible for system operations and (ii) anyone in the organizational structure of the Operating Agent between such senior employee and an officer.

4.42.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.”

4.2 Section 24 shall be deleted in its entirety and a new Section 24 shall be added as follows:
“24. LIABILITY; COVENANT NOT TO EXECUTE

24.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid Project Insurance, and subject to the provisions of Sections 24.2, 24.4, 24.5 and 24.6 hereof, each Participant hereby extends to all other Participants, their directors, members of their governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against any of them, including recording or effecting a judgment lien, for any direct, indirect or consequential loss, damage, claim, cost, charge or expense, whether or not resulting from the negligence of such Participant, its directors, members of its governing bodies, officers, employees, or any person or entity whose negligence would be imputed to such Participant from (i) Construction Work, Operating Work, the design and construction of Capital
Improvements, or the use of or ownership of the Transmission System or the Microwave System or (ii) the performance or nonperformance of the obligations of a Participant under the Project Agreements, other than the obligation to pay any monies which have become due.

24.2 In the event any insurer providing Project Insurance refuses to pay any judgment obtained by a Participant against another Participant, its directors, members of its governing bodies, officers or employees, on account of liability referred to in Section 24.1 hereof, the Participant, its directors, members of its governing bodies, officers or employees against whom the judgment is obtained shall, at the request of the prevailing Participant and in consideration of the covenant given in Section 24.1 hereof, execute such documents as may be necessary to effect an assignment of its contractual rights against the nonpaying insurer and thereby give the prevailing
Participant the opportunity to enforce its judgment directly against such insurer. In no event when a judgment debt is collectible from valid Project Insurance shall the Participant obtaining the judgment execute, levy or otherwise enforce the judgment (including recording or effecting a judgment lien) against the Participant, its directors, members of its governing bodies, officers or employees, against whom the judgment was obtained.

24.3 Except as provided in Sections 24.4, 24.5 and 24.6 hereof, the costs and expenses of discharging all Work Liability or liability resulting from the design or construction of Capital Improvements imposed upon one or more of the Participants for which payment is not made by Project Insurance shall be allocated among the Participants in proportion to their Cost Responsibility in the Components involved in the operative facts which give rise to the Work Liability or in proportion to their
Cost Responsibility for the Microwave System if such operative facts are associated with the Microwave System. However, if the proximate cause of such liability cannot be determined or is not related to any particular Component, then such costs and expenses shall be allocated among the Participants in proportion to their composite Cost Responsibility in the Transmission System as shown in Appendix B hereto.

24.4 Each Participant shall be responsible for any damage, loss, claim, cost, charge or expense that is not covered by Project Insurance and results from its own Willful Action as defined in Section 4.42.2 hereof and shall indemnify and hold harmless the other Participants, their directors, members of their governing bodies, officers and employees from any such damage, loss, claim, cost, charge or expense.

24.5 Except as provided in Section 24.4 hereof, the aggregate liability of any Participant to all other Participants
for Willful Action not covered by Project Insurance shall be determined as follows:

24.5.1 All such liability for damages, losses, claims, costs, charges or expenses of such Participant shall not exceed $1,000,000 per occurrence. Each Participant extends to each other Participant, its directors, members of its governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against any of them for any such aggregate liability in excess of $1,000,000 per occurrence.

24.5.2 A claim based on Willful Action must be perfected by filing suit in a court of competent jurisdiction within three years after the Willful Action occurs. All claims made thereafter relating to the same Willful
Action shall be barred by this Section 24.5.2. The award to each nonwillfully acting Participant from each Participant determined to have committed Willful Action shall be determined as follows: (i) Each Participant who successfully files suit for remuneration shall receive the lesser of (a) its final judgment awarded (or settlement made) or (b) its pro-rata Cost Responsibility share (in the Component(s) involved in the operative facts which gave rise to the Willful Action) of the $1,000,000 maximum recovery established in Section 24.5.1 hereof; (ii) when all pending suits are resolved, those Participants who were awarded judgments or reached settlements but whose claims were not fully satisfied pursuant to Section
24.5.2(i) shall be entitled to participate in any remaining portion of the $1,000,000 maximum recovery limit, based upon the ratio of the unsatisfied portion of such Participant’s judgment or settlement to the total unsatisfied portion of all such judgments or settlements. Such participation shall be limited to the Participant’s unsatisfied judgments or settlements.

24.6 Except for liability resulting from Willful Action (which, subject to the provisions of Section 24.5 hereof, shall be the responsibility of the willfully acting Participant), any Participant whose electric customer shall have a claim or bring an action against any other Participant for any death, injury, loss or damage arising out of or in connection with electric service to such customer and caused by the operation or failure of operation of the Transmission System or Microwave System.
or any portion thereof, shall indemnify and hold harmless such other Participant, its directors, members of its governing bodies, officers and employees from and against any liability for such death, injury, loss or damage.

24.7 The provisions of this Section 24 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies.

24.8 The Participants agree that the aggregate liability limit of $1,000,000 referenced in Sections 24.5.1 and 24.5.2 hereof may be determined in the future to be inappropriate and shall make a good faith effort to evaluate, and if appropriate, revise said limit at the request of any Participant.”

4.3 Section 41.1 shall be deleted in its entirety and a new Section 41.1 shall be added as follows:

“41.1 Except as set forth in Section 41.2 hereof, any notice, demand or request provided for in this Participation Agreement or any other Project
Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below.

Arizona Public Service Company  
c/o Secretary  
P. O. Box 53999  
Phoenix, Arizona 85072-3999

Salt River Project Agricultural Improvement and Power District  
c/o Secretary  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

Public Service Co. of New Mexico  
c/o Secretary  
Alvarado Square  
Albuquerque, New Mexico 37158

El Paso Electric Company  
c/o Secretary  
P. O. Box 982  
El Paso, Texas 79960

5. FULL FORCE AND EFFECT: Except as provided herein, the Participation Agreement, as amended by this Amendment No. 2, shall remain in full force and effect.

6. EXECUTION BY COUNTERPARTS: This Amendment No. 2 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 2 may be detached from any counterpart of
this Amendment No. 2 without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Amendment No. 2 identical in form hereto but having attached to it one or more signature pages.

7. SIGNATURE CLAUSE: The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 2 to the ANPP Valley Transmission System Participation Agreement on behalf of the Participants for whom they sign. This Amendment No. 2 is hereby executed as of the 9th day of May, 1987.

ARIZONA PUBLIC SERVICE COMPANY

By

SALT RIVER PROJECT
AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

By

PUBLIC SERVICE COMPANY OF
NEW MEXICO

By

EL PASO ELECTRIC COMPANY

By

ATTEST AND COUNTERSIGN
this Amendment No. 2 without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Amendment No. 2 identical in form hereto but having attached to it one or more signature pages.

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ARIZONA PUBLIC SERVICE COMPANY

By _________________________________

SALT RIVER PROJECT
AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

By _________________________________

PUBLIC SERVICE COMPANY OF
NEW MEXICO

By _________________________________

EL PASO ELECTRIC COMPANY

By _________________________________

ATTEST AND COUNTERSIGN

By _________________________________

SECRETARY

[ILLEGIBLE]

[ILLEGIBLE]

BY _________________________________

DATE 5/12/87

- 15 -
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ARIZONA PUBLIC SERVICE COMPANY

By

ATTEST AND COUNTERSIGN

SALT RIVER PROJECT
AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

By

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

EL PASO ELECTRIC COMPANY

By

- 15 -
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ARIZONA PUBLIC SERVICE COMPANY

By

SALT RIVER PROJECT
AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

By

PUBLIC SERVICE COMPANY OF
NEW MEXICO

By

EL PASO ELECTRIC COMPANY

By

Vice President
On this the 15th day of May, 1987, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. RICE, who acknowledged themselves to be the PRESIDENT, and SECRETARY of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the company by themselves as such PRESIDENT and SECRETARY.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

- 17 -
STATE OF NEW MEXICO

) ss.

County of Bernalillo

) ss.

On this the 9th day of May, 1987, before me, the undersigned Notary Public, personally appeared Jeffry E. Sterba, who acknowledged himself to be the Vice President of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself, as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:
April 5, 1989
STATE OF TEXAS 

) 

) ss. 

County of El Paso 

) 

On this the 6th day of May, 1987, before me, the undersigned Notary Public, personally appeared James P. Maloney, who acknowledged himself to be the Vice President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:

January 17, 1989

- 19 -
STATE OF ARIZONA

County of Maricopa

On this the 27th day of May, 1987, before me, the undersigned Notary Public, personally appeared Russell D. Hulse, who acknowledged himself to be the Vice President of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:
My Commission Expires April [ILLEGIBLE]
Execution Copy
July 6, 1981
## ANPP HIGH VOLTAGE SWITCHYARD

### PARTICIPATION AGREEMENT

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4.40  Transmission System
4.41  Units of Property
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5     OWNERSHIP OF AND TITLE TO THE HIGH VOLTAGE SWITCHYARD
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APPENDICES

Section

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K O&M RATIO AND CONSTRUCTION RATIO
L ALLOCATION OF OVERHEAD EXPENSES
1. **PARTIES**: The Parties to this ANPP High Voltage Switchyard Participation Agreement, hereinafter referred to as “Participation Agreement” or “Agreement”, are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”, EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “El Paso”, and SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as “Edison”, all hereinafter referred to singularly as Participant and collectively as the Participants.

2. **RECITALS**: This Participation Agreement is made with reference to the following facts, among others:
2.1 On August 23, 1973, Arizona, Salt River Project, PNM, El Paso and Tucson Electric Power Company (Tucson) entered into the Arizona Nuclear Power Project (ANPP) Participation Agreement which as amended and supplemented establishes the terms and conditions relating to their ownership and operation of the Arizona Nuclear Power Project. Effective August 28, 1975, Tucson assigned all its interest in the ANPP Participation Agreement to Edison.

2.2 Arizona, Salt River Project, PNM and El Paso are entering into the ANPP Valley Transmission System Participation Agreement which establishes certain terms and conditions relating to their ownership, construction, operation and maintenance of the Transmission System.

2.3 Edison will own, construct, operate and maintain a 500kV line from the ANPP High Voltage Switchyard to the Devers Substation near North Palm Springs, California.

2.4 The Participants anticipate the construction of a 500 kV Transmission Line (referred to in this Participation Agreement as the Palo Verde-East 500 kV Transmission Line) from a bay position within the ANPP High Voltage Switchyard to a termination point east of the ANPP High Voltage Switchyard, the locations of which are presently under study.
2.5 The Participants recognize that it is in their mutual interest to participate in the ownership, construction, maintenance and operation of the ANPP High Voltage Switchyard to provide for the delivery of their Generation Entitlement Shares of Capacity and associated Energy from ANPP Units 1, 2 and 3 to their respective load centers in addition to such other rights in the ANPP High Voltage Switchyard as the Participants may be entitled pursuant to the terms of this Agreement.

3. AGREEMENT: In consideration of the mutual covenants contained herein, the Participants agree as follows:

4. DEFINITIONS: The following terms, when used herein and in the Appendices attached hereto, shall have the meanings specified:

   4.1 Account(s): Any bank account or accounts selected and established by the Project Manager or Operating Agent to receive and disburse funds, pursuant to Section 15 hereof, for Construction Work, Operating Work, and Capital Improvements.

   4.2 Accounting Practice: Generally accepted accounting principles in accordance with the FERC System of Accounts.

   4.3 Administrative Committee: The committee established pursuant to Section 7.1.1.1 hereof.

   4.4 ANPP High Voltage Switchyard: Those facilities to be constructed and operated for the Participants
herein, consisting generally of a breaker-and-a-half scheme comprising the termination facilities for the Transmission System, Edison’s Palo Verde-Devers 500kV transmission line, Palo Verde-East 500kV Transmission Line, the start-up transformer high voltage leads, and the generator step-up transformer high voltage leads, including, but not limited to, the high voltage busses, structures, power circuit breakers, disconnect switches, control building, switchyard auxiliary and protection systems and fencing, all as more particularly described in Appendix A hereto, and sometimes referred to herein as the High Voltage Switchyard.


4.6 ANPP Valley Transmission System Participation Agreement: The ANPP Valley Transmission System Participation Agreement dated July 6, 1981, executed by Arizona, Salt River Project, PNM and El Paso, which establishes certain terms and conditions related to their participation in the construction, operation and maintenance of the Transmission System.

4.7 Arizona Nuclear Power Project: Three nuclear steam electric generating units, together with all
facilities and structures used or to be used therewith or related thereto, all as described generally in Appendix A to the ANPP Participation Agreement, and sometimes referred to herein as “PVNGS”, “Palo Verde Nuclear Generating Station” or “ANPP”.

4.8 Auditing Committee: The committee established pursuant to Section 7.1.1.3 hereof.

4.9 Capacity: Electrical rating expressed in megawatts electric (MWe) or kilowatts electric (KWe).

4.10 Capital Improvements: Any Units of Property, land or land rights which are added to the High Voltage Switchyard, the betterment of land or land rights or the enlargement or betterment of any Units of Property constituting a part of the High Voltage Switchyard, and the replacement of any Units of Property for other Units of Property or the replacement of land or land rights constituting a part of the High Voltage Switchyard, irrespective of whether such replacement constitutes an enlargement or betterment of that which it replaces, which additions, betterments, enlargements and replacements in accordance with Accounting Practice would be capitalized and are not included or reflected in the Final Completion Report.

4.11 Construction Agreement: Any agreement entered into by the Project Manager for the design, engineering, construction or installation of any component or portion

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of the High Voltage Switchyard including without limitation any engineering, design, construction, supervision, licensing or consulting services in connection with the Construction Work, site studies, preoperational environmental studies or reports, and for any other services or things necessary or useful in the performance of the Construction Work.

4.12 Construction Costs: The costs of constructing the High Voltage Switchyard as described in Section 13 hereof.

4.13 Construction Funds: Monies advanced to the Project Manager for Construction Work by or on behalf of the Participants in accordance with this Participation Agreement.

4.14 Construction Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Project Manager in accordance with Sections 22 and 23 hereof.

4.15 Construction Schedule: The schedule of Construction Work as set forth in Appendix C hereto to be updated as required and approved by the Engineering and Operating Committee.

4.16 Construction Work: All engineering, design, contract preparation, purchasing, construction, supervision, negotiation, preparation and performance of Construction Agreements, acquisition of land or land rights,
expediting, inspection, accounting, testing and start-up for each component of the High Voltage Switchyard, and preparation of operating and equipment manuals, all reports required by regulatory authorities and the conduct of hearings, conferences and other activities incidental to obtaining requisite permits, licenses and certificates for the construction and operation of each component of the High Voltage Switchyard prior to the completion of Construction Work for such component.

4.17 Date of Firm Operation: The date with respect to each component of the High Voltage Switchyard on which the Engineering and Operating Committee determines such component to be reliable for the transmission of Power and such component can be expected to operate continuously at any load up to its Capacity.

4.18 Devers Reactors: Four single-phase shunt reactors, related parts and the associated equipment required for the operation and protection of the four single-phase shunt reactors, all necessary for the operation of the Devers 500 kV Transmission Line as referenced in Appendix A.

4.19 Engineering and Operating Committee: The committee established pursuant to Section 7.1.1.2 hereof.

4.20 Energy: Kilowatt-hours (kwh) or megawatt-hours (mwh).
4.21 Final Completion Report: A complete summary of Construction Costs, a description of the High Voltage Switchyard and a summary of each Participant’s contributions to Construction Costs.

4.22 FERC System of Accounts: The Federal Energy Regulatory Commission’s “Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)”, in effect as of the date of this Participation Agreement, and as such system of accounts may be in effect from time to time. References in this Participation Agreement to any specific FERC Account number shall mean the FERC Account number in effect as of the effective date of this Participation Agreement or any successor FERC Account.

4.23 Generation Entitlement Share: The percentage ownership interest of each Participant in ANPP Units 1, 2 and 3 at the time of execution of this Agreement. Each Participant’s Generation Entitlement share is as follows as of the date of execution hereof:

| 4.23.1 | Arizona | = 29.1% |
| 4.23.2 | Salt River Project | = 29.1% |
| 4.23.3 | PNM | = 10.2% |
| 4.23.4 | El Paso | = 15.8% |
| 4.23.5 | Edison | = 15.8% |

4.24 High Voltage Switchyard: The ANPP High Voltage Switchyard as defined in Section 4.4 herein.

4.25 Materials and Supplies: Materials and supplies for the ANPP High Voltage Switchyard which are stocked as defined in FERC Account 154.
4.26 Operating Agent: The Participant responsible for the performance of Operating Work and the making of Capital Improvements as more particularly described in Section 9 hereof.

4.27 Operating Emergency: An unplanned event or circumstance which reduces or may reduce the capability of the High Voltage Switchyard that would otherwise be available to the Participants under normal system operating conditions.

4.28 Operating Funds: Monies advanced to the Operating Agent for Operating Work and/or Capital Improvements by or on behalf of the Participants in accordance with this Participation Agreement.

4.29 Operating Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Operating Agent in accordance with Sections 22 and 23 hereof.

4.30 Operating Work: Engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, accounting, testing, protection, operation, use, management, retirement, reconstruction, and maintenance associated with operating the High Voltage Switchyard and the Devers Reactors, including any work undertaken by the Operating Agent pursuant to Section 19 hereof and any work necessitated by an Operating Emergency, but excluding all work
undertaken to make any Capital Improvements.

4.31 Ownership Responsibility: The agreed upon percentage ownership interest in the High Voltage Switchyard and financial liability of each Participant for Construction Funds and Operating Funds concerning the High Voltage Switchyard, as shown in Appendix B hereto.

4.32 Palo Verde-East 500 kV Transmission Line: A 500 kV transmission line to be constructed from a bay position within the ANPP High Voltage Switchyard to a termination point, the location of which is presently under study, located east of the ANPP High Voltage Switchyard.

4.33 Participant: Any Party hereto and any successor in interest or assignee of any such Party under Section 18 hereof.

4.34 Payroll Taxes: Taxes of a Participant based upon remuneration paid to its employees.

4.35 Power: Megawatts electric (MWe).

4.36 Project Agreements: This Participation Agreement, any Construction Agreement, as such agreements are originally executed or as they may thereafter be supplemented or amended, and any other agreements which the Participants designate as Project Agreements.

4.37 Project Insurance: Construction Insurance and Operating Insurance.
4.38 Project Manager: The Participant responsible for the performance of Construction Work as more particularly described in Section 8 hereof.

4.39 Spare Parts: Spare parts or equipment, the cost of which is capitalized, for the ANPP High Voltage Switchyard.

4.40 Transmission System: The following transmission facilities, including associated land and land rights, as described in Appendix A of the ANPP Valley Transmission System Participation Agreement, to be constructed and operated by the Participants except Edison: (i) the Palo Verde-Westwing 500kV Line, (ii) the Palo Verde-Kyrene 500kV Line, (iii) the Westwing 500kV Switchyard expansion and the Westwing 230kV Switchyard expansion, and (iv) the Kyrene 230kV Switchyard expansion.

4.41 Units of Property: Units of property as described in the Federal Energy Regulatory Commission’s “List of Units of Property for Use in Connection with Uniform System of Accounts Prescribed for Public Utilities and Licensees” in effect as of the date of this Participation Agreement, and as such list may be amended from time to time.

4.42 Willful Action:

4.42.1 Action taken or not taken by a Participant at the direction of its directors, officers
or employees having management responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom.

4.42.2 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default.

4.42.3 Action taken or not taken by a Participant at the direction of its directors, officers or employees having management responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with the
knowledge that such action taken or failed to be taken is a material default under any of the Project Agreements.

4.42.4 The phrase “employees having management responsibility” as used in this Section 4.42 means employees of a Participant who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Participant’s performance under any of the Project Agreements.

4.42.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

4.43 Work Liability: Liability of one or more Participants for damage suffered by anyone other than a Participant, whether or not resulting from the negligence of any Participant, its directors, officers, employees or any other person or entity whose negligence could be imputed to such Participant, resulting from:

4.43.1 The performance or non-performance of Construction Work, Operating Work or construction, operation and maintenance of Capital Improvements.

4.43.2 The use or ownership of the High Voltage Switchyard.

5. OWNERSHIP OF AND TITLE TO THE HIGH VOLTAGE SWITCHYARD

5.1 Each Participant shall accept, own and hold
title to an undivided interest as a tenant in common in the High Voltage Switchyard and all Capital Improvements thereto in proportion to its Ownership Responsibility as shown in Appendix B hereto.

5.2 The ownership and title to the High Voltage Switchyard and all Capital Improvements thereto shall vest simultaneously in the Participants having an interest therein so that the estates of each of them shall be deemed to be concurrent as to time, right and priority.

5.3 At any time as any Participant may reasonably demand in writing, the Participants shall jointly make, execute and deliver one or more supplements to this Participation Agreement in recordable form which shall describe with such particularity and detail as may be appropriate under the circumstances the property and facilities then constituting the High Voltage Switchyard and the rights, titles and interest of each Participant therein.

5.4 In the event any Participant transfers or assigns any of its rights, title or interest in and to the High Voltage Switchyard in accordance with Section 18 hereof and other applicable terms and conditions of this Participation Agreement, the Participants and any successor shall jointly make, execute and deliver a supplement to this Participation Agreement in recordable
form which shall describe with such particularity and detail as may be appropriate under the circumstances the rights, titles and interests of each Participant and any successor following such transfer or assignment.

5.5 Edison shall own and hold title to the Devers Reactors.

6. USE OF HIGH VOLTAGE SWITCHYARD

6.1 Under normal operating conditions, each Participant shall have the firm right to use Capacity in the High Voltage Switchyard as follows:

6.1.1 To transmit its Generation Entitlement Share of ANPP Power and Energy, or to substitute said Power and Energy without regard to origin, source or ownership of such substituted Power and Energy, through the components of the High Voltage Switchyard, and

6.1.2 To transmit Power and Energy through the components of the High Voltage Switchyard up to an amount equal to such Participant’s transmission rights in the Transmission System, the Palo Verde - Devers 500kV Line, and the Palo Verde-East 500kV Line, less the amount transmitted by it under Section 6.1.1 hereof.

6.2 Each Participant shall be entitled to use for any purpose all or part of the unused Capacity in the High Voltage Switchyard provided such use of unused
Capacity (i) does not interfere with or impair the entitlements described in Section 6.1 hereof, and (ii) does not create an overloaded condition on the High Voltage Switchyard, and provided further, that such Capacity is determined to be available by the Operating Agent in accordance with criteria to be developed by the Engineering and Operating Committee.

6.3 In the event that two or more Participants desire to use such unused Capacity in the High Voltage Switchyard, each such Participant may do so in the ratio that its Ownership Responsibility bears to the sum of the Ownership Responsibilities of such Participants.

6.4 Except as otherwise provided in Section 6.5, upon agreement with the Participants, a Participant may at its expense make interconnections to the High Voltage Switchyard. Such agreement shall specify the terms and conditions under which such interconnections may be made, the charges, if any, to the interconnecting Participant, and the distribution of the proceeds therefrom to the other Participants.

6.5 Arizona and Salt River Project shall jointly have an exclusive right at their expense to interconnect to the spare bay position in bay 3 of the High Voltage Switchyard or to allow another Participant to interconnect its electrical transmission system to said spare bay position. Such interconnection shall be
subject only to mutual agreement between Arizona and Salt River Project, provided that such interconnection as provided hereunder does not materially interfere with or impair the rights of any other Participant to utilize its entitlement as provided in Section 6.1 hereof. The aforementioned agreement between Arizona and Salt River Project shall specify the terms and conditions under which interconnection to the spare bay position in bay 3 may be made, the charges, if any, to the interconnecting Participant (including Salt River Project or Arizona), and the distribution of proceeds therefrom between Arizona and Salt River Project.

6.6 Unless otherwise agreed by the Engineering and Operating Committee, when the Capacity available to the Participants in the High Voltage Switchyard is insufficient to accommodate all of the firm rights to Capacity under Section 6.1 hereof, then the use of the available Capacity of the High Voltage Switchyard will be allocated among the Participants desiring to use such Capacity in proportion to each Participant’s Ownership Responsibility.

7. **ADMINISTRATION AND COMMITTEES**

7.1 As a means of securing effective cooperation and interchange of information and providing consultation on a prompt and orderly basis among the Participants in connection with various administrative and technical
matters which may arise from time to time in connection with the terms and conditions of the Project Agreements, the Participants hereby establish the Committees described in this Section 7. The chairman for each of the Committees shall be the representative of the Project Manager or Operating Agent and shall be responsible for calling meetings or establishing telephone conference calls and establishing agendas at his own discretion or upon the request of another Participant.

7.1.1 The following Committees are hereby established and shall have the functions and responsibilities described herein and in the Project Agreements:

7.1.1.1 An Administrative Committee consisting of one representative appointed by each Participant, which representative shall be an officer or the general manager of the Participant or an authorized designee of an officer or the general manager of that Participant.

7.1.1.2 An Engineering and Operating Committee consisting of not more than two (2) representatives appointed by each Participant; provided, however, that in respect to each matter brought before the Engineering and Operating Committee, only one of such
representatives shall have the right to vote thereon.

7.1.1.3 An Auditing Committee consisting of not more than two (2) representatives appointed by each Participant; provided, however, that in respect to each matter brought before the Auditing Committee, only one of such representatives shall have the right to vote thereon.

7.1.2 It is the intent of the Participants except for Edison, that the representatives appointed to the Administrative, Engineering and Operating, and Auditing Committees established under this Section 7 shall also act as representatives to the administrative, engineering and operating, and auditing committees established under the ANPP Valley Transmission System Participation Agreement. It is further intended by the Participants that any obligation or authority granted to said representatives under this Agreement shall only apply to this Agreement and that any obligation or authority granted to such representatives under said ANPP Valley Transmission System Participation Agreement shall only apply to said ANPP Valley Transmission System Participation Agreement.
7.2 The Administrative Committee shall have the following functions, among others:

7.2.1 Provide liaison between the Participants at the management level.

7.2.2 Exercise general supervision over the Engineering and Operating Committee, the Auditing Committee and any other standing or ad hoc committees established pursuant to Section 7.13 hereof.

7.2.3 Consider and resolve matters referred to it by the other Committees and standing or ad hoc committees.

7.2.4 Perform such other functions and duties as may be assigned to it in the Project Agreements.

7.2.5 Review, discuss, resolve or make recommendations relating to disputes among the Participants arising under the Project Agreements.

7.2.6 Provide liaison between the Participants, the Project Manager and the Operating Agent with respect to the progress, performance and completion of Construction Work; the performance of Operating Work; the progress, performance and completion of Capital Improvements; and the financial and accounting aspects thereof.

7.2.7 At the request of any Participant, on such terms and conditions as the Administrative
Committee may deem appropriate, authorize the installation on the property comprising the High Voltage Switchyard, of any structures, facilities or equipment by any one or more Participants or any third party for its or their own use. Unless otherwise agreed by the Administrative Committee, such structures, facilities or equipment shall not be considered Capital Improvements and shall not be considered a part of the High Voltage Switchyard.

7.3 The Engineering and Operating Committee shall have the following functions:

7.3.1 Provide liaison between the Participants and the Project Manager with regard to Construction Work and perform such functions as indicated in Sections 8.4.4, 8.4.16, 8.4.29, 8.9 hereof and Section D.2 hereto.

7.3.2 Review and approve, modify or otherwise act upon recommendations of the Operating Agent concerning the following items related to the performance of Operating Work or the making of Capital Improvements:

7.3.2.1 The annual capital expenditures budget, annual manpower table and budget, and annual operating and maintenance budget.

7.3.2.2 The planned outages for scheduled maintenance.
7.3.2.3 The policies for establishing the Spare Parts inventory and the Materials and Supplies inventory.

7.3.2.4 The written statistical and administrative reports, written budgets, and information and other similar records, and the form thereof, to be kept and furnished by the Operating Agent (excluding accounting records used internally by the Operating Agent for the purpose of accumulating financial and statistical data, such as books of original entry, ledgers, work papers and source documents.)

7.3.2.5 The policies, criteria and procedures for determining Capacities of facilities.

7.3.2.6 The procedures for Power and Energy accounting.

7.3.2.7 The Operating Agent’s analysis of the total expenditures caused by an Operating Emergency.

7.3.2.8 The written statement of operating practices and procedures.

7.3.2.9 The list of transportation and motorized equipment to be owned or leased by the Operating Agent for Operating Work.
making Capital Improvements.

7.3.2.10 The practices and procedures for the delivery of Power and Energy to the High Voltage Switchyard in accordance with the Participants’ schedules. Such practices and procedures shall provide for modifying said schedules to meet the needs of day-to-day or hour-by-hour operation, including emergencies on a Participant’s system.

7.3.2.11 The establishment of procedures for dealing with Operating Emergencies or curtailed operations of the High Voltage Switchyard components.

7.3.3 Determine the Date of Firm Operation for each High Voltage Switchyard component.

7.3.4 Perform such other duties as may be assigned to it by the Administrative Committee.

7.3.5 Establish the minimum balance to be maintained in the Account for Operating Funds pursuant to Section 15 hereof.

7.3.6 Review and approve, modify or otherwise act upon the Project Manager’s proposed list of acceptable architects, engineers, and/or constructors within ten (10) working days of receipt by the Engineering and Operating Committee members. Should the Engineering and Operating Committee fail
to reach agreement within the allowed ten (10) working days, the Project Manager shall proceed.

7.3.7 Review and approve, modify or otherwise act upon the recommendation of the Project Manager for revision of the Construction Schedule.

7.4 The Auditing Committee shall have the following functions:

7.4.1 Development of procedures for accounting and auditing Construction Costs, and costs of Operating Work and Capital Improvements and advances of Construction Funds and Operating Funds consistent with the provisions hereof and Accounting Practice and development of procedures for making forecasts and requests for funds pursuant to Sections 15 and 21 hereof.

7.4.2 Audit or cause to be audited the books of the Project Manager, Operating Agent and any other Participant or contractor relevant to the performance of Construction Work and Operating Work or the construction of Capital Improvements.

7.4.3 Perform such other duties as may be assigned to it in any Project Agreement or by the Administrative Committee.

7.5 Within thirty (30) days after the execution of this Participation Agreement, each Participant shall designate its representatives to the Committees hereby
established, with notice thereof given to the other Participants.

7.6 Any action or determination of a Committee must be unanimous.

7.7 The Administrative Committee, the Engineering and Operating Committee and the Auditing Committee shall keep written minutes and records of all meetings and all actions, agreements or determinations made by such Committees shall be reduced to writing and shall be signed by a representative of each Participant on said Committee or an authorized alternate.

7.8 The Committees shall have no authority to modify any of the terms, covenants or conditions of the Project Agreements except as specifically authorized in this Participation Agreement.

7.9 If either the Engineering and Operating Committee or the Auditing Committee fails to reach agreement while performing the functions and duties delegated to it in this Participation Agreement or in the Project Agreements, then such disagreement shall be referred to the Administrative Committee for resolution.

7.10 If the Administrative Committee fails to reach agreement while performing the respective functions and duties assigned to it in this Participation Agreement or in the other Project Agreements, then such disagreement shall be referred to higher authority within each
Participant’s organization before proceeding to arbitration as provided in Section 27 hereof.

7.11 In the event any Committee established in accordance with this Section 7 is unable or fails to agree with respect to any matter which such Committee is authorized to determine, approve or otherwise act upon after a reasonable opportunity so to do, then the Project Manager or the Operating Agent, as appropriate, shall take such action as in its discretion is necessary, pending the resolution of any such disagreement by arbitration pursuant to Section 27 hereof or otherwise, to the successful performance of Construction Work and Operating Work.

7.12 Each Participant shall notify the other Participants promptly of any change in the designation of its representatives on the Committees. A Participant may designate an alternate to act as its representative on any Committee in the absence of the regular member or to act on specified occasions with respect to specified matters. Any alternate representative appearing at a Committee meeting shall be deemed to have authority to act on behalf of the Participant he represents unless the Committee chairman is furnished with written notice to the contrary.

7.13 The Participants, acting through the Administrative Committee, shall have the right to establish
standing or ad hoc committees. The authority and duties of any such committee shall be set forth in writing by the Administrative Committee and shall be subject to the provisions of the Project Agreements.

7.14 Any expenses incurred by any member of the Administrative Committee, Engineering and Operating Committee, Auditing Committee or any other standing or ad hoc committees in connection with his duties on such committee shall be paid and borne by the Participant whom he represents and shall not be included in Construction Costs or in the costs for Operating Work or costs of Capital Improvements.

8. PERFORMANCE AND COMPLETION OF CONSTRUCTION WORK; PROJECT MANAGER

Construction Work shall be performed and completed as follows:

8.1 The High Voltage Switchyard shall be designed and constructed in accordance with practices generally accepted in the electric utility industry so as to permit each Participant to use Capacity in the High Voltage Switchyard for the purposes described in Section 6.1 hereof, subject to and in conformity with the provisions of Section 6 of this Participation Agreement. The Project Manager shall coordinate the design and construction of the High Voltage Switchyard.
8.2 Salt River Project shall be the Project Manager of the High Voltage Switchyard.

8.3 The Participants hereby appoint the Project Manager as their agent, and the Project Manager shall undertake as their agent and as principal on its own behalf to perform the Construction Work and to carry out the duties and responsibilities provided hereunder to be performed by it.

8.4 The Project Manager shall on behalf of the Participants:

8.4.1 Negotiate and enter into any Construction Agreement and purchase and procure such equipment, apparatus, machinery, materials, tools, supplies and services as it in its sole discretion may deem necessary or useful for the performance and completion of the Construction Work from any source or sources it may select.

8.4.2 Execute, perform and enforce all Construction Agreements in the name of the Project Manager, acting as principal on its own behalf and as agent for all Participants, in which all Participants shall have undivided interests as tenants in common equal to their respective Ownership Responsibilities.

8.4.3 Furnish each member of the Administrative Committee, upon request, with copies
of all contracts with the architect, engineer, constructor, contractors and principal subcontractors, vendors and consultants.

8.4.4 Notwithstanding the provisions of Section 8.4.1, review with the Engineering and Operating Committee in a timely manner the Project Manager's bid evaluation process and all major design aspects in advance of action involving a commitment for major equipment at either a meeting called for such purpose by the Project Manager or by conference telephone call.

8.4.5 Arrange for placement of Construction Insurance pursuant to Sections 22 and 23 hereof, or provide for indemnification as necessary.

8.4.6 Determine which contractors, if any, shall be required to furnish any portion of the Construction Insurance, other insurance and faithful performance and payment bonds.

8.4.7 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Construction Insurance.

8.4.8 Present and prosecute claims against insurers and indemnitors providing Construction Insurance or indemnities in respect to any loss of or damage to any property of the High Voltage Switchyard or liability of any Participant to third

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parties covered by Construction Insurance or any indemnity agreement, and to the extent that such loss or damage is not covered by Construction Insurance, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, the Project Manager shall not make any settlement of any claims in respect thereof without the written consent and approval of the Administrative Committee.

8.4.9 Subject to the provisions of Section 24 hereof and except as hereinafter provided in this Section 8.4.9, investigate, adjust, defend and settle claims against any or all Participants arising out of or attributable to Construction Work, or the past or future performance or non-performance of the obligations and duties of any Participant, including the Project Manager, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered by valid and collectible Construction Insurance or other valid and collectible insurance carried by any Participant,
and whenever and to the extent warranted, present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by the Project Manager before any said claim or combination of said claims against any or all Participants arising out of the same transaction or incident is settled for more than $250,000 unless it shall be established that the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Construction Insurance.

8.4.10 Comply with (i) any and all laws applicable to the performance of Construction Work, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any worker's compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to the High Voltage Switchyard.

8.4.11 Expend the funds advanced to the Project Manager only in the manner and for the purposes set forth in Sections 13 and 15 hereof.

8.4.12 Keep and maintain records of monies received and expended, obligations incurred, credits accrued, estimates of Construction Costs (excluding,
subject to Section 16.3 hereof, ad valorem taxes or payments in lieu thereof and allowance for funds used during construction) and contracts entered into in the performance of Construction Work, and make such records available for inspection by the Auditing Committee at reasonable times and places.

8.4.13 Not suffer any liens to remain in effect unsatisfied against the High Voltage Switchyard (other than liens permitted under the Project Agreements, liens for taxes or assessments not yet delinquent, liens for labor and material not yet perfected, or undetermined charges or liens incidental to the performance of Construction Work); provided, however, that the Project Manager shall not be required to pay or discharge any such lien as long as the Project Manager in good faith shall be contesting the same, which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

8.4.14 Obtain or cause to be obtained necessary construction permits, temporary access rights and other licenses and approvals requisite to the performance and completion of Construction Work and initiation of Operating Work.

8.4.15 As soon as practicable after the completion of Construction Work on each component of...
the High Voltage Switchyard, provide each Participant with a summary of the estimated Construction Costs classified to appropriate FERC Accounts.

8.4.16 Provide the Participants with all necessary and required records and information pertaining to the performance of Construction Work, including progress reports at such regular intervals as the Administrative Committee or the Engineering and Operating Committee shall determine.

8.4.17 Keep the Participants fully and promptly informed of any known default by any Participant under the provisions of this Participation Agreement.

8.4.18 As soon as practicable after the commencement of Construction Work, furnish each Participant an estimate of total Construction Costs broken down by major categories of equipment and services and a forecast of the cash requirements of each Participant to meet such Construction Costs. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which Construction Costs will become due and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast.
Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of Construction Work.

8.4.19 Furnish to a Participant any information reasonably available pertaining to the construction of the High Voltage Switchyard that will assist said Participant in responding to a request for such information by any federal, state or local regulatory authority.

8.4.20 Use its best efforts in the performance of its responsibilities hereunder to effect the completion of Construction Work in accordance with the Construction Schedule set forth in Appendix C hereto.

8.4.21 Keep the Participants fully and promptly advised of significant developments in connection with the progress, performance and completion of Construction Work.

8.4.22 Prepare and distribute the Final Completion Report to each Participant as soon as practicable but not later than twenty-four (24) months after completion of Construction Work performed by the Project Manager unless such time is extended by the Administrative Committee.

8.4.23 Provide the Administrative Committee with all necessary and required records and
information for its use in the performance of its responsibilities under this Participation Agreement.

8.4.24 Construct the High Voltage Switchyard so as to comply with the Project Agreements.

8.4.25 Conduct appropriate tests to verify that specified characteristics of major equipment items have been achieved and, if necessary, make or cause to be made final equipment modifications to meet the specified requirements thereof.

8.4.26 Provide for and enforce any and all warranties on equipment, facilities, materials and services sold to or furnished for the High Voltage Switchyard except that any equipment warranties which expire more than one (1) year after the completion of Construction Work for the final component of the High Voltage Switchyard shall be enforced by the Operating Agent.

8.4.27 Conduct such environmental and economic studies as the Administrative Committee directs or as the Project Manager in its discretion deems necessary or appropriate in arriving at a recommendation to the Administrative Committee regarding construction of the High Voltage Switchyard.

8.4.28 Subject to the provisions of Section 5 hereof, secure or cause to be secured any necessary
additional land and land rights for the High Voltage Switchyard.

8.4.29 Furnish each member of the Engineering and Operating Committee upon request any studies, specifications, drawings and any documentation related to the foregoing received from the architect, engineer, constructor, consultants, contractors or vendors involved in Construction Work.

8.5 Each Participant shall provide to the extent possible all assistance as may be requested by the Project Manager in the performance of its obligations hereunder and such Participant shall be reimbursed for its costs and expenses incurred in providing such assistance under similar terms and conditions to those which apply to Project Manager under this Agreement.

8.6 Each Participant shall, within sixty (60) days after the execution of this Participation Agreement, submit to the Project Manager any special requirement it may have regarding accounting, records or information in order that all required records may be maintained in the same manner throughout the construction and final completion of the High Voltage Switchyard. The Project Manager shall use its best efforts to accommodate said special requirements.
8.7 The Project Manager shall have the full responsibility and authority for the employment and organization of the personnel and staff required to complete the Construction Work.

8.8 The Project Manager shall construct the High Voltage Switchyard with the objective of having the components of the High Voltage Switchyard available for energization tests and operation in accordance with the Construction Schedule as shown on Appendix C hereto.

8.9 In the event the Project Manager desires to construct any facilities of the High Voltage Switchyard with its own forces, the Engineering and Operating Committee shall exercise the option of approving the Project Manager's cost reimbursable bid or approving the use of the Project Manager's forces at a fixed cost equivalent to the lowest acceptable bid other than the Project Manager's bid. Should the Engineering and Operating Committee elect to approve the use of the Project Manager's forces at a fixed cost equivalent to the lowest acceptable bid other than the Project Manager's bid, the Project Manager at its sole discretion may withdraw its bid.

9. OPERATING AGENT

9.1 The Operating Agent for the High Voltage Switchyard and the Devers Reactors shall be Salt River Project.
9.2 The Participants hereby appoint the Operating Agent as their agent, and the Operating Agent shall undertake as their agent and as principal on its own behalf, to perform the Operating Work and Capital Improvements and to carry out the duties and responsibilities provided hereunder to be performed by it.

9.3 The Operating Agent shall:

9.3.1 Administer, enforce and perform the Operating Work and Capital Improvements so as to comply with Project Agreements and in a manner consistent with generally accepted practices in the electric utility industry recognizing that such practices may be affected by the design and operational characteristics of the High Voltage Switchyard, the rights and obligations of the Participants under this Participation Agreement and other special circumstances affecting the Operating Work and Capital Improvements.

9.3.2 Furnish from its own resources or contract for and obtain from any other sources it may select, including any Participant, the services and studies necessary for performance of Operating Work and Capital Improvements.

9.3.3 Execute, administer, perform and enforce contracts in the name of the Operating Agent, acting as principal on its own behalf and as agent for all
of the other Participants for Operating Work and Capital Improvements, including without limitation any and all warranties on equipment, facilities, materials and services furnished pursuant to any such contracts.

9.3.4 Administer, perform and enforce all other contractual obligations and arrangements, including all warranties applicable thereto, entered into by the Project Manager and continuing beyond the period ending one year after the completion of Construction Work for the final High Voltage Switchyard component constructed.

9.3.5 Furnish or recruit the necessary personnel and provide for such training as may be required to qualify them to perform the Operating Work and Capital Improvements and to meet all requirements established by law.

9.3.6 Comply with (i) any and all laws applicable to the performance of Operating Work and Capital Improvements, including without limitation all applicable laws, rules and regulations for protection of the environment and all applicable provisions of any worker’s compensation laws; and (ii) the terms and conditions of any contract, permit or license relating to the High Voltage Switchyard.
9.3.7 Purchase and procure, through and from any source it may select, in the name of the Participants, with undivided interests as tenants in common in accordance with their respective ownership, as defined in Section 5 of this Participation Agreement, the equipment, apparatus, machinery, tools, Materials and Supplies and Spare Parts necessary for the performance of Operating Work and Capital Improvements.

9.3.8 Expend the Operating Funds advanced to the Operating Agent in accordance with the terms and conditions of this Participation Agreement.

9.3.9 Keep and maintain such records of monies received and expended, obligations incurred, credits accrued, the conduct of Operating Work and making Capital Improvements, and of contracts entered into in the performance of Operating Work and Capital Improvements as may be necessary or useful in carrying out Project Agreements or required to permit an audit of the Operating Work and Capital Improvements, and make such records available for inspection by the Auditing Committee.

9.3.10 Not suffer any liens to remain in effect unsatisfied against the High Voltage Switchyard (other than the liens permitted under the Project Agreements, liens for taxes and assessments
not yet delinquent, liens for labor and material not yet perfected or undetermined charges or liens incidental to the performance of the Operating Work); provided that the Operating Agent shall not be required to pay or discharge any lien as long as the Operating Agent in good faith shall be contesting the same which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

9.3.11 Arrange for the placement and maintenance of Operating Insurance as provided in Sections 22 and 23 hereof.

9.3.12 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Operating Insurance.

9.3.13 Present and prosecute claims against insurers and indemnitors providing Operating Insurance or indemnities in respect to any loss of or damage to any property of the High Voltage Switchyard or liability of any Participant to third parties covered by Operating Insurance or any indemnity agreement, and to the extent that such loss, damage, or liability is not covered by Operating Insurance, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair,
replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, the Operating Agent shall not make any settlement of any claims in respect thereof without the consent and approval of the Administrative Committee.

9.3.14 Subject to the provisions of Section 24 hereof and except as hereinafter provided in this Section 9.3.14, investigate, adjust, defend and settle third party claims against any or all Participants arising out of, or attributable to, Operating Work or Capital Improvements, or the past or future performance or nonperformance of the obligations and duties of any Participant, including the Operating Agent, under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered by valid and collectible Operating Insurance or other valid and collectible insurance carried by any Participant, and whenever and to the extent reasonable present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by the
Operating Agent before any said claim or combination of said claims against any or all Participants arising out of the same transaction or incident is settled for more than $250,000 unless the entire amount of the settlement in excess of $250,000 is recoverable from an insurer providing Operating Insurance.

9.3.15 Keep the Participants fully and promptly advised of material changes in conditions or other material developments affecting the performance of Operating Work or Capital Improvements and furnish the other Participants with copies of any notices given or received pursuant to the Project Agreements.

9.3.16 Provide the Administrative, Engineering and Operating and Auditing Committees with all written statistical and administrative reports, accounting records, written budgets, information and other records relating to Operating Work and Capital Improvements necessary or useful in the performance of their respective responsibilities under this Participation Agreement.

9.3.17 Upon the request of any Participant, provide such Participant, in reasonable quantity without direct charge therefor, a copy or copies of any report, record, list, budget, manual, accounting
or billing summary, classification of accounts or other documents or revisions of any of the aforesaid items, all as prepared in accordance with this Participation Agreement.

9.3.18 Keep the Participants fully and promptly informed of any known default of the Project Agreements and submit to the Participants any recommendations for amendments of the Project Agreements.

9.3.19 Prepare recommendations covering the matters which are to be reviewed and acted upon by the Engineering and Operating Committee pursuant to Section 7.3.2 hereof.

9.3.20 Carry out and follow the practices and procedures and directions which have been approved and issued by the Administrative Committee, the Engineering and Operating Committee, or the Auditing Committee pursuant to the Project Agreements, except as otherwise provided in Section 9.3.21 hereof.

9.3.21 In the event of an Operating Emergency take such action as in its sole discretion it may deem prudent or necessary to preserve and maintain the safety, integrity and operability of the High Voltage Switchyard, to maintain the maximum transfer capability of each High Voltage Switchyard component, to protect the health and safety of the
public or to minimize any adverse environmental effects and such other action as required by Section 11 hereof notwithstanding any practices and procedures and directions approved and issued by the Administrative Committee or the Engineering and Operating Committee, to terminate the Operating Emergency.

9.3.22 Coordinate scheduled outages of the High Voltage Switchyard components with the other Participants.

9.4 Each Participant shall provide to the extent possible all assistance as may be requested by the Operating Agent in the performance of Operating Work or Capital Improvements and such Participant shall be reimbursed for its costs and expenses in providing such assistance under similar terms and conditions to those which apply to the Operating Agent under this Agreement if applicable.

10. CURTAILMENT OF CAPACITY IN THE HIGH VOLTAGE SWITCHYARD

10.1 The Operating Agent shall as soon as practicable notify the dispatchers of each Participant of the occurrence of an Operating Emergency, and the amount of any resulting curtailment which shall be determined by the Operating Agent in accordance with criteria approved by the Engineering and Operating Committee.

10.2 The Operating Agent shall notify the Partici-
pants of the maximum High Voltage Switchyard Capacity available to each of the Participants during the periods of curtailment.

11. **OPERATING EMERGENCY**

11.1 In the event of an Operating Emergency,

11.1.1 The Operating Agent shall take any and all steps reasonably necessary and required to terminate the Operating Emergency, in accordance with generally accepted practices in the electric utility industry.

11.1.2 The Operating Agent shall make every reasonable effort to furnish temporary alternate service through other circuits or elements of the High Voltage Switchyard.

11.2 As soon as practicable after the commencement of an Operating Emergency, the Operating Agent shall advise the Participants of the occurrence of the Operating Emergency, its nature, and the steps taken or to be taken to terminate the Operating Emergency, including a preliminary estimate of the expenditures required to terminate the Operating Emergency. Upon the termination of an Operating Emergency, the Operating Agent shall advise the Participants as to when the Operating Emergency was terminated and the steps taken to terminate the Operating Emergency.
11.3 The costs incurred and amounts expended and charged to maintenance expense or Capital Improvements by the Operating Agent for repair, restoration and reconstruction of the High Voltage Switchyard as the result of an Operating Emergency shall be allocated to the Participants in proportion to their Ownership Responsibility for the High Voltage Switchyard and shall be billed to the Participants in accordance with Section 15.10.1, 15.10.2 and 15.11 hereof.

11.4 Following the termination of the Operating Emergency, the Operating Agent shall submit to the Participants a report containing a summary of the costs incurred and expenditures made in connection with the repair, restoration, reconstruction or Capital Improvements and such other information as may be required by the Engineering and Operating Committee.

12. SPARE PARTS

12.1 The Project Manager shall purchase all initial Spare Parts and the Operating Agent shall thereafter maintain a Spare Parts inventory for the High Voltage Switchyard in accordance with policies prepared by the Operating Agent and approved by the Engineering and Operating Committee.

12.2 The Operating Agent shall purchase all replacements of Spare Parts and shall allocate the costs thereof to the Participants in proportion to their
Ownership Responsibilities.

12.3 Edison shall accept sole financial responsibility for replacement parts and tools necessary for the performance of Operating Work on the Devers Reactors.

13. CONSTRUCTION COSTS

13.1 Construction Costs shall include all payments made and obligations incurred by the Project Manager for or in connection with Construction Work, including but not limited to those costs specified in Appendix D attached hereto and in Section 13.3 hereof.

13.2 Except as otherwise provided in Section 13.4 hereof, all Construction Costs incurred shall be shared by the Participants in proportion to their respective Ownership Responsibility and shall be advanced by them and disbursed and accounted for by the Project Manager in accordance with Section 15 hereof.

13.3 Upon execution of this Participation Agreement, all costs incurred prior to such execution by the Project Manager for Construction Work hereunder shall be reallocated among the Participants hereunder in proportion to the Participants’ Ownership Responsibility.

13.4 Edison shall accept sole financial responsibility or receive credit, if applicable, for any difference between (i) the actual invoiced cost of the two 500 KV power circuit breakers (“Devers Breakers”),
required in High Voltage Switchyard for the Palo Verde-Devers 500 KV transmission line and, (ii) the unit bid price applicable to the initial eight (8) 500 KV power circuit breakers procured for the High Voltage Switchyard escalated to the date of shipment multiplied by a factor of two (2). Escalation contemplated in (ii) above shall be determined in accordance with the methodology set forth in Salt River Project Purchase Order #V48013. The Project Manager shall purchase, deliver or have delivered, and install the Devers Breakers and all associated equipment. Edison shall pay or receive credit, if applicable, for such difference in costs at times established in the terms of payment shown in the purchase order for the Devers Breakers. Edison shall accept sole financial responsibility or receive credit, if applicable, for any difference between (i) the cost of installation of two (2) of the initial eight (8) 500 kV power circuit breakers procured for the High Voltage Switchyard and (ii) the cost to install the Devers Breakers. In addition to the foregoing, Edison shall pay $17,000 to cover all incremental engineering and supervisory costs incurred by the Project Manager for procurement and additional design required for the installation of the Devers breakers.

14. **OPERATION AND MAINTENANCE COSTS** :

   14.1 Operation and maintenance costs of the High
Voltage Switchyard shall include all payments made and obligations incurred by the Operating Agent for or in connection with the performance of Operating Work, including (i) those costs of Operating Work specified in Appendix E hereto, (ii) those costs specified in Section 16 hereof to the extent any tax or payment in lieu thereof is levied against a Participant on behalf of all of the Participants, and in Section 22.2 hereof (excluding worker’s compensation expense for the Operating Agent’s employees), and (iii) those costs and expenses described in Section 24.3 hereof.

14.2 The costs of Operating Work shall be shared by the Participants in proportion to their respective Ownership Responsibilities and shall be advanced by them to the Operating Agent and disbursed and accounted for by the Operating Agent in accordance with Section 15 hereof.

14.3 Edison shall accept sole financial responsibility for all Operating Work associated with the Devers Reactors.

15. **ADVANCEMENT OF FUNDS**

15.1 Each Participant shall advance its share of Construction Funds and Operating Funds prior to the date when funds are required by the Project Manager or Operating Agent to pay for Construction Work, Operating Work and Capital Improvement so that neither the Project Manager nor the Operating Agent in its capacity as such
will have to advance any funds on behalf of another Participant.

15.2 Each Participant shall pay monthly in advance, on or before a due date as specified by the Project Manager, its Ownership Responsibility share of all Construction Costs pursuant to Section 13.2 in accordance with the quarterly forecasts, or revisions thereof, of estimated monthly expenditures for Construction Work prepared by the Project Manager and furnished to each Participant pursuant to Section 8.4.18 hereof. Construction Funds on hand which are not required for working capital needs shall be invested to the maximum extent feasible in direct obligations of or obligations guaranteed by the federal government or agencies of the federal government in a manner legal for all Participants. Earnings and losses, if any, as a result of such investments, shall be allocated to the Participants in proportion to the funds advanced by each Participant.

15.3 Following the completion of Construction Work the Project Manager shall allocate to the Participants in proportion to their respective Ownership Responsibilities all proceeds, if any, resulting from the sale of surplus material not required for the High Voltage Switchyard.

15.4 The sum of the advances by the Participants hereunder to the Project Manager shall not exceed one
hundred percent (100%) of the total Construction Costs forecasted to be expended as of the date specified in the detailed monthly forecast furnished to the Participants pursuant to Section 8.4.18 hereof plus or minus any adjustments of previous estimates to actual costs.

15.5 The Project Manager and the Operating Agent, with the approval of the Auditing Committee, shall establish Account(s) for Construction Funds and Operating Funds at a bank of their choice and notify the Participants in writing of the establishment of the Account not later than five (5) days following its establishment.

15.6 Construction Funds required to be advanced by the Participants in accordance with this Participation Agreement shall be deposited in the Account for Construction Funds, and the Project Manager shall, unless otherwise agreed to by the Participants, make disbursements from the Account for Construction Funds only for expenditures or obligations incurred by it in the performance of Construction Work or for the investment of Construction Funds pursuant to Section 15.2 hereof.

15.7 The Engineering and Operating Committee shall establish a minimum balance for the Operating Funds so that the Operating Agent will have Operating Funds to pay for expenditures or obligations incurred by the Operating
Agent pursuant to this Participation Agreement. Such minimum balance may be revised by the Engineering and Operating Committee at any time. The original minimum balance and any increase therein shall be allocated among the Participants on the basis of their respective Ownership Responsibilities and shall be due and payable within fifteen (15) business days following billing notification of the establishment of the minimum balance or of the date on which any increase in such minimum balance shall become effective. In the event the Engineering and Operating Committee authorizes a decrease in such minimum balance, then each Participant shall receive a credit on the next bills from the Operating Agent in proportion to its Ownership Responsibility.

15.8 All Operating Funds required to be advanced by the Participants in accordance with this Participation Agreement shall be made payable to the Account of the Operating Agent, or may be credited to the Account for Operating Funds by bank transfers. All Operating Funds shall be deposited in the Account for Operating Funds, and the Operating Agent shall, unless otherwise directed by the Administrative Committee, make disbursements from the Account for Operating Funds only for expenditures or obligations incurred by it in the performance of Operating Work or Capital Improvements as defined herein.
15.9 The Operating Agent shall establish the Account for Operating Funds at least thirty (30) days prior to incurring any costs for Operating Work on behalf of the Participants pursuant to this Participation Agreement. The Operating Agent shall notify the Participants in writing of the establishment of the Account for Operating Funds not later than five (5) days following its establishment.

15.10 Each Participant shall advance Operating Funds to the Account for Operating Funds on the basis of bills it receives from the Operating Agent which bills shall reflect each Participant’s share of the costs of Operating Work and Capital Improvements determined in accordance with this Participation Agreement as follows:

15.10.1 Expenses described in Sections 11, 12, 14 and 21 hereof for the current month shall be billed on an estimated basis on or before the first business day of each such month and payment shall be due and payable by the fifteenth day of such month, provided that adjustments for actual expenses incurred for such month shall be reflected in the bill for the calendar month which follows the date of determination of such actual expenses.

15.10.2 Expenses described in Sections 11, 16 (to the extent that any tax or payment in lieu thereof is levied against a Participant on behalf of
(all Participants), 22, 23 (excluding worker’s compensation insurance) and 24 hereof shall be billed not less than ten (10) business days prior to their due date and shall be due and payable within seven (7) business days following receipt of the invoice. If such expenditures or obligations do not have a specified due date, they shall be billed within a reasonable time following the incurrence of such expenditures or obligations and shall be due and payable within seven (7) business days following receipt of the bill.

15.11 Each Participant shall advance funds to the Operating Account for its share of all expenditures for Operating Emergencies (excluding those items billed under Sections 15.10.1 and 15.10.2 hereof) on the basis of estimates in accordance with Section 11.2 hereof.

15.12 Funds not advanced to the Project Manager or the Operating Agent on or before the due date specified in Sections 15.2, 15.7, 15.10 and 15.11 hereof shall be payable with interest, if any, accrued as provided in Section 26.3 hereof.

15.13 If a Participant shall dispute any portion of any amount specified in a monthly forecast, billing or a request for funds, the disputant shall make the total payment specified in said forecast, billing or request for funds pursuant to Section 26.4 hereof.
16. **TAXES**

16.1 The Participants shall use their best efforts to have any taxing or other authority levying any taxes or assessments, or payments in lieu thereof, or making any valuations for the purpose of levying any taxes or assessments or payments in lieu thereof, on the High Voltage Switchyard, or any beneficial interest or rights therein, assess and levy such taxes or assessments or payments in lieu thereof directly against the ownership or beneficial interest of each Participant in the High Voltage Switchyard.

16.2 All taxes or assessments or payments in lieu thereof levied against each Participant’s ownership or beneficial interest in the High Voltage Switchyard, excepting those taxes or assessments or payments in lieu thereof levied against an individual Participant on behalf of any or all of the other Participants, shall be the sole responsibility of the Participant upon whose ownership or beneficial interest said taxes or assessments or payments in lieu thereof are levied.

16.3 If any property taxes or payments in lieu thereof or any other taxes or assessments are levied or assessed in a manner other than as specified in Section 16.1 hereof, it shall be the responsibility of the Administrative Committee to establish equitable practices and procedures for the apportionment among the
Participants of such taxes and assessments or payments in lieu thereof.

16.4 No Participant who is exempt from, and makes no payment in lieu of, any taxes assessed against any or all of the other Participants shall be obligated to make any contribution toward such taxes to the extent of the exemption.

17. NONPARTITIONMENT

17.1 Each Participant hereby waives any rights it may have to partition the High Voltage Switchyard or the Project Agreements, whether by partitionment in kind or by sale and division of the proceeds, and further agrees that it will not resort to any action in law or in equity to partition the High Voltage Switchyard or the Project Agreements. Each Participant waives the benefits of all laws that may now or hereafter authorize such partition for a term (i) which shall be coterminous with this Participation Agreement, or (ii) which shall be for such lesser period as may be required under applicable law.

18. MORTGAGE AND TRANSFER OF INTEREST

18.1 Each Participant shall have the right at any time and from time to time to mortgage, create or provide for a security interest in or to convey in trust all or a part of its ownership interest in the High Voltage Switchyard, together with an equal interest in the Project Agreements to a trustee or trustees under deed of
trust, mortgage or indenture or to a secured party or parties under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assignees thereof, without the need for the prior written consent of any other Participant and without such mortgagee, trustee or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Participants.

18.2 Any mortgagee, trustee or secured party under present or future deeds of trust, mortgages, indentures or security agreements of any of the Participants and any successor assignee thereof, and any receiver, referee or trustee in bankruptcy or reorganization of any of the Participants, and any successor by action of law or otherwise, and any purchaser, transferee or assignee of any thereof may, without need for the prior written consent of any other Participant, succeed to and acquire all the rights, titles and interests of such Participant in the High Voltage Switchyard and the Project Agreements, and may take over possession of or foreclose upon said property, rights, titles and interests of such Participant, and in such event shall assume and be obligated fully to perform and discharge all of the obligations of such Participant hereunder and under any other Project Agreements.
18.3 Without the prior written consent of any other Participant, each Participant shall have the right to transfer or assign all or part of its interest in the ownership of the High Voltage Switchyard pursuant to Section 5 hereof and in the Project Agreements, to any person, partnership, corporation or governmental corporation or agency engaged in the generation, transmission or distribution of Energy.

18.4 Except as otherwise provided in Sections 18.1, 18.2 and 35 hereof, any successor to the rights, titles and interests of a Participant in the High Voltage Switchyard, together with an equal interest in the Project Agreements, shall assume and agree fully to perform and discharge all of the obligations of such Participant under the Project Agreements, and such successor shall notify each of the other Participants in writing of such transfer, assignment or merger, and shall furnish to each Participant evidence of such transfer, assignment or merger and thereupon shall be considered to be a Participant in the High Voltage Switchyard together with an equal interest in the Project Agreements, and the transferring Participant shall thereupon, without the consent of any other Participant, be released from all obligations under the Project Agreements so assumed and agreed to by such successor.
18.5 Each Participant shall have the right, without the need for the prior written consent of any other Participant, to assign its right, title and interest in the High Voltage Switchyard and the Project Agreements to any entity into which such Participant may be merged or consolidated and which assumes the obligations of such Participant hereunder, but such assignment shall not relieve the Participant from said obligations.

18.6 Each Participant shall have the right at any time, and from time to time, without the need for the prior written consent of any other Participant, to assign and/or convey its right, title and interest in the High Voltage Switchyard and the Project Agreements to a trustee or trustees for the purpose of enabling the Participant to finance its obligations hereunder, and such trustee or trustees shall be entitled, without the prior written consent of any other Participant, to mortgage or grant a security interest in the said assets to accomplish such financing, provided that such transfers will not relieve the Participant from any of its obligations hereunder.

19. **DESTRUCTION**

19.1 Subject to Section 19.2 hereof, if any component of the High Voltage Switchyard should be damaged or destroyed after its Date of Firm Operation, the Participants shall, unless otherwise agreed, repair
or reconstruct such facilities. The Participants shall share the costs of such repair or reconstruction in proportion to their Ownership Responsibilities.

19.2 If any facilities of the High Voltage Switchyard should be destroyed after the retirement of Unit 1, 2 or 3 of the Arizona Nuclear Power Project the Participants shall, unless otherwise agreed, share the costs of such repairs or reconstruction in proportion to their Ownership Responsibilities; provided, however, that should all of the Participants not agree to restore or reconstruct the damaged portion of the High Voltage Switchyard, but some of the Participants nevertheless desire to do so, then any Participant who does not agree to restore or reconstruct shall sell its ownership interest in the High Voltage Switchyard to the remaining Participants for a price equal in amount to its Ownership Responsibility of the salvage value thereof. The Participants agreeing to repair or reconstruct such damaged portion of the High Voltage Switchyard shall purchase such ownership interest and shall share the costs of repair or reconstruction in proportion to their Ownership Responsibilities.

20. SEVERANCE OF IMPROVEMENTS

20.1 The Participants agree that all facilities, structures, improvements, equipment and property of whatever kind and nature constructed, placed or affixed
on the rights-of-way, easements, patented and leased lands as part of or as a Capital Improvement to the High Voltage Switchyard as against all parties and persons whomsoever (including without limitation any party acquiring any interest in the rights-of-way, easements, patented or leased lands or any interest in or lien, claim or encumbrance against any of such facilities, structures, improvements, equipment and property of whatever kind and nature), shall be deemed to be and remain personal property of the Participant(s), not affixed to the realty.

21. CAPITAL IMPROVEMENTS

21.1 The Participants recognize that from time to time it may be necessary or desirable to make Capital Improvements or that Capital Improvements may be required by laws and regulations applicable to the High Voltage Switchyard.

21.2 If requested by a Participant, any such Capital Improvement shall be described in a supplement to this Participation Agreement executed in recordable form.

21.3 All Capital Improvements shall be included in the annual capital expenditures budget. After such budget has been approved by the Engineering and Operating Committee, each Participant shall be obligated for the costs incurred for such Capital Improvements in proportion to its Ownership Responsibility.
21.4 At any time the Engineering and Operating Committee may authorize Capital Improvements not included in the annual capital expenditures budget if any such Capital Improvement is required to comply with any lawful order, rule or regulation of a state, federal or local regulatory agency or if the cost of any such Capital Improvements is less than $50,000. All other Capital Improvements not included in the annual capital expenditures budget may only be authorized by the Administrative Committee.

21.5 The Operating Agent shall submit to the Participants a forecast of cash requirements for each authorized Capital Improvement. Such forecast shall set forth such cash requirements (i) for each quarterly period commencing on the first day of January, April, July and October in which costs for such Capital Improvements shall become due, and (ii) for each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of the Capital Improvement.

21.6 The Operating Agent shall be responsible for the design and construction of all Capital Improvements unless otherwise agreed by the Administrative Committee.
21.7 The costs of Capital Improvements shall include but not be limited to:

21.7.1 All costs, including time off allowance, incurred by the Operating Agent (other than obligations for allowance for funds used during construction) which conform to the provisions of Electric Plant Instruction 3 of the FERC System of Accounts entitled, “Components of Construction Cost”. These costs shall not include any taxes shared by the Participants pursuant to Section 16 hereof. However, such charges shall include costs of any injuries or damages arising out of and occurring during the course of construction of Capital Improvements and the cost of any additional insurance which the Operating Agent deems necessary to protect the interests of the Participants during” the effectuation of such Capital Improvements prior to the time the coverage provided in Section 22 hereof becomes applicable thereto.

21.7.2 All other applicable overhead costs incurred by the Operating Agent which conform to the provisions of Electric Plant Instruction 4 of the FERC System of Accounts entitled “Overhead Construction Costs.”

21.7.3 If any Capital Improvements are made by the Operating Agent’s employees, the labor loading
charges shall be determined by multiplying the sum of the Operating Agent’s labor charges included in Section 21.7.1 hereof by the “Payroll Tax Ratio,” the “Benefits Ratio” and the “Workers’ Compensation Ratio” determined pursuant to Appendix F, G and H, respectively hereto. Estimated ratios shall be used and year-end adjustments shall be made in a manner similar to that described in Appendix E.2 and E.3 hereto.

21.7.4 If any Capital Improvements are made by the Operating Agent’s employees, the amount of the Operating Agent’s administrative and general expenses allocable to such Capital Improvements shall be determined by multiplying the sum of the Operating Agent’s labor charges included in Section 21.7.1 hereof by a decimal fraction hereinafter referred to as the “Capital Improvements A&G Ratio” as determined pursuant to Appendix J hereto. Estimated ratios shall be used and year-end adjustments shall be made in a manner similar to that described in Appendix E.2 and E.3 hereto.

21.8 If any Capital Improvements are made by a contractor, the amount of the Operating Agent’s administrative and general expenses allocable to such Capital Improvements shall be determined by multiplying the total work order cost thereof by one percent (1.00%).
As used herein, “total work order costs” does not include the costs of injuries and damages, claims, taxes, other than sales and use taxes, and interest incurred by the Operating Agent or any other of the Operating Agent’s noncontracted costs during the construction of Capital Improvements; however, costs of administration of the injuries and damages program are included.

21.9 Units of Property retired from service, whether considered original construction or Capital Improvements, shall be disposed of by the Operating Agent on the best available terms as soon as practicable, and the proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Ownership Responsibility.

22. PROJECT INSURANCE

22.1 Unless otherwise specified by the Administrative Committee, during the performance of Construction Work, the Project Manager shall, subject to the provisions hereof, procure and maintain in force, or cause to be procured and maintained in force, so as to be effective not later than the date on which the Project Manager shall first incur a risk of loss, damage or liability, Construction Insurance for the following casualty, property, and surety exposures.
22.1.1 Casualty Exposures

22.1.1.1 Comprehensive bodily injury, and property damage insurance, in an amount not less than $10 million. Policy extensions shall include coverage for:

1. Personal Injury
2. Explosion, Collapse and Underground (X.C.U.)
3. Broad Form Property Damage
4. Employees as Additional Insureds
5. Blanket Contractual Liability
6. Owners and Contractors Protective Liability
7. Products and/or Completed Operations
8. Liability arising out of the ownership, maintenance or use of all vehicles, owned, non-owned, or hired.

22.1.1.2 The Project Manager shall evaluate the feasibility of obtaining (1) Architect and Engineers Errors and Omissions Coverage for any outside contractor, if applicable and (2) Incidental Malpractice and Errors and Omissions Coverage if the contractor is one of the Participants, and shall promptly make a recommendation regarding the necessity of such insurance coverage to the
22.1.1.3 Aircraft Liability Coverage for aircraft, owned, non-owned or hired, in an amount not less than $10 million, if applicable.

22.1.1.4 The standard form of worker’s compensation and employers’ liability insurance, covering officers and employees of the Project Manager, and any persons engaged in the performance of the Construction Work. The worker’s compensation policy will include coverage for the states where the workers are hired, the state of principal operation of the contractor, and Arizona. Such coverage will be in the form of an insurance policy or a qualified self-insured program.

22.1.2 Property Exposure

22.1.2.1 The standard form of All Risk Builders Risk Insurance, including the transportation hazard. Such insurance shall afford coverage from the time that Construction Work is commenced or material and equipment are at risk to the Participants, until such date as the coverages of such risk are provided by the Project Insurance required to be obtained pursuant to Section 22.1.2.3 or Section 22.2
22.1.2.2 The standard form of All Risk Contractors Equipment Floater Insurance covering owned, non-owned and leased equipment used in connection with the performance of Construction Work for such equipment at risk to the Participants.

22.1.2.3 Unless otherwise directed by the Administrative Committee, at all times when it is required under Section 23.15 hereof, the Project Manager prior to the date of firm operation of the first generating unit of ANPP shall have and maintain in force and effect or cause to have and maintain in force and effect nuclear property insurance providing coverage against radioactive contamination and all other risks of loss except those risks excluded in the standard form of policy of the American Nuclear Insurers which are not insurable by any available endorsement thereto. Except as otherwise authorized herein or directed by the Administrative Committee, such insurance shall be maintained in an amount not less than 90% of either the actual cash value or replacement cost, as the Administrative Committee shall direct or in the absence of any such direction.
as the Project Manager may in its sole discretion determine, of all insurable property of the High Voltage Switchyard as determined from time to time by independent qualified appraisers selected by the Project Manager prior to completion of Construction Work.

22.1.3 Surety Exposures

The standard form of Employees Dishonesty Bond covering loss of property of the High Voltage Switchyard or funds of the Participants due to the dishonest or fraudulent acts committed by an officer or employee of the Project Manager and any Participant or contractor who is engaged in the Construction Work.

22.2 Unless otherwise specified by the Administrative Committee, during the performance of Operating Work or Capital Improvements, the Operating Agent shall procure and maintain in force, or cause to be procured and maintained in force, so as to be effective not later than the date on which the Operating Agent shall first incur a risk of loss, damage or liability, Operating Insurance for the following casualty, property, and surety exposures.
22.2.1 Casualty Exposures

22.2.1.1 Comprehensive bodily injury, and property damage insurance, in an amount not less than $10 million. Policy extensions shall include coverage for:

1. Personal Injury
2. Explosion, Collapse and Underground (X.C.U.)
3. Broad Form Property Damage
4. Employees as Additional Insureds
5. Blanket Contractual Liability
6. Owners and Contractors Protective Liability
7. Products and/or Completed Operations
8. Liability arising out of the ownership, maintenance or use of all vehicles, owned, non-owned, or hired.

22.2.1.2 The Operating Agent shall evaluate the feasibility of obtaining (1) Architect and Engineers Errors and Omissions Coverage for any outside contractor if applicable and (2) Incidental Malpractice and Errors and Omissions Coverage if the contractor is one of the Participants, and shall promptly make a recommendation regarding the necessity of such insurance coverage to the Administrative
22.2.1.3 Aircraft Liability Coverage for aircraft, owned, non-owned or hired in an amount not less than $10 million, if applicable.

22.2.1.4 The standard form of worker’s compensation and employers’ liability insurance, covering officers and employees of the Operating Agent, and any persons engaged in the performance of Operating Work or Capital Improvements. The worker’s compensation policy will include coverage for the states where the workers are hired, the state of principal operation of the contractor, and Arizona. Such coverage will be in the form of an insurance policy or a qualified self-insured program.

22.2.2 Property Exposures

22.2.2.1 Unless otherwise directed by the Administrative Committee, at all times when it is required under Section 23.15 hereof, the Operating Agent shall have and maintain in force and effect or cause to have and maintain in force and effect nuclear property insurance providing coverage against radio-active contamination and all other risks of loss except those risks excluded in the standard
form of policy of the American Nuclear Insurers which are not insurable by any available endorsement thereto. Except as otherwise authorized herein or directed by the Administrative Committee, such insurance shall be maintained in an amount not less than 90% of either the actual cash value or replacement cost, as the Administrative Committee shall direct or in the absence of any such direction as the Operating Agent may in its sole discretion determine, of all insurable property of the High Voltage Switchyard as determined from time to time by independent qualified appraisers selected by the Operating Agent.

22.2.2.2 In the event any Capital Improvements are undertaken, the Operating Agent shall procure and maintain, or cause to be procured and maintained, Construction Insurance providing coverage for risks described in Sections 22.1.1, 22.1.3 and 22.1.2.2 hereof in respect to the construction of such Capital Improvements.

22.2.3 Surety Exposures

The standard form of Employees Dishonesty Bond covering loss of property of the High Voltage Switchyard or funds of the Participants
due to the dishonest or fraudulent acts committed by an officer or employee of the Operating Agent and any Participant or contractor who is engaged in Operating Work or Capital Improvements.

23 GENERAL PROVISIONS AFFECTING PROJECT INSURANCE

Except as otherwise directed by the Administrative Committee, the following provisions shall apply to the Project Insurance obtained by the Project Manager or Operating Agent in compliance with Section 22 hereof.

23.1 Except for Project Insurance described in Sections 22.1.1.4, 22.1.2.2, 22.1.3, 22.2.1.4 and 22.2.3 hereof, each Participant shall be named an additional insured, individually and jointly with the other Participants, on all policies of Project Insurance, and the policies of Project Insurance referred to in Sections 22.1.1 and 22.2.1 hereof shall carry cross-liability endorsements.

23.2 Such insurance coverages as required under Section 22 hereof shall be written with deductibles and limits as approved by the Administrative Committee. The Administrative Committee may, at any time, increase the policy(s) limits, eliminate coverage(s) or require additional policies not previously specified, and shall determine appropriate deductibles, retentions and other special terms and conditions of the Project Insurance.
23.3 Any deductibles shall be apportioned among the Participants on the basis set forth in Section 24.3 hereof, except that deductibles under any worker’s compensation insurance carried for officers and employees of the Project Manager and Operating Agent shall be apportioned in the manner specified in Appendix E hereto.

23.4 Project Insurance policies shall be primary insurance for all purposes and shall be so endorsed. Any other insurance carried by a Participant individually shall not participate with Project Insurance as to any loss or claim for which valid and collectible Project Insurance shall apply. Such other insurance shall apply solely as to the individual interest of the Participant carrying such other insurance; provided, however, that each Participant shall accept any reasonably restrictive endorsement to its separate insurance policies as may be required by an insurer as a condition precedent to the issuance of a policy of Project Insurance.

23.5 At the direction of the Project Manager or Operating Agent, any party furnishing services, materials, parts or equipment in connection with the planning, design, engineering, construction, maintenance, operation or use of property of the High Voltage Switchyard may be named as an insured as its interest may appear in any of the Project Insurance policies, and either the Project Manager or the Operating Agent may
waive on behalf of each Participant its right of recovery against any such party for insured loss of or damage to any property covered by Project Insurance, provided that no such waiver shall impair the right to recover any sums otherwise payable to any Participant under the Project Insurance.

23.6 The Project Manager and Operating Agent respectively shall furnish the other Participants with a certified copy of each of the policy forms of Project Insurance, together with a line sheet therefor (and any subsequent amendments) naming the insurers and underwriters and the extent of their participation.

23.7 Each of the Project Insurance policies shall be endorsed so as to provide that the Participants and additional named insureds pursuant to Section 23.5 hereof shall be given the same advance notice of cancellation or material change as that required to be given to the Project Manager or Operating Agent.

23.8 In the event the Administrative Committee is unable to agree upon any matters relating to Project Insurance not governed by Sections 22 and 23 hereof, the Project Manager or Operating Agent, pending the resolution of such disagreement, shall procure or cause to be procured such policies of Project Insurance as in its best judgment are necessary and required to protect the Participants against the insurable risks more
particularly set forth in Section 22 hereof. During any period of negotiations with an insurer, or other negotiations which are pending at the expiration of the period of coverage of a Project Insurance policy, or in the event a Project Insurance policy is cancelled, the Project Manager and Operating Agent shall renew or bind policies as an emergency measure or may procure policies of insurance which are identical to those which were cancelled, or may, to the extent possible, secure replacement policies which will provide substantially the same coverage as the policy expiring or cancelled.

23.9 Each Participant shall have the right to have any mortgagee, trustee or secured party named on all or any of the Project Insurance policies as loss payee or additional insured as its interest may appear, by notice to the Project Manager or Operating Agent given in writing not less than ninety (90) days prior to the procurement or renewal of the Project Insurance policy or policies, which notice shall specify the name or names of such mortgagee, trustee or secured party and such additional information, as may be necessary or required to permit it to be included on the policy or policies of Project Insurance.

23.10 Unless otherwise directed by the Administrative Committee, the Project Manager and Operating Agent shall obtain Project Insurance from such
insurers or underwriters, including stock companies, mutuals and pools or groups of insurers or underwriters, as either of them in its sole discretion may select, provided that any policy which obligates any Participant to pay any assessment shall not be obtained unless such Participant has agreed in writing to undertake such obligation.

23.11 Any refunds of premiums or dividends received by the Project Manager on any Construction Insurance shall be allocated at the time of receipt thereof among the Participants in proportion to the funds advanced by each Participant for such Construction Insurance, provided that any reserve premium refunds received under any policy with a retrospective rating plan shall be allocated among the Participants at the time of payment of the reserve premium in proportion to the funds advanced by each Participant for such policy.

23.12 Any refunds of premiums or dividends received by the Operating Agent on any Operating Insurance shall be allocated among the Participants in proportion to their Ownership Responsibility at the time of receipt thereof, provided that any reserve premium refunds received under any policy with a retrospective rating plan shall be allocated among the Participants at the time of payment of the reserve premium in proportion to their Ownership Responsibility at such time.
23.13 Nothing herein shall prohibit the Project Manager or Operating Agent from combining the coverage required by this Participation Agreement with coverage outside the scope of that required by this Participation Agreement. If the Project Manager or Operating Agent does so combine coverages, the Administrative Committee shall determine the portion of the total premium cost which is allocable to Construction Insurance or Operating Insurance. If the Administrative Committee is unable to determine such allocation, the Project Manager or Operating Agent, as the case may be, may make an estimated allocation and bill the Participants on the basis thereof, with adjustment to be made when the dispute is resolved.

23.14 Except as provided in Section 23.9 hereof, if any Participant desires changes in any policy of Project Insurance, such Participant shall request in writing to the Project Manager or Operating Agent, as the case may be, to have the desired changes made. Upon receipt of any such request the Project Manager or Operating Agent shall promptly determine whether or not the desired changes can be made and the effect thereof upon the coverage afforded each other Participant and upon insurance premiums. If the Project Manager or Operating Agent determines that the desired changes (i) can be made, (ii) will not reduce the coverage otherwise
afforded to any Participant, and (iii) will not result in any increase in premium expenses or if an increase in premium expenses will result and the requesting Participant agrees in writing to pay such increase, then the Project Manager or Operating Agent shall cause such desired changes to be made at the earliest feasible time. If the Project Manager or Operating Agent determines that the desired changes can be made but to do so (i) will result in a reduction in coverage otherwise afforded to any Participant, or (ii) will result in an increase in premium expense shared by the Participants, such request shall be referred to the Administrative Committee for resolution.

23.15 Whenever there shall be nuclear fuel at the plant site of the Arizona Nuclear Power Project or in transit to or from said plant site, the Project Manager prior to the date of firm operation of the first generating unit of ANPP and the Operating Agent thereafter shall have in force and effect or cause to have in force and effect (i) Project Insurance in such minimum amount and in such form or forms as may be required from time to time by law, including the rules and regulations of the Nuclear Regulatory Commission and (ii) an indemnity agreement executed and delivered by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954 as amended as of the date of this
24. **LIABILITY**

24.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid Project Insurance, each Participant hereby extends to all other Participants, and their respective directors, officers, agents and employees, its covenant not to execute on any judgment obtained against such other Participants for direct, indirect or consequential loss, damage, cost, charge or expense, whether or not resulting from the negligence of a Participant, its directors, officers, agents, employees or any other person or entity whose negligence would be imputed to such Participant, arising from physical damage to its property which results from the performance or non-performance of the obligations of a Participant under the Project Agreements.

24.2 In the event any insurer providing Project Insurance refuses to pay any judgment obtained by a Participant against another Participant, or any of its directors, officers or employees, on account of liability referred to in Section 24.1 hereof, the Participant or any of its directors, officers or employees against whom the judgment is obtained shall, at the request of the Participant obtaining the judgment and in consideration for the covenant given in Section 24.1 hereof, execute
such documents as may be necessary to effect an assignment of its or their contractual rights against the non-paying insurer.

24.3 Except for Work Liability resulting from Willful Action and except as provided in Section 24.5 hereof, the costs and expenses of discharging all Work Liability imposed upon one or more of the Participants for which payment is not made by Project Insurance, shall be allocated among the Participants in proportion to their Ownership Responsibility.

24.4 Each Participant shall be responsible for the consequences of its own Willful Action and shall indemnify and hold harmless the other Participants from the consequences thereof to the extent that such consequences are not covered by valid and collectible Project Insurance.

24.5 Except for liability resulting from Willful Action, any Participant whose electric customer shall have a claim or bring an action against any other Participant for any death, injury, loss or damage arising out of or in connection with interruptions to or curtailment of electric service to such customer caused by the operation or failure of operation of the High Voltage Switchyard or any portion thereof shall indemnify and hold harmless such other Participant, its directors, officers and employees, from and against any liability
for such death, injury, loss or damage.

24.6 The provisions of this Section 24 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies.

24.7 The provisions of this Section 24 shall conform with the provisions of Section 21 (LIABILITY) of the ANPP Participation Agreement, as currently set forth or as may be amended, with the understanding that the Participants’ levels of authority and the monetary risks associated with Willful Action may differ between agreements.

25. **AUTHORIZATIONS AND APPROVALS**

25.1 The Project Manager shall be responsible for obtaining all licenses, permits and authorizations requisite to construct each component of the ANPP High Voltage Switchyard and any portions thereof and, in coordination with the Operating Agent, for obtaining all licenses, permits and authorizations requisite to operate and maintain such component prior to the completion of Construction Work. The Project Manager is authorized to submit and prosecute on behalf of each Participant any applications therefor, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearing at any
hearing. The Project Manager shall furnish each Participant with copies of all documents submitted as much in advance of the filing or submission date as may be reasonably possible without incurring a delay or risk of delay of the completion of Construction Work of any component and shall otherwise keep each Participant informed of the status of all applications. Each Participant shall cooperate with the Project Manager in the preparation, submission and execution of such information, records, statements or other material required to obtain any such licenses, permits or authorizations and any changes thereto.

25.2 The Operating Agent shall be responsible for obtaining and, continuing in effect all licenses, permits and authorizations requisite to operate and maintain each component, and to construct or install any Capital Improvements. The Operating Agent is authorized on behalf of each Participant to submit and prosecute any applications therefor, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearance at any hearing. The Operating Agent shall furnish each Participant with copies of all documents submitted and all licenses, permits and authorizations received and shall otherwise keep each Participant informed of the status of all licenses, permits and authorizations in
effect and any pending or proposed applications therefor or for changes thereto. Each Participant shall cooperate with the Operating Agent in the preparation, submission and execution of such information, records, statements or other material required to obtain and continue in effect any such licenses, permits or authorizations and any changes thereto.

25.3 Except as provided in Sections 25.1 and 25.2 hereof, each Participant shall be responsible for obtaining, at its own expense, its required authorizations and approvals, if any, relating to its participation in the construction or reconstruction and operation of the High Voltage Switchyard and to its performance of the provisions of the Project Agreements, from federal, state or local regulatory authorities having jurisdiction to issue such authorizations and approvals, and each Participant shall keep the Project Manager and Operating Agent informed of its applications therefor.

26. DEFAULTS AND COVENANTS REGARDING OTHER PROJECT AGREEMENTS

26.1 Each Participant shall pay all monies and carry out all other duties and obligations agreed to be paid and/or performed by it pursuant to all of the terms and conditions set forth and contained in the Project Agreements, and a default by any Participant in the covenants and obligations to be kept and performed
pursuant to the terms and conditions set forth and contained in any of the Project Agreements shall be an act of default under this Participation Agreement.

26.2 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements, then, within ten (10) days after written notice has been given by any non-defaulting Participant to all other Participants of the existence and nature of the default, the non-defaulting Participants shall remedy such default either by advancing the necessary funds and/or commencing to render the necessary performance, with each non-defaulting Participant contributing to such remedy in the ratio of its Ownership Responsibility to the total of the Ownership Responsibility of all non-defaulting Participants.

26.3 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements and the giving of notice as provided in Section 26.2 hereof, the defaulting Participant shall take all steps necessary to cure such default as promptly and completely as possible and shall pay promptly upon demand to each non-defaulting Participant the total amount of money and/or the reasonable equivalent in money of non-monetary performance, if any, paid and/or made by such non-defaulting Participant in order to cure any default by the defaulting Participant, together with
interest on such money and/or the costs of non-monetary performance at the rate of ten percent (10\%) per annum, or the maximum rate of interest legally chargeable, whichever is less, from the date of the expenditure of such money and/or the date of completion of such non-monetary performance by each such non-defaulting Participant to the date of such reimbursement by the defaulting Participant, or such greater amount as may be otherwise provided in the Project Agreements.

26.4 In the event that any Participant shall dispute the existence or nature of a default asserted in a notice given pursuant to Section 26.2 hereof, then such Participant shall pay the disputed payment or perform the disputed obligation but may do so under protest. The protest shall be in writing, shall precede or accompany the disputed payment or precede the performance of the disputed obligation and shall specify the reasons upon which the protest is based. Copies of such protest shall be mailed by such Participant to all other Participants. Payments not made under protest shall be deemed to be correct, except to the extent that periodic or annual audits may reveal over or under payments by Participants, necessitating adjustments. In the event it is determined by arbitration, pursuant to the provisions of this Participation Agreement or otherwise, that a protesting Participant is entitled to a refund of all or any portion
of a disputed payment or payments or is entitled to the reasonable equivalent in money of non-monetary performance of a disputed obligation theretofore made, then, upon such determination, the non-protesting Participants shall pay such amount to the protesting Participant together with interest thereon at the rate of six percent (6%) per annum from the date of payment or from the date of completion of performance of a disputed obligation to the date of reimbursement. Reimbursement of the amount so paid shall be made by the non-protesting Participants in the ratio of their respective Ownership Responsibilities to the total of the Ownership Responsibilities of all non-protesting Participants.

26.5 Unless otherwise determined by a board of arbitrators, in the event a default by any Participant in the payment or performance of any obligation under the Project Agreements shall continue for a period of six (6) months or more without having been cured by the defaulting Participant or without such Participant having commenced or continued action in good faith to cure such default, or in the event the question of whether an act of default exists becomes the subject of an arbitration pursuant to Section 27 hereof, and such act continues for a period of six (6) months following a final determination by a board of arbitrators or otherwise that an act of default exists and the defaulting Participant
has failed to cure such default or to commence such action during said six (6) month period, then, at any time thereafter and while said default is continuing, all of the non-defaulting Participants, by written notice to all Participants, may suspend the right of the defaulting Participant (i) to be represented on and participate in the actions of all committees, and (ii) to use all or any part of its proportionate share of rights in the High Voltage Switchyard, in which event:

26.5.1 During the period that such suspension is in effect, the non-defaulting Participants (i) shall bear all of the operation and maintenance costs, insurance costs and other expenses, otherwise payable by the defaulting Participant under the Project Agreements, and (ii) shall be entitled to schedule and receive for their respective accounts the rights of the defaulting Participant to the use of the High Voltage Switchyard in the ratio of their respective Ownership Responsibilities to the total of the Ownership Responsibilities of all non-defaulting Participants.

26.5.2 A defaulting Participant shall be liable to the non-defaulting Participants for all costs incurred by such non-defaulting Participants pursuant to Section 26.5.1 hereof plus interest as provided in Section 26.3 hereof. The proceeds paid
by any defaulting Participant to remedy any such default shall be distributed to the non-defaulting Participants in proportion to the cost actually paid by the non-defaulting Participants to remedy the default involved herein.

26.5.3 The suspension of any defaulting Participant shall be terminated and its full rights hereunder restored when all of its defaults have been cured and all costs incurred by non-defaulting Participants pursuant to Section 26.5.1 plus interest as provided in Section 26.3 hereof have been paid by the defaulting Participant or other arrangements suitable to all non-defaulting Participants have been made.

26.6 In addition to the remedies provided in Section 26.5 hereof the non-defaulting Participants may, in submitting a dispute to arbitration in accordance with the provisions of Section 27 hereof, request that the board of arbitrators determine what additional remedies may be reasonably necessary or required under the circumstances which gave rise to the dispute. The board of arbitrators may determine what remedies are necessary or required in the premises, including but not limited to the conditions under which the High Voltage Switchyard may be operated economically and efficiently during periods when the defaulting Participant’s right to
receive its proportionate share of use of the High Voltage Switchyard is suspended.

26. The rights and remedies of the Participants set forth in this Participation Agreement shall be in addition to the rights and remedies of the Participants set forth in any other of the Project Agreements.

27. ARBITRATION

27.1 If a dispute between any of the Participants should arise under the Project Agreements and a resolution is not reached pursuant to Sections 7.9 and 7.10 hereof, any Participant(s) may call for submission of the dispute to arbitration which shall be binding upon all of the Participants.

27.2 The Participant(s) calling for arbitration shall give written notice to all other Participants, setting forth in such notice in adequate detail the nature of the dispute, including the specific issues to be resolved by arbitration, the amount or amounts, if any, involved in such dispute, and the remedy sought by such arbitration proceedings and, within twenty (20) days from receipt of such notice, any other Participant(s) involved may, by written response to the first Participant(s) and all other Participants, submit its or their own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated. Thereafter, the Participant(s) first
submitting its or their notice of the matter at issue shall have ten (10) days in which to submit a written rebuttal statement, copies of which shall be given to all other Participants.

27.3 Within forty (40) days following delivery of the written notice by a Participant calling for arbitration pursuant to Section 27.2 hereof, the Participants, acting through their representatives on the Administrative Committee, shall meet for the purpose of selecting arbitrators. Each Participant or group of Participants representing a side of the dispute shall designate an arbitrator. The arbitrators so selected shall meet within twenty (20) days following their selection and shall select additional arbitrators, the number of which shall be one (1) less than the total number of arbitrators selected by the Participants. If the arbitrators selected by the Participants, as herein provided, shall fail to select such additional arbitrator(s) within said twenty (20) day period, then the arbitrators shall request from the American Arbitration Association (or a similar organization if the American Arbitration Association should not at the time exist) a list of arbitrators who are qualified and eligible to serve as hereinafter provided. The arbitrators selected by the Participants shall take turns striking names from the list of arbitrators furnished by
the American Arbitration Association, and the last name(s) remaining on said list shall be the additional arbitrator(s). All arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute, and no person shall be eligible for appointment as an arbitrator who is or has ever been an officer or employee of any of the parties to the dispute or is otherwise interested in the matter to be arbitrated.

27.4 Except as otherwise provided in this Section 27, the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force, except that if such rules and practice, as modified herein, shall conflict with state or federal laws, as the case may be, then in force which are specifically applicable to such arbitration proceedings, such law shall govern.

27.5 Included in the issues which may be submitted to arbitration pursuant to this Section 27 is the issue of whether the right to arbitrate a particular dispute is permitted under the Project Agreements.

27.6 The arbitrators shall hear evidence submitted by the respective Participants and may call for additional information, which additional information shall be furnished by the Participant(s) having such
The decision of a majority of the arbitrators shall be binding upon all the Participants.

27.7 The award of the arbitrators shall contain findings with respect to the issues involved with the dispute and relative to the materiality of the default, the period of time within which the defaulting Participant must remedy the default or commence remedial action, and the remedies which may be exercised by the non-defaulting Participants in the event the default is not remedied within such period of time.

27.8 This agreement to arbitrate shall be specifically enforceable, and the award and findings of the arbitrators shall be final and binding upon the Participants to the extent permitted by applicable law. Any award may be filed with the clerk of any court having jurisdiction over the Participants, or any of them, against whom the award is rendered and, upon such filing, such award, to the extent permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgment or other similar relief.

27.9 The fees and expenses of the arbitrators shall be shared by the Participants equally, unless the decision of the arbitrators shall specify some other apportionment of such fees and expenses. All other expenses and costs of the arbitration shall be borne by
the Participant incurring the same.

27.10 In the event that any Participant shall attempt to carry out the provisions herein set forth in regard to arbitration, and such Participant shall not be able to obtain a valid and enforceable arbitration decree, such Participant shall be entitled to seek legal remedies in the courts having jurisdiction in the premises, and the provisions of the Project Agreements referring to decision of a board of arbitration, to the extent allowable by law, shall be then deemed applicable to final decisions of such courts.

28. ACTIONS PENDING RESOLUTION OF DISPUTES

28.1 If a dispute should arise which is not resolved by the Administrative Committee or the higher authorities within the Participants' organizations, then, pending the resolution of the dispute by arbitration or judicial proceedings, the Project Manager or Operating Agent shall proceed with Construction Work, Operating Work or Capital Improvements in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry, and the Participants shall advance the funds required to perform such Construction Work, Operating Work or Capital Improvements in accordance with the applicable provisions of the Project Agreements. The resolution of any dispute involving the failure of the Administrative Committee to reach
agreement upon matters involving future expenditures shall have prospective application from the date of final determination, and the amounts advanced by the Participants pursuant to this Section 28 during the pendency of such dispute shall not be subject to refund except upon a final determination that the expenditures were not made in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry.

29. **REMOVAL OF PROJECT MANAGER OR OPERATING AGENT**

   29.1 The Project Manager and Operating Agent shall serve during the term of and pursuant to this Participation Agreement subject to (i) resignation by giving written notice to the Participants at least one (1) year in advance of the date of resignation or (ii) removal following a determination that it is in default of this Participation Agreement as provided in Section 29.2.2 hereof. Upon the effective date of such resignation or removal, the Participants shall designate a new Project Manager or Operating Agent by written agreement.

   29.2 The following provisions shall apply solely in regard to violations or allegations of violations of this Participation Agreement by the Project Manager or the Operating Agent on the basis of which removal of either one is sought:
29.2.1 In the event any Participant shall be of the opinion that an action taken or not taken by the Project Manager or Operating Agent constitutes a violation of this Participation Agreement, it may give written notice thereof to the Project Manager or the Operating Agent as the case may be and the other Participants, together with a statement of the reasons for its opinion. Thereupon, the Project Manager or the Operating Agent may prepare a statement of the reasons justifying its action or failure to take action. If agreement in settling the dispute is not reached between the Project Manager or the Operating Agent and the Participant which gave such notice, then the matter shall be submitted to arbitration in the manner provided in Section 27 hereof. During the continuance of the arbitration proceedings, the Project Manager or the Operating Agent may continue such action taken or not taken in the manner it deems most advisable and consistent with this Participation Agreement.

29.2.2 If it is determined by arbitration that the Project Manager or the Operating Agent has violated or is violating this Participation Agreement, then it shall take due diligence to end such violation and shall, within six (6) months or within such lesser time following the
determination as may be prescribed in the determination, take action or commence action in good faith to terminate such violation. In the event that the Project Manager or the Operating Agent has failed either to correct, or to commence action to correct, the violation within such allowed period (which itself may be a subject of dispute for determination as above provided) the Project Manager or the Operating Agent shall be deemed to be in default under this Participation Agreement and shall be subject to removal upon receipt of notice thereof executed by all the other Participants, in accordance with Section 29.1 hereof.

29.2.3 The provisions of Section 26 hereof shall not apply to disputes as to whether or not an action or non-action of the Project Manager or the Operating Agent, in its capacity as such, is a violation or a default under this Participation Agreement.

30. RELATIONSHIP OF PARTICIPANTS

30.1 The covenants, obligations and liabilities of the Participants are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to
any one or more of the Participants. Each Participant shall be individually responsible for its own covenants, obligations and liabilities as herein provided. No Participant or group of Participants shall be under the control of or shall be deemed to control any other Participant or the Participants as a group. No Participant shall be the agent of or have a right or power to bind any other Participant without its express written consent, except as expressly provided in this Participation Agreement or other Project Agreements.

30.2 The Participants hereby elect to be excluded from the application of Subchapter “K” of Chapter 1 of Subtitle “A” of the Internal Revenue Code of 1954, or such portion or portions thereof as may be permitted or authorized by the Secretary of the Treasury or his delegate insofar as such Subchapter, or any portion or portions thereof, may be applicable to the Participants under the Project Agreements.

31. FEES

31.1 Except for Construction Work performed by the Project Manager on a fixed cost basis pursuant to Section 8.9 hereof, the Project Manager or Operating Agent shall not receive any fee or profit for performance of its obligations pursuant to this Participation Agreement.

32. ENVIRONMENTAL PROTECTION

32.1 The Participants will design, construct,
operate and maintain the High Voltage Switchyard in a manner consistent with the Participants' objective of complying fully with applicable federal, state and local laws, orders, regulations, rules and standards relating to environmental protection.

33. **UNCONTROLLABLE FORCES**

33.1 No Participant shall be considered to be in default in the performance of any of its obligations under the Project Agreements (other than obligations of said Participant to pay costs and expenses) when a failure of performance shall be due to an uncontrollable force. The term “uncontrollable force” shall mean any cause beyond the control of the Participant affected, including but not restricted to failure of or threat of failure of facilities, flood, earthquake, tornado, volcanic eruption, 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 non-action by or inability to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Participant could not reasonably have been expected to avoid, and which by exercise of due diligence, it has been unable to overcome. Nothing contained herein shall be construed so as to require a Participant to settle any strike or labor
dispute in which it may be involved. Any Participant rendered unable to fulfill any of its obligations under the Project Agreements by reason of an uncontrollable force shall give prompt written notice of such fact to the other Participants and shall exercise due diligence to remove such inability with all reasonable dispatch. The term “Participant” as used in this Section 33 shall include the Project Manager and Operating Agent in their capacities as such.

34. **GOVERNING LAW**

   34.1 This Agreement shall be governed by and construed and enforceable in accordance with the laws of the State of Arizona.

35. **BINDING OBLIGATIONS**

   35.1 All of the respective covenants and obligations of each of the Participants set forth and contained in this Participation Agreement and the Project Agreements shall bind and shall be and become the respective covenants and obligations of:

   35.1.1 Each such Participant;

   35.1.2 All mortgagees, trustees and secured parties under all present and future mortgages, indentures and deeds of trust, and security agreements which are or may become a lien upon any of the interests of a Participant in the High Voltage Switchyard; provided, however, that such
covenants and obligations shall become binding upon such parties only at the time of taking possession;

35.1.3 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such Participant;

35.1.4 All other persons, firms, partnerships or corporations claiming through or under any of the foregoing; and

35.1.5 Any successors or assigns of any of those mentioned in Sections 35.1.1 through 35.1.4 hereof,

and shall be covenants and obligations running with such Participant’s respective rights, titles and interests in the High Voltage Switchyard and in, to and under the Project Agreements, and shall be for the benefit of the respective rights, titles and interests of the Participants and their respective successors and assigns, in and to the High Voltage Switchyard. It is the specific intention of the Participants by the inclusion of this provision herein that all such covenants and obligations shall be binding upon any party which acquires any of the rights, titles and interests of any such Participant in the High Voltage Switchyard or in, to and under the Project Agreements and that all of the above-described persons and groups shall be obligated to use such Participant’s rights, titles and interests in
the High Voltage Switchyard and/or in, to or under the Project Agreements for the purpose of discharging its covenants and obligations under the Project Agreements; except that in the case of a partial assignment, the assignee shall only be required to share in the cost of fulfilling the covenants and obligations of the assigning Participant in, to and under the Project Agreements to an extent proportionate or attributable to such assignment.

36. NONDEDICATION OF FACILITIES

36.1 The Participants do not intend to dedicate and nothing in this Participation Agreement or the Project Agreements shall be construed as constituting a dedication by any Participant of its properties or facilities, or any part thereof, to any other Participant or to the customers of any Participant.

37. GENERAL PROVISIONS GOVERNING PROJECT AGREEMENTS

37.1 The Participants agree to negotiate in good faith and to proceed with diligence to obtain all of the Project Agreements among the Participants and between the Participants and other entities.

37.2 It is acknowledged by the Participants that one or more of the Project Agreements may contain provisions which are in conflict with or contrary to the terms of this Participation Agreement, and any such provision in a Project Agreement executed subsequent to the execution of this Participation Agreement and agreed

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to by the Participants shall be deemed to supersede, amend or modify any conflicting or contrary provision herein. The mutual agreement of the Participants to supersede, amend or modify the terms hereof shall constitute the legal consideration to support such change in the legal rights and obligations of the Participants.

37.3 Each Participant agrees, upon request by the other Participants, to make, execute and deliver any and all documents reasonably required to implement this Participation Agreement and the Project Agreements.

37.4 Each term, covenant and condition of this Participation Agreement and the Project Agreements is deemed to be an independent term, covenant and condition, and the obligation of any Participant to perform any or all of the terms, covenants and conditions to be kept and performed by it is not dependent on the performance by the other Participants of any or all of the terms, covenants and conditions to be kept and performed by them.

37.5 In the event that any of the terms, covenants or conditions of this Participation Agreement or any of the Project Agreements, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants or conditions of such agreements and their application
shall not be affected thereby, but shall remain in force and effect.

37.6 The Project Agreements shall be subject to filing with, and to such changes or modifications as may from time to time be directed by, competent regulatory authority, if any, in the exercise of its jurisdiction.

37.7 Except as otherwise specifically provided in this Participation Agreement or the Project Agreements, the Participants do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Participation Agreement or the Project Agreement or of any duty, covenant, obligation or undertaking established therein.

37.8 Any waiver at any time by any Participant of its rights with respect to a default or any other matter arising in connection with this Participation Agreement or a Project Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

38. TERM AND TERMINATION

38.1 This Participation Agreement shall become effective when it has been duly executed by all of the Participants and shall have a term of fifty (50) years from its effective date or forty (40) years from the completion of Construction Work on the last component of the High Voltage Switchyard constructed hereunder, whichever is later.
38.2 In any event this Participation Agreement shall continue in force and effect until (i) the expiration of the term set forth in Section 38.1 hereof, or (ii) all property comprising the High Voltage Switchyard has been disposed of and all termination costs have been paid and audited.

39. **ASSIGNMENT OF INTERESTS**

39.1 Any Participant which acquires in its name an interest in any real or personal property or contract which is part of the High Voltage Switchyard shall transfer and assign an undivided interest therein to the other Participants so that the ownership and rights of the Participants in such property or contract shall be as provided for in this Participation Agreement.

40. **EQUAL OPPORTUNITY**

40.1 During the term of this Participation Agreement, the Project Manager and the Operating Agent (hereinafter in this Section 40 referred to collectively as the “Contractor”) agree as follows:

40.1.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or
national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff 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 non-discrimination clause.

40.1.2 The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers’ representative of the Contractor’s commitments under this Section 40, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

40.1.3 The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations and relevant orders of the Secretary of Labor.
40.1.4 The Contractor shall furnish all information and reports required by Executive Order 11246 as amended by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

40.1.5 In the event of the Contractor’s non-compliance with the nondiscrimination clauses of this Participation Agreement or with any of the said rules, regulations or orders, this Participation Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in said Executive Order 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order as amended or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

40.1.6 The Contractor shall include the provisions of Sections 40.1.1 through 40.1.7 hereof in every subcontract or purchase order unless
exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of said Executive Order 11246 as amended so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance; 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 administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

40.1.7 The Contractor shall, 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 or national origin.

40.2 The Participants recognize there are a number of Indian Reservations in the area in which the Contractor operates. Pursuant to provisions of Title 42 U.S.C.A S2000-e-2(i), the Contractor now has several agreements and contemplates it may have additional
agreements with Indian Tribes providing for preference to qualified Indians for employment on the Reservation of such Indians. The Participants agree that the Contractor’s act of giving preference to qualified Indians for employment on the Reservation of said Indians is not to be deemed inconsistent with the purposes or provisions of Section 40.1 hereof.

41. **NOTICES**

41.1 Except as set forth in Section 41.2 hereof, any notice, demand or request provided for in this Participation Agreement or any other Project Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

- **Arizona Public Service Company**
  
  c/o Secretary  
  
  P. O. Box 21666  
  
  Phoenix, Arizona 85036  

- **Salt River Project Agricultural Improvement and Power District**  
  
  c/o Secretary  
  
  P. O. Box 1980  
  
  Phoenix, Arizona 85001  

- **Public Service Co. of New Mexico**  
  
  c/o Secretary  
  
  Alvarado Square  
  
  Albuquerque, New Mexico 87158  

- **El Paso Electric Company**  
  
  c/o Secretary  
  
  P. O. Box 982  
  
  El Paso, Texas 79960  

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Southern California Edison Company
c/o Secretary
P. O. Box 800
Rosemead, California 91770

41.2 Communications of a routine nature involving committee matters, including requests for funds and related matters, shall be given in such a manner as the Administrative Committee shall arrange.

41.3 Any Participant may, at any time, by written notice to all other Participants, designate different or additional persons or different addresses for the giving of notices hereunder.

42. **EXECUTION**

IN WITNESS WHEREOF, the Participants have caused this Participation Agreement to be executed as of the 20th day of August, 1981.

ARIZONA PUBLIC SERVICE COMPANY

By [ILLEGIBLE]

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By [ILLEGIBLE]
Vice President

ATTEST AND COUNTERSIGN:

[Signature]
Secretary

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PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Vice President

ATTEST:

Assistant Secretary

EL PASO ELECTRIC COMPANY

By

Vice President

ATTEST:

Secretary

SOUTHERN CALIFORNIA EDISON COMPANY

By

Vice President

ATTEST:

ASSISTANT Secretary

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On this the 10th day of August, 1981, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. RICE who acknowledged themselves to be the VICE PRESIDENT and SECRETARY of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such VICE PRESIDENT and SECRETARY.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:  
My Commission Expires May 3, 1983

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On this the 13 day of August, 1981, before me, the undersigned Notary Public, personally appeared Thomas G. Woods, Jr. who acknowledged himself to be the Executive Vice Pres. of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Executive Vice Pres.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]
Notary Public

My Commission Expires:

September 12, 1981
On this the 20th day of August, 1981, before me, the undersigned Notary Public personally appeared C. D. Bedford and B. P. Lopez who acknowledged themselves to be the Vice President Asst.Secr. of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by themselves, as such Vice Pres. and Asst.Secr.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:
On this the 20th day of August, 1981, before me, the undersigned Notary Public personally appeared Donald G. Isbell who acknowledged himself to be the Vice-President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice-President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: 10/25/81
On this the 31st day of July, 1981, before me, the undersigned Notary Public personally appeared G. J. Bjorklund and H. L. Mortensen, who acknowledged themselves to be the Vice President and Assistant Secretary, of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires: AUG 19, 1983
APPENDIX A

DESCRIPTION OF ANPP HIGH VOLTAGE SWITCHYARD

The ANPP High Voltage Switchyard will be located adjacent to ANPP Generating Units 1, 2, and 3 and will be designed and constructed as a breaker-and-a-half bus scheme as shown on Page A-3 hereof. Terminations provided for in the ANPP High Voltage Switchyard include the following:

1. Westwing 500kV Transmission Line
2. Unit #1 start-up transformer
3. Unit #1 generator step-up transformer
4. Kyrene 500kV Transmission Line
5. Unit #2 start-up transformer
6. Devers 500kV Transmission Line
7. Unit #2 generator step-up transformer
8. Unit #3 start-up transformer
9. Unit #3 generator step-up Transformer

In addition to the nine items listed, termination space provisions will be made to allow for the termination of the Palo Verde-East 500 kV Transmission Line and the termination of future transmission lines in bays 1, 3, 7 and 8.

Common facilities for the ANPP High Voltage Switchyard will include, but will not be limited to, site preparation including grading and fill, fencing, grounding system, station lighting, auxiliary power system, trench and conduit, control building facilities, oscillograph, supervisory and
telemetering system and alarm system.

Each 500kV termination, 500kV power circuit breaker and 500kV bus will be provided with an appropriate protection system.

Space will be provided for series and shunt compensation on transmission lines requiring this type of equipment.
APPENDIX B

PARTICIPANTS PERCENTAGE

OWNERSHIP RESPONSIBILITY IN THE ANPP HIGH VOLTAGE SWITCHYARD

OWNERSHIP RESPONSIBILITY

<table>
<thead>
<tr>
<th>Arizona</th>
<th>Salt River Project</th>
<th>El Paso</th>
<th>PNM</th>
<th>Edison</th>
</tr>
</thead>
<tbody>
<tr>
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<td>28.09</td>
<td>13.39</td>
<td>8.66</td>
<td>21.77</td>
</tr>
</tbody>
</table>

B-1
The construction of the ANPP High Voltage Switchyard will be scheduled so as to permit the 500kV terminations to be in-service as follows:

<table>
<thead>
<tr>
<th>Termination</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Westwing 500kV Transmission Line</td>
<td>8/15/81</td>
</tr>
<tr>
<td>Unit #1 start-up Transformer</td>
<td>8/15/81</td>
</tr>
<tr>
<td>Unit #1 generator step-up transformer</td>
<td>4/30/82</td>
</tr>
<tr>
<td>Kyrene 500kV Transmission Line</td>
<td>11/1/82</td>
</tr>
<tr>
<td>Unit #2 start-up transformer</td>
<td>5/30/82</td>
</tr>
<tr>
<td>Devers 500kV Transmission Line</td>
<td>5/1/82</td>
</tr>
<tr>
<td>Unit #2 generator step-up transformer</td>
<td>4/30/83</td>
</tr>
<tr>
<td>Unit #3 start-up transformer</td>
<td>5/30/84</td>
</tr>
<tr>
<td>Unit #3 generator step-up transformer</td>
<td>4/30/85</td>
</tr>
</tbody>
</table>
D.1 Construction Costs shall consist of payments made and obligations incurred (other than obligations for interest during construction) for the account of Construction Work and shall consist of, but not be limited to, the following:

D.1.1 All costs of labor, services and studies performed in connection with Construction Work if authorized and approved by the Project Manager.

D.1.2 Payroll and other expenses of the Project Manager’s employees while performing Construction Work, including properly allocated labor loading charges, such as department overhead, time-off allowances, payroll taxes, worker’s compensation insurance, retirement and death benefits and other employee benefits.

D.1.3 All components of Construction Costs, including overhead costs associated with construction (including properly allocated department overheads and the allowance for the Project Manager’s administrative and general expenses described in Section D.4 hereof), costs of temporary facilities, land and land rights, structures and improvements, and equipment for the High Voltage Switchyard, as set forth in the Electric Plant Instructions of the FERC System of Accounts.

D.1.4 All costs, including those of outside consultants and attorneys, incurred by the Project
Manager or other Participants with respect to land rights and the acquisition thereof and with respect to the preparation of agreements relating to Construction Work with entities other than the Participants. All Participants anticipating such costs shall submit an estimate thereof to the Project Manager for authorization and approval. Any Participant incurring such costs after such authorization and approval shall bill the Project Manager therefor.

D.1.5 Applicable costs of materials, supplies, tools, machinery, equipment, apparatus and construction power in connection with Construction Work, including rental charges.

D.1.6 All costs of Construction Insurance, except the cost of the bond required by Section 22.1.3 of this Agreement, all costs arising out of Work Liability except any loss, damage or liability resulting from Willful Action, which are not satisfied under the coverages of Construction Insurance, and the expenses incurred in settlement of injury and damage claims, including the costs of labor and related supplies and expenses incurred in injury and damage activities (all as referred to in FERC Account 925), because of any claim arising out of Work Liability, the past or future performance or non-performance of the obligations and duties of any Participant (including the Project Manager) or the past.
or future performance or non-performance of Construction Work, including but not limited to, any claim resulting from death or injury to persons or damage to property.

D.1.7 All federal, state or local taxes of any character imposed upon Construction Work, except any tax assessed directly against an individual Participant, unless such tax was assessed to such individual Participant on behalf of any or all of the Participants.

D.1.8 Expenses of other Participants incurred in the performance of Construction Work, if authorized and approved by the Project Manager, and the expenses of the Operating Agent incurred during the engineering design period, the construction period and the testing period, excluding any training expenses not properly chargeable to Construction Costs.

D.1.9 All costs of relocating existing facilities necessitated by Construction Work.

D.1.10 All costs of enforcing or attempting to enforce the provisions of Construction Insurance policies, payment and performance bonds, contracts executed as Project Manager and warranties extended to facilities of the High Voltage Switchyard.

D.2 In cases where the allocation of a cost item is made between Construction Work and other work, such allocation shall be made on a fair and equitable basis as determined by the Engineering and Operating Committee.
D.3 The Project Manager shall use the FERC System of Accounts to account for Construction Costs in the Final Completion Report and any supplement thereto.

D.4 The allowance for the Project Manager’s administrative and general expenses to cover the costs of services rendered by it in the performance of Construction Work shall be allocated monthly at the rate of one percent (1%) of Construction Costs incurred during the preceding month, excluding from such Construction Costs:

D.4.1 Any allowance for administrative and general expenses provided for in this Section D.4.

D.4.2 Expenses incurred pursuant to Section 24.3 of the High Voltage Switchyard Participation Agreement.

D.4.3 Expenses described in Section D.1.8 hereof.

D.5 At the start of each calendar year, an estimated Payroll Tax Ratio, Benefits Ratio and Worker’s Compensation Ratio shall be used, and such ratios shall be determined in accordance with the methods set forth in Appendices F, G and H hereto, respectively. Such ratios shall be based on the Project Manager’s system-wide expenses for the preceding calendar year; provided that, by agreement of the Auditing Committee, such ratios may be adjusted to more nearly reflect the expenses of the current year because of legislation, labor contract negotiations or other factors not reflected in the prior year’s costs.
D.6 As soon as practicable after the end of each calendar year, the actual Payroll Tax Ratio, Benefits Ratio and Worker’s Compensation Ratio for such year shall be determined in accordance with the methods set forth in Appendices F, G and H hereto, respectively, by using said year’s actual system-wide expenses of the Project Manager. Using said actual ratios, the portions of the Project Manager’s payroll tax expenses, employee worker’s compensation expenses, and employee pensions and benefit expenses for which the Participants are obligated hereunder for costs of Construction Work shall be determined for such year. To the extent that such expenses are more than or less than those already paid by the Participants during said year, the Project Manager shall bill or reimburse the Participants for the amount of such difference.

D.7 If any Participant believes that the application of or the method used in determining the Payroll Tax Ratio, Benefits Ratio or Worker’s Compensation Ratio results in an unreasonable burden on said Participant, that Participant may request that such application or method be submitted to the Auditing Committee for review; provided that such review shall not be requested prior to December 1, 1981, and thereafter at intervals of not less than two (2) years each. After any such request, subject to the time limitations set forth above, the Auditing Committee shall...
Committee shall review such application or method and shall endeavor to agree upon whether or not an unreasonable burden does actually exist. If, after such review, the Auditing Committee determines that such application or method does result in an unreasonable burden on one or more of the Participants, the Auditing Committee shall determine and recommend a modified application or method to the Administrative Committee so that such unreasonable burden would be eliminated if such modified application or method is adopted by the Administrative Committee.

D.8 The Administrative Committee shall review the recommendations submitted by the Auditing Committee, and if, as a result of such review, the Administrative Committee agrees that such unreasonable burden does exist and that said modified application or method eliminates such unreasonable burden, then the Administrative Committee shall adopt said modified application or method. If the Auditing Committee has not submitted a recommendation and the Administrative Committee agrees that such unreasonable burden does exist, the Administrative Committee shall endeavor to agree on a modified application or method. If the Administrative Committee is unable to agree on any matter brought before it under this Section D.8, then any Participant may call for arbitration of such matter pursuant to Section 27 of
this High Voltage Switchyard Participation Agreement.

D.9 Any modified method adopted by the Administrative Committee or determined through arbitration shall be retroactive to the first day of the month in which the unreasonable burden began except that the retroactive period can be no more than two (2) years from the date of the requested review. Said modified method shall stay in effect until a new modified method is approved, but in no event less than two (2) years from the date of such adoption or determination.
APPENDIX E

EXPENSES OF OPERATING WORK

E.1 The costs of Operating Work shall include the following expenses to the extent that they are chargeable to the High Voltage Switchyard in accordance with Accounting Practice:

E.1.1 The operation expenses chargeable to FERC Account 556 and Accounts 560 through 562, inclusive.

E.1.2 The maintenance expenses chargeable to FERC Accounts 568 through 571, inclusive.

E.1.3 Overhead expenses included in Sections E.1.1 and E.1.2 hereof incurred by the Operating Agent. Such overhead expenses shall be determined in accordance with Appendix L hereto.

E.1.4 Applicable labor loading charges for the Operating Agent's direct labor charged to operation and maintenance accounts, and applicable labor loading charges on the portion of labor included in overhead expenses loaded on such direct labor charges. Such labor loading charges shall include but not be limited to the Operating Agent's normal time-off allowances, employee payroll taxes chargeable to FERC Account 408 and employee benefits chargeable to FERC Account 926 and worker's compensation chargeable to FERC Account 925.

E.1.4.1 Payroll tax expenses incurred by the Operating Agent, which are allocable to operation
and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix F hereto.

E.1.4.2 Employee pensions and benefits expenses incurred by the Operating Agent, which are allocable to operation and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix G hereto.

E.1.4.3 That portion of employee worker's compensation expenses, including deductibles, and the related administrative expenses incurred by the Operating Agent which are allocable to operation and maintenance accounts, pursuant to this Section E.1.4, shall be determined annually in accordance with the procedure and example shown on Appendix H hereto.

E.1.5 That portion of the Operating Agent's administrative and general expenses which are allocable to operation and maintenance of the High Voltage Switchyard shall be determined annually in accordance with the example shown in Appendix I hereto.

E.1.6 All costs incurred by the Operating Agent which are chargeable to FERC Accounts 408 (excluding payroll and ad valorem taxes or contribution in lieu of

E-2
taxes), 924 and 925 (excluding worker's compensation expenses).

E.2 At the start of each calendar year, an estimated Payroll Tax Ratio, Benefits Ratio, Worker's Compensation Ratio, Operation and Maintenance A&G Ratio, Capital Improvements A&G Ratio, and O&M Ratio and Construction Ratio shall be used, and such ratios shall be determined in accordance with the methods set forth in Appendices F, G, H, I, J, and K hereto, respectively. Such ratios shall be based on the Operating Agent's system-wide expenses for the preceding calendar year; provided that, by agreement of the Auditing Committee, such ratios may be adjusted to more nearly reflect the expenses of the current year because of legislation, labor contract negotiations or other factors not reflected in the prior year's costs.

E.3 As soon as practicable after the end of each calendar year, the actual Payroll Tax Ratio, Benefits Ratio, Worker's Compensation Ratio, Operation and Maintenance A&G Ratio, Capital Improvements A&G Ratio and O&M Ratio and Construction Ratio for such year shall be determined in accordance with the methods set forth in Appendices F, G, H, I, J, and K hereto respectively, by using said year's actual system-wide expenses of the Operating Agent. Using said actual ratios, the portions of the Operating Agent's payroll tax expenses, employee worker's compensation expenses, employee pensions and benefit expenses, and administrative and
general expenses for which the Participants are obligated hereunder for costs of Operating Work shall be determined for such year. To the extent that such expenses are more than or less than those already paid by the Participants during said year, the Operating Agent shall bill, credit or reimburse the Participants for the amount of such difference.

E.4 The Operating Agent’s administrative and general expenses, for operation and maintenance performed by a contractor, allocable to such operation and maintenance shall be determined by multiplying the total contract invoice cost thereof by 0.01.

E.5 If any Participant believes that the application of or the method used in determining the Payroll Tax Ratio, Benefits Ratio, Worker's Compensation Ratio, Operation and Maintenance A&G Ratio or O&M Ratio and Construction Ratio, results in an unreasonable burden on said Participant, that Participant may request that such application or method be submitted to the Auditing Committee for review; provided that such review shall not be requested prior to December 1, 1981, and thereafter at intervals of not less than two (2) years each. After any such request, subject to the time limitations set forth above, the Auditing Committee shall review such application or method and shall endeavor to agree upon whether or not an unreasonable burden does actually exist. If, after such review, the Auditing Committee determines that such application or method
does result in an unreasonable burden on one or more of the Participants, the Auditing Committee shall determine and recommend a modified application or method to the Administrative Committee so that such unreasonable burden would be eliminated if such modified application or method is adopted by the Administrative Committee.

E.6 The Administrative Committee shall review the recommendations submitted by the Auditing Committee and if, as a result of such review, the Administrative Committee agrees that such unreasonable burden does exist and that said modified application or method eliminates such unreasonable burden, then the Administrative Committee shall adopt said modified application or method. If the Auditing Committee has not submitted a recommendation and the Administrative Committee agrees that such unreasonable burden does exist, the Administrative Committee shall endeavor to agree on a modified application or method. If the Administrative Committee is unable to agree on any matter brought before it under this Section E.6, then any Participant may call for arbitration of such matter pursuant to Section 27 of this Agreement.

E.7 Any modified method adopted by the Administrative Committee or determined through arbitration shall be retroactive to the first day of the month in which the unreasonable burden began except that the retroactive period can be no more than two (2) years from the date of the requested review. Said modified method shall stay in effect
until a new modified method is approved, but in no event less than two (2) years from the date of such adoption or determination.

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The Payroll Tax Ratio set forth below shall be applied to the labor expense portion of the High Voltage Switchyard operation and maintenance expenses, to the Project Manager's direct labor charges incurred in effecting Construction Work, to the Operating Agent's direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Operating Agent's or Project Manager's supervisory accounts and to the Operating Agent's administrative and general expense accounts. Estimated and actual Payroll Tax Ratios shall be determined, adjusted and used in the manner set forth as follows:

\[
\text{Payroll Tax Ratio} = \frac{\text{Taxes}}{\text{Payroll}}
\]

Where:

\( T = \) The Operating Agent's or Project Manager's payroll tax expenses

\( P = \) The Operating Agent's or Project Manager's total labor distributed including accruals

The following example sets forth the method to be employed by the Operating Agent and Project Manager to determine the Payroll Tax Ratio:

F-1
EXAMPLE COMPUTATION
OF PAYROLL TAX RATIO
(SRP 1976 Expenses)

Total Payroll Taxes $2,148,441

Total labor charged to operation and maintenance, construction and miscellaneous general ledger accounts $44,788,141

Payroll Tax Ratio:

\[
\frac{2,148,441}{44,788,141} = 4.797\%
\]

The Payroll Tax Ratio shall be determined annually on the basis of the Operating Agent's or Project Manager's preceding year's expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Payroll Tax Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX G

BENEFITS RATIO

The Benefits Ratio set forth below shall be applied to the labor expense portion of the High Voltage Switchyard operation and maintenance expenses, to the Project Manager's direct labor charges incurred in effecting Construction Work, to the Operating Agent's direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Operating Agent's or Project Manager's supervisory accounts and to the Operating Agent's administrative and general expense accounts. Estimated and actual Benefits Ratios shall be determined, adjusted and used in the manner set forth as follows:

\[
\text{Benefits Ratio} = \frac{B}{L}
\]

Where:

\[B = \text{The Operating Agent's or Project Manager's total system employee pensions and benefits (as defined in FERC Account 926), including payroll taxes and worker's compensation expenses on labor charged to employee pensions and benefits}\]

\[L = \text{The Operating Agent's or Project Manager's total labor distributed including accruals less labor charged to employee pensions and benefits}\]

G-1
The following example sets forth the method to be employed by the Operating Agent and Project Manager to determine the Benefits Ratio:

**EXAMPLE COMPUTATION**
**OF BENEFITS RATIO**
(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Pensions and Benefits</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees Pensions and Benefits “as Defined in Account 926”.</td>
<td>$346,396</td>
<td>$6,230,602</td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 4.797% of labor (See Example in Appendix F).</td>
<td>16,617</td>
<td></td>
</tr>
<tr>
<td>Worker’s Compensation Ratio @ 3.313% of labor (See Example in Appendix H).</td>
<td>11,476</td>
<td></td>
</tr>
</tbody>
</table>

**Labor Base**

| Labor charged to operation and maintenance, construction and miscellaneous general ledger accounts. | $44,788,141 |
| Less total labor charged to Pensions and Benefits. | (346,396) |

**Total applicable labor.**

| $44,441,745 |

**Benefits Ratio:**

\[
\frac{6,258,695}{44,441,745} = 14.083\% 
\]

G-2
The Benefits Ratio shall be determined annually on the basis of the Operating Agent’s or Project Manager’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Benefits Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX H

WORKER’S COMPENSATION RATIO

The Worker’s Compensation Ratio set forth below shall be applied to the labor expense portion of the High Voltage Switchyard operation and maintenance expenses, to the Project Manager’s direct labor charges incurred in effecting Construction Work, to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements, to the labor expenses included in the Operating Agent’s or Project Manager’s supervisory accounts and to the Operating Agent’s administrative and general expense accounts.

\[
\text{Worker’s Compensation Ratio} = \frac{I}{P}
\]

Where:

\[
I = \text{The Operating Agent’s or Project Manager’s total system compensation insurance premiums and accruals for self-insurance charges to FERC Account 925}
\]

\[
P = \text{The Operating Agent’s or Project Manager’s total labor paid and accrued}
\]

H-1
WORKER’S COMPENSATION RATIO

EXAMPLE COMPUTATION

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,483,737</td>
</tr>
</tbody>
</table>

Worker’s compensation premiums, payments and accruals as defined in FERC Account 925

Labor Base

<table>
<thead>
<tr>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$44,788,141</td>
</tr>
</tbody>
</table>

Total labor in operations and maintenance, construction and miscellaneous general ledger accounts

Total applicable labor

Worker’s Compensation Ratio:

$$\frac{1,483,737}{44,788,141} = 3.313\%$$

The Worker’s Compensation Ratio shall be determined annually on the basis of the Operating Agent’s or Project Manager’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Worker’s Compensation Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.

H-2
The Operation and Maintenance A&G Ratio to be applied to the labor expenses portion of the High Voltage Switchyard operation and maintenance expense and to the labor included in the Operating Agent’s supervisory accounts shall be the percentage computed by dividing (i) an amount equal to (A) the sum of (a) the total amounts charged to FERC Accounts 920 and 921 (excluding maintenance costs of the microwave system) multiplied by the O&M Ratio computed in accordance with Appendix K hereto, (b) the total amounts charged to FERC Accounts 923 and 932, (c) the product of the portion of labor charges included within “(a)” and “(b)” above multiplied by the Payroll Tax Ratio computed in accordance with Appendix F hereto, (d) the product of the labor charges included within “(a)” and “(b)” above multiplied by the Benefits Ratio computed in accordance with Appendix G hereto, and (e) the product of the labor charges included within “(a)” and “(b)” above multiplied by the Worker’s Compensation Ratio computed in accordance with Appendix H hereto, less (B) that portion of the administrative and general expense allocable to contract operations and maintenance for the High Voltage Switchyard by (ii) the total labor charged to the Operating Agent’s system operations and maintenance less the labor charged to administrative and general expenses (excluding maintenance).
costs of the microwave system). The following example sets forth the method to be employed by the Operating Agent to determine the Operation and Maintenance A&G Ratio:

**EXAMPLE COMPUTATION**

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FERC Account 920</td>
<td>$4,132,053</td>
<td>$4,132,053</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FERC Account 921</td>
<td></td>
<td>1,739,720</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,132,053</td>
<td>$5,871,773</td>
</tr>
<tr>
<td>Total charges multiplied by O&amp;M Ratio @ 73.89% (See Example in Appendix K)</td>
<td>$3,053,174</td>
<td>$4,338,653</td>
</tr>
</tbody>
</table>

- **FERC Account 923**
  - 726,863

- **FERC Account 932 (Excluding maintenance costs of the microwave system)**
  - 106,920
  - 200,010

  **Subtotal**
  - 3,160,094
  - 5,265,526

- **Payroll Tax Ratio @ 4.797% (See Example in Appendix F) on labor charges shown above**
  - 151,590

- **Benefits Ratio @ 14.083% (See Example in Appendix G) on labor charges shown above**
  - 445,036

- **Worker’s Compensation Ratio @ 3.313% (See Example in Appendix H) on labor charges shown above**
  - 104,694

- **Less the portion of A & G allocable to contract operation and maintenance for the High Voltage Switchyard**
  - 0

- **Total administrative and general Expense allocable to operations and maintenance**
  - $5,966,846

- **Labor charged to system operations and maintenance**
  - $34,514,121

I-2
Less labor charged to administrative and general expense (excluding maintenance labor costs of the Microwave System) 

\[
\begin{array}{c}
\text{Labor Base} \\
29,072,508
\end{array}
\]

Operation and Maintenance A&G Ratio for 1976:

\[
\frac{5,966,846}{29,072,508} = 20.52\%
\]

The Operation and Maintenance A&G Ratio shall be determined annually on the basis of the Operating Agent’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Operation and Maintenance A&G Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX J

CAPITAL IMPROVEMENTS A&G RATIO

The Capital Improvements A&G Ratio to be applied to the Operating Agent’s direct labor charges incurred in effecting Capital Improvements and to labor included in the Operating Agent’s supervisory accounts shall be the percentage computed by dividing (i) the amount equal to (A) the total amounts charged to FERC Accounts 920 and 921 multiplied by the Construction Ratio computed in accordance with Appendix K hereto, (b) the product of the portion of labor charges included in (a) above multiplied by the sum of the Payroll Tax Ratio, the Benefits Ratio and Worker’s Compensation Ratio less (B) the portion of the administrative and general expenses allocable to contract construction for the High Voltage Switchyard by (ii) the total labor in construction accounts (exclusive of A&G labor costs).

The following example sets forth the method to be employed by the Operating Agent to determine the Capital Improvements A&G Ratio:
## CAPITAL IMPROVEMENTS A&G RATIO

### EXAMPLE COMPUTATION

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th></th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FERC Account 920</td>
<td>$4,132,053</td>
<td>$4,132,053</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FERC Account 921</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$4,132,053</td>
<td>$5,871,773</td>
</tr>
<tr>
<td>Total multiplied by Construction Ratio @ 26.04% (See Example in Appendix K)</td>
<td>$1,075,987</td>
<td>$1,529,010</td>
</tr>
<tr>
<td>Payroll Tax Ratio @ 4.797% (See example in Appendix F) on labor charges shown above</td>
<td></td>
<td>51,615</td>
</tr>
<tr>
<td>Benefits Ratio @ 14.083% (See Example in Appendix G) on labor charges shown above</td>
<td></td>
<td>151,531</td>
</tr>
<tr>
<td>Workmen’s Compensation Ratio @ 3.313% (See Example in Appendix H) on labor charges shown above</td>
<td></td>
<td>35,647</td>
</tr>
<tr>
<td>Less that portion allocable to contract construction for the Transmission System</td>
<td></td>
<td>-0-</td>
</tr>
<tr>
<td>Total administrative and general expenses allocable to construction</td>
<td>$1,767,803</td>
<td></td>
</tr>
<tr>
<td>Total A&amp;G expense allocable to construction</td>
<td>$1,767,803</td>
<td></td>
</tr>
<tr>
<td>Construction labor base (exclusive of A&amp;G labor costs)</td>
<td>$10,247,237</td>
<td></td>
</tr>
<tr>
<td>Capital Improvements A&amp;G Ratio for 1976:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,767,803 ÷ $10,247,237 =</td>
<td></td>
<td>17.25%</td>
</tr>
</tbody>
</table>

J-2
The Capital Improvements A&G Ratio shall be determined annually on the basis of the Operating Agent’s preceding year’s expenses as set forth herein unless otherwise agreed to by the Administrative Committee. The Capital Improvements A&G Ratio will be adjusted to actual costs at year-end and the adjusted ratio used in preparation of a revised billing to the Participants.
APPENDIX K
O&M RATIO AND CONSTRUCTION RATIO

The O&M Ratio shall be applied to the amounts chargeable to FERC Accounts 920 and 921 for the purpose of determining one component in the computation of the Operations and Maintenance A&G Ratio as provided in Appendix I hereto.

\[
\text{O&M Ratio} = \frac{O}{L}
\]

Where:

\( O = \) The Operating Agent’s total labor charged to operation and maintenance accounts, less labor chargeable to FERC Accounts 920 through 932

\( L = \) The Operating Agent’s total labor distributed, including accruals, less labor charged to FERC Accounts 920 through 932

The Construction Ratio set forth below shall be applied to the amounts chargeable to FERC Accounts 920 and 921 for the purpose of determining one component in the computation of the Capital improvements A&G Ratio as provided in Appendix J hereto.

\[
\text{Construction Ratio} = \frac{C}{L}
\]

Where:

\( C = \) The Operating Agent’s total labor in construction accounts
The Operating Agent’s total labor distributed, including accruals, less labor chargeable to FERC Accounts 920 through 932.

The following example sets forth the method to be employed by the Operating Agent to determine the O&M Ratio and the Construction Ratio:

### O&M Ratio and Construction Ratio

#### Example Computation

(SRP’s 1976 Expenses)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Labor in Operation and Maintenance Accounts</td>
<td>$34,514,121</td>
</tr>
<tr>
<td>Less: Labor charged to A&amp;G Accounts 920 Through 932, inclusive</td>
<td>$(5,441,613)</td>
</tr>
<tr>
<td>Net Labor in O&amp;M Accounts</td>
<td>$29,072,508</td>
</tr>
<tr>
<td>Total Labor Charged to General Ledger Accounts</td>
<td>26,783</td>
</tr>
<tr>
<td>Total Labor in Construction Accounts</td>
<td>10,247,237</td>
</tr>
<tr>
<td>Total Labor Base</td>
<td>$39,346,528</td>
</tr>
<tr>
<td>Ratio of Net O&amp;M Labor to Total Labor</td>
<td>$29,072,508</td>
</tr>
<tr>
<td>Ratio of Construction Labor to Total Labor</td>
<td>$10,247,237</td>
</tr>
</tbody>
</table>

Note: All labor figures include loading for allowed time (sick, vacation, holiday).
APPENDIX L

ALLOCATION OF OVERHEAD EXPENSES

L.1 The departmental overhead expenses incurred by the Operating Agent which will be allocated to the accounts described in Sections E.1.1 and E.1.2 of Appendix E hereto shall consist of and be applied as described in Sections L.1.1 and L.1.2:

L.1.1 Departmental overhead expenses include the salaries and expenses of employees at various levels of supervision for system operation and maintenance, and system protection and communication not charged directly to the accounts described in Sections E.1.1 and E.1.2 of Appendix E hereto, and not included in A&G expenses, but which are allocable to operation and maintenance expenses.

L.1.2 These departmental overhead costs shall be applicable to the total payroll supervised by the functional areas described in Section L.1.1. The High Voltage Switchyard’s share of such costs shall be the Operating Agent’s total payroll charged to the High Voltage Switchyard multiplied by a ratio, the numerator of which is the total applicable overhead described in Section L.1.1 and the denominator of which is the Operating Agent’s total payroll supervised by the functional areas described in Section L.1.1.

L-1
FIRM PVNGS TRANSMISSION SERVICE AGREEMENT

BETWEEN

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

AND

EL PASO ELECTRIC COMPANY

Execution Copy
August 1, 1983
FIRM PVNGS TRANSMISSION SERVICE AGREEMENT
BETWEEN
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
AND
EL PASO ELECTRIC COMPANY

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<td>22</td>
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<td>23 SIGNATURE CLAUSE</td>
<td>22</td>
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<td>23</td>
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FIRM PVNGS TRANSMISSION SERVICE AGREEMENT

BETWEEN

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

AND

EL PASO ELECTRIC COMPANY

1. **PARTIES**: The Parties to this Firm PVNGS Transmission Service Agreement between Salt River Project Agricultural Improvement and Power District and EL Paso Electric Company (hereinafter referred to as "Agreement") are: EL PASO ELECTRIC COMPANY) a corporation organized and existing under and by virtue of the laws of the State of Texas (hereinafter referred to as "El Paso") and SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona (hereinafter referred to as "Salt River Project"), sometimes hereinafter referred to individually as "Party" and collectively as "Parties.

2. **RECITALS**: 2.1 Salt River Project and El Paso together with Arizona Public Service Company (Arizona), Public Service Company of New Mexico (New Mexico), Southern California Edison Company and the Southern California Public Power Authority are parties to the ANPP Participation Agreement which establishes the generation entitlements of the parties in the electrical output of the Palo Verde Nuclear Generating Station (PVNGS) located west of

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Phoenix, Arizona.

2.2 El Paso together with Arizona, New Mexico and Salt River Project are parties to the ANPP Valley Transmission System Participation Agreement which provides for the construction, operation, and ownership of transmission facilities which establishes a direct connection between PVNGS and Salt River Project's transmission system at the existing Kyrene 230 KV Switchyard located in Tempe, Arizona.

2.3 Salt River Project owns and operates transmission facilities which provide for direct connection between the existing Kyrene 230 KV Switchyard and the Coronado 500 KV Switchyard through the Coronado Transmission System.

2.4 El Paso desires to utilize the aforementioned transmission facilities owned by Salt River Project and Salt River Project is willing to permit such use for the delivery to El Paso of a portion of El Paso's PVNGS entitlement or for the direct substitution of power and energy from any other source.

3. AGREEMENT:

In consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

4. DEFINITIONS:

The following terms, when used herein with initial capitalization whether in the singular or the plural, shall have the meanings specified:

4.1 **ANPP High Voltage Switchyard**: Those facilities described in Appendix A of the ANPP High Voltage Switchyard Participation
4.2 **ANPP High Voltage Switchyard Participation Agreement**: The ANPP High Voltage Switchyard Participation Agreement dated July 6, 1981, and as hereafter amended from time to time.

4.3 **ANPP Participation Agreement**: The Arizona Nuclear Power Project Participation Agreement dated August 23, 1973, as heretofore amended by Amendment Nos. 1 through 7 and as hereafter amended from time to time.

4.4 **ANPP Valley Transmission System**: Those facilities described in Appendix A of the ANPP Valley Transmission System Participation Agreement.

4.5 **ANPP Valley Transmission System Participation Agreement**: The ANPP Valley Transmission System Participation Agreement dated July 6, 1981, as heretofore amended by Amendment No. 1 and as hereafter amended from time to time.

4.6 **Coronado Transmission System**: Those facilities including, but not limited to, the following: the existing Kyrene 230 KV Switchyard, the Kyrene-Silver King 230 KV line, the Silver King-Coronado 500 KV line and the Coronado 500 KV Switchyard.

4.7 **Date of Firm Operation**: This term shall have the same meaning as the term "Date of Firm Operation" defined in Section 3.18 of the ANPP Participation Agreement.

4.8 **Date of Initial Synchronization**: The date, with respect to each PVNGS generating unit, on which electric energy is initially generated using nuclear fuel.

4.9 **Emergency Transmission Service**: The transmission service to be
provided by Salt River Project to El Paso as described in Section 9 hereof.

4.10 **Firm Transmission Service**: The firm transmission service Salt River Project shall provide for El Paso over the Coronado Transmission System as more fully described in Section 6 hereof.

4.11 **Future Events**: The expected initiation or termination of any of the following:

4.11.1 A sale of PVNGS entitlement involving El Paso,

4.11.2 A layoff of PVNGS capacity and energy involving El Paso,

4.11.3 A power sale involving El Paso with a primary point of delivery at the ANPP High Voltage Switchyard or within the ANPP Valley Transmission System, or such other point which would modify El Paso's PVNGS-related transmission service requirements,

4.11.4 A displacement or exchange arrangement which would modify El Paso's PVNGS-related transmission service requirements,

4.11.5 The acquisition by El Paso of ownership or rights in transmission facilities which would modify El Paso's PVNGS-related transmission service requirements hereunder,

4.11.6 An extended shutdown (more than twelve consecutive months) of any PVNGS generating unit, or

4.11.7 The retirement of any PVNGS generating unit.

4.12 **Operating Emergency**: An unplanned event or circumstance which reduces or may reduce the amount of transmission capacity in
transmission circuit that would otherwise be available under normal system operating conditions.

4.13 **Synchronization Power and Energy Service**: The transmission service to be provided by Salt River Project to El Paso as described in Section 8 hereof.

4.14 **Weighted Average Revenue Adjustment**: The weighted average percentage increase or reduction in total revenue applied to Salt River Project's standard retail electric service rate classes as a result of a formal rate adjustment approved by Salt River Project's Board of Directors. Salt River Project's standard retail electric service rate classes includes, but is not limited to, its residential, agricultural, commercial and small industrial, and large industrial customers.

5. **TERM**: This Agreement shall become effective when executed by the Parties hereto and it shall continue in full force and effect concurrent with the ANPP Participation Agreement unless terminated earlier pursuant to Section 10.2.2.1 hereof.

6. **FIRM TRANSMISSION SERVICE**:

6.1 Beginning on the Date of Firm Operation of the 1st PVNGS Unit and in accordance with the terms of this Agreement, Salt River Project shall provide Firm Transmission Service to El Paso over Salt River Project's Coronado Transmission System from El Paso's point of interconnection with Salt River Project in the existing Kyrene 230 KV Switchyard to any point within the Coronado 500 KV Switchyard, or between such other point(s) of interconnection as
may be agreed to by the Operating Representatives. The amount of such Firm Transmission Service to be provided to El Paso by Salt River Project hereunder shall be as specified in Exhibit 1 which is attached hereto and made a part hereof. Exhibit 1 may be revised in accordance with the provisions of Sections 6.3 and 6.4 hereof.

6.2 El Paso may utilize Firm Transmission Service for the delivery of a portion of El Paso's PVNGS entitlement or for the direct substitution of power and energy from any other source.

6.3 El Paso's requirements for Firm Transmission Service may change from those levels specified in Exhibit 1 due to Future Events. If a Future Event is expected to occur which would decrease the level of service desired by El Paso hereunder, El Paso shall notify Salt River Project of such fact in writing at least twelve (12) months in advance of the desired effective date of such decrease in Firm Transmission Service and such decrease shall be subject to the provisions of Section 6.6 hereof. If a Future Event is expected to occur which would increase the level of Firm Transmission Service desired by El Paso hereunder; El Paso shall notify Salt River Project of such fact in writing at least three (3) months in advance of the desired effective date of such increase in Firm Transmission Service and such increase shall be subject to the provisions of Section 6.7 hereof. The Firm Transmission Service levels of Exhibit 1 shall be revised in accordance with El Paso's written notices hereunder.
6.4 In the event of a third party's inability or refusal to provide PVNGS-related transmission service to El Paso under terms and conditions which are reasonable in El Paso's judgement, El Paso shall have the option to increase the level of Firm Transmission Service hereunder in accordance with the provisions of Section 6.3 relating to increases in Firm Transmission Service.

6.5 The advance notice provisions of Section 6.3 shall not apply to increases or decreases desired by El Paso as a result of a Future Event as defined in Section 4.11.6 hereof. Unless otherwise requested by El Paso, the level of Firm Transmission Service provided hereunder shall be decreased on the date that any PVNGS generating unit has been shut down for twelve (12) consecutive months, and correspondingly increased on the date such generating unit is returned to service.

6.6 Decreases in the level of Firm Transmission Service due to Future Events shall be made in proportion to El Paso's total contractual firm transmission service requirements related to PVNGS from Salt River Project and third parties, or such lesser amount which may be desired by El Paso; provided, however, that El Paso's PVNGS-related displacement or exchange arrangements with third parties then in effect shall be excluded from any proportional computation made hereunder. Any allocation of decreases required by this Section 6.6 shall be determined solely by El Paso.

6.7 The maximum level of Firm Transmission Service, unless otherwise agreed by Salt River Project, shall not exceed the following:
6.8 Salt River Project shall operate, maintain, replace and repair its transmission facilities affecting service hereunder in accordance with generally accepted practices of the electric utility industry and operate the point of interconnection normally closed.

6.9 If, for any reason, it is not feasible, practical or desirable for the Parties to deliver or receive capacity and energy hereunder at the existing Kyrene 230 KV Switchyard or the Coronado 500 KV Switchyard, the Parties shall use their best efforts to establish other acceptable points of delivery or receipt.

7. **FIRM TRANSMISSION SERVICE CHARGE**:

7.1 Beginning with, and effective on, the Date of Firm Operation of the 1st PVNGS Unit, the charge for Firm Transmission Service shall be $8.80 per kilowatt of reserved transmission capacity per year prorated on a monthly basis and shall be subject to change in accordance with the provisions of Section 10 hereof. Monthly payments by El Paso shall be equal to one-twelfth (1/12) of such yearly charge and shall be billed and paid in accordance with...
with the provisions of Section 12 hereof.

7.2 Charges for Firm Transmission Service shall be due and payable in the month following the month in which transmission service is reserved by Salt River Project for El Paso pursuant to this Agreement. For a fractional pan of ta month if any, at the beginning or end of the term hereunder the monthly payment shall be proportionately adjusted.

7.3 In the event Salt River Project is unable as a result of Uncontrollable Forces, to provide Firm Transmission Service as scheduled by El Paso for more than twenty-four (24) consecutive hours, the charge for Firm Transmission Service shall be proportionately reduced.

8. SYNCHRONIZATION POWER AND ENERGY SERVICE:

8.1 Salt River Project shall receive for El Paso at the existing Kyrene 230 KV Switchyard, an amount of power and energy as specified by El Paso (but not to exceed that amount to which El Paso is entitled from PVNGS) during each of the periods commencing with the Date of Initial Synchronization of each PVNGS generating unit, up to, but not including, the respective Date of Firm Operation of each PVNGS generating unit. This power and energy shall be scheduled to El Paso by Salt River Project at the Coronado 500 KV Switchyard. The Operating Representatives may agree on different points of delivery or receipt for transmission service provided under this Section 8.

8.2 The Parties agree that as consideration for the Synchronization Power and Energy Service scheduled by El Paso hereunder, El Paso
shall pay Salt River Project one dollar and fifty cents per megawatt-hour ($1.50/MWH). Payment for services provided under this Section 8 shall be in accordance with the provisions of Section 12.

8.3 The charge for Synchronization Power and Energy Service, as specified in Section 8.2 hereof, shall be subject to change in accordance with the provisions of Section 10 hereof.

9. **EMERGENCY TRANSMISSION SERVICE:**

9.1 Beginning on the Date of Firm Operation of the 1st PVNGS Unit, the following Emergency Transmission Service provisions shall become effective:

9.1.1 In the event of an Operating Emergency on the Coronado Transmission System which would jeopardize El Paso's usage of Firm Transmission Service, Salt River Project shall make other arrangements and/or alternate transmission paths on Salt River Project's transmission system available to El Paso at no additional charge over and above that stated in Section 7 hereof, the use of which, in the sole judgment of Salt River Project, would not jeopardize service to Salt River Project's customers.

9.1.2 In the event of an Operating Emergency or the loss of a segment of a third party's transmission facilities which would jeopardize delivery of any of El Paso's PVNGS power and energy, including (but not limited to) the Palo Verde-Kyrene 500 KV transmission line, Salt River
Project shall provide El Paso transmission service on Salt River Project's transmission system; provided, however, that in the sole judgment of Salt River Project it is possible and practical for Salt River Project, to provide such transmission service to El Paso. Such transmission service may be interrupted by Salt River Project for any reason. El Paso shall pay Salt River Project one dollar per megawatt-hour ($1/MWH) for transmission service provided pursuant to this Section 9.1.2. El Paso shall also reimburse Salt River Project for transmission losses associated with such transmission service as determined by the Operating Representatives.

9.2 The charge for Emergency Transmission Service, as specified in Section 9.1.2 hereof, shall be subject to change in accordance with the provisions of Section 10 hereof.

10. CHANGES IN TRANSMISSION SERVICE CHARGES:

10.1 The charge for Firm Transmission Service, as set forth in Section 7.1 hereof; the charge for Synchronization Power and Energy Service, as set forth in Section 8.2 hereof; and the charge for Emergency Transmission Service, as set forth in Section 9.1.2 hereof, shall be subject to change in a percentage amount equal to the Weighted Average Revenue Adjustment; provided, however, that such percentage change shall be limited to no more than an effective four percent (4%) per year change prorated monthly from the date of implementation of the charge.
then in effect to the date a new charge is to become effective. Changes in transmission service charges shall become effective no earlier than the date such rate changes are applied to Salt River Project's standard retail electric service rate classes. Salt River Project shall notify and provide supporting documentation to El Paso of any pending change in transmission service charges at its earliest opportunity.

10.2 The Parties agree to reconsider the methodology used to calculate or adjust, or both the transmission service charges within this Agreement every ten years from the Date of Firm Operation of the 1st PVNGS Unit through the term of this Agreement.

10.2.1 Should either Party propose to modify a rate methodology in effect, the Parties agree as follows:

10.2.1.1 Such Party desiring a change shall notify the other Party of any proposed change in rate methodology at least twelve (12) months prior to the end of a ten-year interval.

10.2.1.2 Any agreed-upon change in a transmission service charge methodology shall be implemented one (1) year after any such ten-year interval.

10.2.2 Should the Parties fail to reach agreement concerning a change in rate methodology prior to the end of a ten-year interval, the Parties agree as follows:

10.2.2.1 The Party initiating discussions regarding a change in rate methodology pursuant to
Section 10.2.1.1 shall have the option to terminate this Agreement by providing the other Party a minimum of two
(2) years advance written notice; provided, however, that such option must be exercised within thirty (30) days after
the end of a ten-year interval. At any time after the receipt of such termination notice, the other Party may elect to
terminate this Agreement earlier upon sixty (60) days written notice.

10.2.2.2 If a termination notice is given pursuant to Section 10.2.2.1, the Parties agree to continue to abide by the terms and
rates then in effect until the termination of this Agreement.

11. TRANSMISSION LOSSES:

11.1 Initially, transmission losses associated with delivery of energy utilizing the Firm Transmission Service provided pursuant to
Section 6 or the Synchronization Power and Energy Service provided pursuant to Section 8, shall be equal to zero (0).

11.2 The need for any loss adjustment will be subject to review by Salt River Project and if such losses due to transmission service
provided hereunder in fact differ from those designated in Section 11.1, then said losses will be adjusted accordingly. Such
losses shall be determined by measurement or by calculation according to procedures and methods as agreed to by the
Operating Representatives.

12. BILLING AND PAYMENT:
12.1 Salt River Project shall use reasonable efforts to render bills to El Paso on or before the 15th day of each calendar month for service furnished hereunder during the preceding month.

12.2 Payment by El Paso shall be due to Salt River Project fifteen (15) days after the date bills are mailed. Amounts not paid on or before the due date shall be payable with interest accrued at the floating prime rate of the Chase Manhattan Bank prorated daily from the due date to the date of payment.

12.3 In the event any portion of any bill is disputed, the disputed amount shall be paid when due under protest. Any excess amount of bills, which through inadvertent errors or as a result of a dispute may have been overpaid, shall be returned to El Paso by Salt River Project upon determination of the correct amount, with interest accrued at the floating prime rate of the Chase Manhattan Bank prorated daily from the date of overpayment by El Paso to the date the refund payment is rendered by Salt River Project.

12.4 Bills and payments shall be mailed to the respective addresses of the Parties as designated in writing by the Operating Representatives.

12.5 For purposes hereunder, the date of mailing for bills and payments shall be evidenced by the United States postmark or any equivalent marking of a qualified and recognized delivery service reflecting the date of mailing.

13. UNCONTROLLABLE FORCES:

Neither Party shall be considered to be in default in the performance

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of any of its obligations under this Agreement (other than obligations of a Party to make payments hereunder) if failure of performance shall be due to an Uncontrollable Force. The term "Uncontrollable Force" shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, tornado, volcanic eruption, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by or failure to obtain authorizations or approvals from any governmental agency or authority, which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any obligation under this Agreement by reason of an Uncontrollable Force shall give prompt notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

14. LIABILITY: COVENANT NOT TO EXECUTE:

14.1 Except for any judgment debt for damage resulting from Willful Action and subject to the provisions of Sections 14.2, 14.3 and 14.4 hereof, each Party hereby extends to the other Party, its directors, members of its governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against the other Party, including recording.
or effecting a judgment lien, for any direct, indirect, or consequential loss, damage (including, but not limited to, injury or death to persons), claim, cost, charge, or expense (including, but not limited to, attorney's fees), whether or not resulting from the negligence of such Party, its directors, officers, members of its governing bodies, employees, or any person or entity whose negligence would be imputed to such Party from the performance or nonperformance of the obligations of a Party under this Agreement, other than the obligation to pay sums which have become due.

14.2 Each Party shall be responsible for any direct, indirect, or consequential loss, damage (including, but not limited to, injury or death to persons), claim, cost, charge or expense (including, but not limited to, attorney's fees), that results from its own Willful Action as defined in Section 14.6.2 hereof and shall indemnify and hold harmless the other Party, its directors, officers, members of its governing bodies and employees from any such loss, damage (including, but not limited to, injury or death to persons), claim, cost, charge or expense (including, but not limited to, attorney's fees).

14.3 Except as provided in Section 14.2 hereof, the aggregate liability of either Party to the other Party for Willful Action shall not exceed $500,000 per occurrence. Each Party extends to the other Party, its directors, officers, members of its governing bodies and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against such other
Party for Willful Action in excess of $500,000 per occurrence.

14.4 A claim based on Willful Action must be perfected by filing suit in a court of competent jurisdiction within three years after the Willful Action occurs. All claims made thereafter relating to the same Willful Action shall be barred by this Section 14.4.

14.5 Except for liability resulting from Willful Action (which, subject to the limited liability provisions of Section 14.3 hereof, shall be the responsibility of the willfully acting Party), a Party whose electric customer shall have a claim or bring an action against the other Party for any death, injury, loss, expense (including, but not limited to, attorney's fees) or damage arising out of or in connection with the services provided for under this Agreement shall indemnify and hold harmless the other Party, its directors, officers, members of its governing bodies and employees from and against any liability for such death, injury, loss, expense (including, but not limited to, attorney's fees) or damage.

14.6 As used herein, "Willful Action" means:

14.6.1 Action taken or not taken by a Party at the direction of its directors, officers, members of its governing bodies or employees having management or administrative responsibility affecting its performance under this Agreement, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or
damage would probably result therefrom, or

14.6.2 Action taken or not taken by a Party at the direction of its directors, officers, members of its governing bodies or employees having management or administrative responsibility affecting its performance under this Agreement, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under this Agreement and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or, if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default, or

14.6.3 Action taken or not taken by a Party at the direction of its directors, officers, members of its governing bodies or employees having management or administrative responsibility affecting its performance under this Agreement, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under this Agreement.

14.7 The phrase "employees having management or administrative responsibility," as used in Section 14.6, means employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Party's performance under this
Agreement; provided, however, that with respect to employees of a Party responsible for electric system operation, the phrase shall refer only to (i) the manager of systems operations or manager of fossil generating stations, or both, and (ii) anyone in the organizational structure of the Party above such manager.

14.8 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

15. ASSIGNMENT OF AGREEMENT:

Neither Party shall voluntarily assign this Agreement nor any part thereof without prior written consent of the other Party, however, such consent shall not be unreasonably withheld. In connection with the sale or merger of a substantial portion of a Party's properties, such written consent shall not be required.

16. NOTICES:

Any notice, demand or request provided for in this Agreement, or served, given or made in connection with this Agreement, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by United States mail or other qualified and recognized delivery service, postage prepaid, to the persons specified below:

EL PASO ELECTRIC COMPANY
c/o Secretary
Post Office Box 982
El Paso, Texas 79960

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
c/o Secretary
Post Office Box 1980
Phoenix, Arizona 85001
A Party may at any time, by written notice, change the designation or the address of the person so specified. This Section 16 does not apply to notices and requests of a routine character in connection with delivery or receipt of power and energy or in connection with operation of facilities. Such notices and requests shall be given in such manner as the Operating Representatives from time to time shall arrange.

17. **REGULATORY AUTHORITY**:

This Agreement shall be subject to filing with, and to changes or modifications as may from time to time be directed by, competent regulatory authority in the exercise of its jurisdiction; provided, however, that none of the provisions of this Agreement shall be construed as submitting Salt River Project to regulation or review in any form by any governmental entity or agency which does not presently exercise competent jurisdiction over Salt River Project.

18. **ENTIRE AGREEMENT**:

It is understood and agreed that all representations and agreements between the Parties covering the subject matter hereof are expressed herein and that no other representation of any kind or nature, whether made by the directors, officers, employees or agents of either of the Parties, shall be binding unless made in writing and executed by the Parties.

19. **OTHER AGREEMENTS**:

No provision of this Agreement shall preclude either Party from entering into other agreements between the Parties or with third parties.

20. **OPERATING REPRESENTATIVES**.
20.1 Within thirty (30) days after the date of execution of this Agreement, each Party shall designate, by written notice to the other Party, a representative who is authorized to act in its behalf in the implementation of this Agreement and with respect to those matters which lie within the responsibilities of the Operating Representatives. The functions and responsibilities of the Operating Representatives shall be:

20.1.1 To establish procedures and standard practices (consistent with the provisions hereof) for the guidance of system load dispatchers and other operating employees as to matters affecting interconnected operations of the respective systems related to this Agreement, and

20.1.2 To do such other things as are provided for herein; provided, that the Operating Representatives shall have no authority to amend any of the provisions of this Agreement.

20.2 The establishment of any procedure or practice and any other action or determination by the Operating Representatives shall be effective when signed by the designated Operating Representative of both Parties. Either Party may, at any time, change the designation of its Operating Representative by written notice to the other Party.

21. **WAIVERS:**

None of the provisions of this Agreement shall be considered waived by either Party except when such waiver is given in writing. The failure of either Party to insist in anyone or more instances upon strict
performance of any of the provisions of thin Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

22. **GOVERNING LAW**:

It is understood and agreed by both Parties that this Agreement is made under, and shall be governed by, the laws of the State of Arizona.

23. **SIGNATURE CLAUSE**:

The signatories hereto represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign. This Agreement is hereby executed as of the 18th day of October, 1983

**EL PASO ELECTRIC COMPANY**

By /s/ Donald G. Isbell
Vice President

**ATTEST & COUNTERSIGN**

/s/ [ILLEGIBLE]
Asst. Secretary

**SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

By /s/ [ILLEGIBLE]
President

**APPROVED AS TO FORM**

SALT RIVER PROJECT LAW DEPARTMENT

By /s/ [ILLEGIBLE]
Date August 1, 1983
EXHIBIT 1

FIRM PVNGS TRANSMISSION SERVICE AGREEMENT
BETWEEN
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
AND
EL PASO ELECTRIC COMPANY

LEVEL OF FIRM TRANSMISSION SERVICE

<table>
<thead>
<tr>
<th>Operation of 1st PVNGS Unit</th>
<th>6MW</th>
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<tr>
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<td>2MW</td>
</tr>
<tr>
<td>Operation of 3rd PVNGS Unit</td>
<td>60MW</td>
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</table>

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February 26, 2002

Salt River Project Agricultural Improvement and Power District
c/o Mr. Terry Lonon, Secretary MS PAB 215
Post Office Box 52025
Phoenix, Arizona 85072-2025

Request for Increase in Transmission Service

Pursuant to Section 6.3 of the Firm PVNGS Transmission Service Agreement between Salt River Agricultural Improvement and Power District and El Paso Electric Company (Agreement), EPE may increase the level of Firm Transmission Service due to a Future Event by providing at least three (3) months written notice. EPE's power sale agreement with Imperial Irrigation District terminates at midnight April 30, 2002. As such, EPE will need to increase its firm transmission service under the Agreement.

EPE hereby requests an additional 40 MW of firm transmission service from Kyrene to Coronado pursuant to the terms of the Agreement for a total of 100 MW of firm transmission service beginning June 1, 2002. EPE reserves its right to further increase firm transmission service under the Agreement up to the maximum of 200 MW as provided in the Agreement.

If you have any questions in this regard, please contact Mr. Fred Hill at 915-543-4335.

Thank you for your consideration in this matter.

Sincerely,

Hector R. Puente, P.E.
Vice President, Power Generation

cc: John Whitacre, EPE
    Steve Cobb, SRP
    John Coggins, SRP
INTERCONNECTION AGREEMENT

BETWEEN

EL PASO ELECTRIC COMPANY

AND

SOUTHWESTERN PUBLIC SERVICE COMPANY
INTERCONNECTION AGREEMENT
BETWEEN
EL PASO ELECTRIC COMPANY
AND
SOUTHWESTERN PUBLIC SERVICE COMPANY

THIS AGREEMENT, made and entered into this 8th day of December, 1981, by and between EL PASO ELECTRIC COMPANY, a Texas corporation, hereinafter referred to as EPE, and SOUTHWESTERN PUBLIC SERVICE COMPANY, A New Mexico corporation, hereinafter referred to as SPS.

W I T N E S S E T H:

WHEREAS, EPE owns and operates an electric utility system, including generation, transmission and distribution facilities, in the States of New Mexico, Texas and Arizona, and SPS owns and operates an electric utility system, including generation, transmission and distribution facilities, in the States of Texas, New Mexico, Oklahoma and Kansas, and

WHEREAS, the systems of the parties in New Mexico are so located and constituted that they can be interconnected by means of transmission lines and other facilities, and

WHEREAS, under this agreement certain facilities for the interconnection of the systems of the parties will be installed and placed in operation by the parties, and

WHEREAS, it is indicated that the parties can realize substantial benefits for their customers by the maintenance of such an interconnection and the interchange of power through such inter-
connection, among such benefits being the following:

a. Reduction in the aggregate generating capacity and transmission equipment of the systems of the parties by reason of the parties being able to alternate or defer the installation of generating and transmission facilities with consequent savings in investment capital charges and operating expenses, and

b. Better continuity and reliability of service with consequent savings in operating expenses by reason of the parties being able to cooperate with each other in reducing and partially eliminating local and system service interruptions, and

WHEREAS, it is expected that it will be of mutual advantage to the parties from time to time to purchase, sell or exchange electric power and energy from one system to the other under the terms of this Agreement;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements hereinafter set forth, the parties agree as follows:

l. SCOPE: The parties shall operate their systems in such a manner that reliability of the total system will be improved, shall maintain reasonable and equitable reserves and interconnections with other utility systems, and shall cooperate in furnishing through the various points of interconnection of their systems such quantities of electric power and energy as either
party may request from time to time, in accordance with the terms and conditions set forth herein and the service schedules attached hereto.

2. ELECTRIC POWER SYSTEM OF EPE: Any reference to the electric power system or facilities of EPE shall mean the electric generating and transmission facilities owned and operated by EPE or available to it for the production and transmission of electricity and the interchange of electricity with other electric power systems.

3. ELECTRIC POWER SYSTEM OF SPS: Any reference to the electric power system or facilities of SPS shall mean the electric generating and transmission facilities owned and operated by SPS or available to it for the production and transmission of electricity and the interchange of electricity with other electric power systems.

4. POINTS OF INTERCONNECTION AND DELIVERY: The points of delivery for electric power and energy under this Agreement are described in Exhibit I attached hereto. Additional points of interconnection and delivery may be established by the parties as additions to Exhibit I.

5. FACILITIES TO BE PROVIDED BY EACH PARTY: The facilities to be provided by each party are shown and described in Exhibit II attached hereto.

6. USE OF FACILITIES: Each party shall make available
its part of the interconnection for interconnected operations. With the exception of the DC Terminal, each party shall operate and maintain its part of the interconnection at its own expense as required for satisfactory coordinated operation. Each party shall have the right to tap its portion of the interconnection provided that the Operating Committee determines that the tap will not jeopardize the usefulness of the interconnection to any other utility having an interest in the interconnection. The investment in the interconnection shall be the consideration for use of the interconnection by the parties subject to the provisions of this Agreement.

7. SERVICE TO BE RENDERED: Inasmuch as the various specific services to be rendered by each party to the other in furtherance of the purposes of the parties in establishing and maintaining interconnections will vary from time to time during the term hereof, and the terms, arrangements and rates applicable to such services must necessarily depend upon the conditions from time to time existing, it is intended that such services and terms, arrangements and rates applicable thereto will be set forth in Service Schedules which may be formulated between the parties hereto, which Service Schedules when executed by the parties hereto shall become parts
of this Agreement during the periods fixed by their respective terms.

EPE and SPS recognize that from time to time there may be mutual advantages from the sale or interchange of power and energy on a basis not provided for in any Service Schedule then in effect, and circumstances may be such that arrangements must be made promptly in order to realize such advantage. In such cases, or in cases of emergency, temporary arrangements for transactions may be made by the Operating Committee, provided, however, that the arrangements shall not extend for more than thirty (30) days unless ratified in writing by an officer representing each of the parties.

8. DELIVERY: All electric energy delivered under this Agreement shall be of the character commonly known as three-phase, sixty hertz energy and shall be delivered at the nominal voltages and the points of delivery as set out in Exhibit I.

9. OPERATING COMMITTEE: The interconnected operations of the parties' systems, as provided for in this Agreement, shall be administered by an Operating Committee consisting of a representative of each of the parties. Within thirty (30) days after the date this Agreement is executed, each party shall designate by written notice to the other party the representative
who will be authorized to act in its behalf on the Operating Committee. A party may change its representative upon written notice to the other party. The principal duties of the Operating Committee shall be as follows:

a. To establish operating (normal and emergency), scheduling and control procedures;
b. To coordinate maintenance schedules;
c. To establish budgeting, accounting and billing procedures; and
d. To perform those duties which this Agreement requires to be done by the Operating Committee, and such other duties as may be required for the proper functioning of this Agreement.

If any other electric utility acquires an interest in the interconnection facilities, it shall also have a representative on the Operating Committee. If the Operating Committee is unable to agree on any matter coming under its jurisdiction, it shall within fifteen (15) days thereafter refer the matter in writing to the chief executive officers of the parties. If the chief executive officers are unable to agree on the matter within forty-five (45) days after the referral, either party may submit the matter to arbitration.

10. SERVICE CONDITIONS: The systems of the parties shall normally be operated electrically interconnected, ex-
cept as otherwise from time to time arranged between the parties. Nothing contained herein shall restrict or limit either party in effecting other interconnection agreements or interconnections with other systems.

The parties recognize that difficult operating and technical problems may arise in the control of frequency and in the control of the flow of power over the transmission systems of both parties, and over other interconnections of both of them, and that successful interconnection operation can only be accomplished through the cooperation of their respective operating departments. Such operating departments shall cooperate with each other in attempting to control the frequency and the flow of power from one system to the other interconnected systems so that as nearly as practicable the delivery and receipt of power and energy shall be accomplished, as provided for in this Agreement, consistent with the least interference with any interchange or interconnection agreements which either party may have with other parties.

The parties shall provide on their respective systems, at their own expense, the necessary communication, telemetering and control facilities and shall operate their respective power sources so that uninten-
tional interchange between the systems of the parties resulting from operation of the systems electrically interconnected shall, insofar as practicable, be kept in balance continuously, and any imbalance at the end of any hourly period shall be carried forward for balancing during a subsequent hourly period; provided, that such balancing shall be accomplished during an hourly period or periods of system conditions similar to the period or periods during which the unintentional interchange occurred, and as prescribed by Operating Guides of the National Electric Reliability Council or other interconnected operating pool groups of which the parties are members.

II. INTERCONNECTION THROUGH OTHER SYSTEMS: As the parties' systems may be indirectly interconnected, at times, through other systems, it is recognized that because of the physical characteristics of the facilities involved, there may be energy flows through such other systems and part of the energy being transferred from one party to the other party may flow through such other systems rather than through the intended point or points of interconnection.

Power and energy may also flow through the facilities of the parties as a result of the characteristics of their system and of other systems which may be interconnected and be included in the demand and energy
meter readings. Therefore, the Operating Committee shall determine the methods for ascertaining the amount of through power, and energy, and the actual deliveries of power and energy made both directly and indirectly and the best means to insure deliveries by one party to the other. The parties shall at all times cooperate in the development of any arrangements with other interconnected systems as may be necessary to provide a basis for determining the energy flows between the parties through the system involved.

12. ENERGY LOSSES: Each party shall supply the energy losses on its own facilities or other facilities if included in its control area.

13. METERING: Electric metering for measurement of power and energy delivered and received through any point of interconnection under this contract shall be selected, installed and maintained in accordance with the latest issue of American Standard Code for Electricity Metering. Metering location and voltage shall be as set forth in Exhibit I.

All electric metering equipment, at the point of interconnection, shall be maintained by the respective owner and shall be tested at least annually by such owner. The owner of the metering equipment shall notify the other party when meters are to be maintained and shall provide a two weeks' notice to the other party.
when meters are to be tested or when changes in metering are to be made, so that the other party may provide a witness to the
test or to changes in metering. After proper notification to the other party, the owner may proceed with the scheduled tests or
work regardless of whether a witness is present.

Overall metering accuracy, which includes errors in current and potential transformers and errors in meters, shall be
maintained such that error in registration shall not exceed 1 1/2 percent. Should an error in registration exceeding 1 1/2 percent
be found, notice shall be given to the other party and adjustments shall be made in the interchange accounts. Such adjustments
shall apply to the actual period during which such inaccuracy may be determined to have existed, but if the period cannot be
determined, the adjustment shall apply to one-half the period since the date of the last test. Should metering equipment fail to
register, the power and energy delivered and received shall be determined by agreement of the parties.

14. RIGHT OF INSTALLATION: Each party will make available suitable space for installation of the necessary equipment,
apparatus and devices required for the performance of this Agreement.

15. RIGHT OF REMOVAL: Any and all equipment, apparatus and devices caused to be placed or installed by one
party on, or in, the premises of the other party shall be and remain the property of the party owning such equipment, apparatus and devices regardless of the mode or manner of annexation or attachment to the premises. Upon the termination of this Agreement each party shall within six (6) months remove all its equipment, apparatus and devices from the premises of the other party, leaving the premises in a good state of repair. All foundations for all equipment shall be removed completely from the premises, or to a lesser degree if agreement for the lesser degree is reached between the parties at the time.

16. RATES: EPE shall pay SPS for all power and energy delivered pursuant to this Agreement at the rates and in accordance with the terms set forth in Service Schedules A, B and C attached hereto and incorporated herein.

17. BILLS AND PAYMENTS: All billing shall be based on scheduled transactions and shall be made on or before the seventh day of each calendar month. Payment for all electric power and energy sold hereunder shall be made in accordance with the rate schedules then in effect. If the payment due date falls on a Saturday, Sunday or holiday, the payment shall be due on the business day next following such day.
18. **OPERATION AND MAINTENANCE OF DC TERMINAL**: Operation, and maintenance of the DC Terminal shown on Exhibit I and described in Exhibit II shall be the responsibility of SPS. All normal operations and routine maintenance will be performed by SPS as prescribed and defined by the Operating Committee. Abnormal maintenance, or maintenance of a severe nature, will be agreed upon by the Operating Committee as herein provided.

EPE agrees to pay or cause to be paid to SPS monthly, on receipt of invoice, all costs incurred in the normal operation and routine maintenance of the DC Terminal. Costs will include labor, labor overheads, transportation, cooling water costs, and all other miscellaneous costs associated with the normal operation and routine maintenance of the DC Terminal. EPE shall also pay or cause to be paid to SPS the cost of non-routine operations and maintenance agreed upon by the Operating Committee. EPE shall have the right, within six (6) months following a calendar year, to audit the operation and maintenance costs incurred by SPS in such calendar year.

19. **TAXES**: Billings hereunder may be increased by an amount equal to the sum of the taxes payable under federal, state and local sales tax acts and of all additional taxes, fees or charges (exclusive of ad valorem, state and federal income taxes) payable by
the utility and levied or assessed by any governmental authority on the public utility services rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of service as the result of any new or amended laws after the date of this Agreement.

20. LIABILITY: Neither party ("Indemnitee") shall be liable for any injury or death to person or damage to property (including consequential damage) suffered or claimed by the other party ("Indemnitor") or by the Indemnitor's directors, officers, employees, agents or customers as a result of Indemnitee's performance or nonperformance of this Agreement, whether due to Indemnitee's negligence or otherwise, and Indemnitor shall indemnify and hold harmless Indemnitee against any such liability and all costs and expenses in connection therewith. The foregoing provision shall not, however, relieve any insuror of its obligations under any insurance policy under which a party hereunder is the insured, but the insurer shall not have any subrogation rights against the other party hereunder if such other party is the Indemnitee and the insured is the Indemnitor within the meaning of this paragraph.

21. FORCE MAJEURE: Neither party shall be held responsible or liable for any loss or damage resulting from failure to perform its obligations hereunder due to any
cause (including labor dispute) beyond its control which the party could not reasonably be expected to avoid.

22. NOTICES: Any written notice required hereunder shall be deemed properly made, given to, or served upon the party to whom it is directed when delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

El Paso Electric Company  
c/o Secretary  
P. O. Box 982  
El Paso, Texas 79960

Southwestern Public Service Company  
c/o Vice President of Engineering  
P. O. Box 1261  
Amarillo, Texas 79170

A party may, by written notice to the other party, designate different persons or addresses for the giving of notice hereunder.

23. ARBITRATION: Any matter for which arbitration is provided in this Agreement shall be settled in accordance with the rules of the American Arbitration Association.

24. TERMINATION ON DEFAULT: Should a party violate any material provision of this Agreement, and the matter is not subject to arbitration expressly provided for in this Agreement, the other party may terminate this Agreement by giving written notice by certified mail, return receipt requested, that this Agreement will terminate in thirty (30) days unless the defaulting party remedies the violation in that time. Any other
remedy or remedies available under the law for such violation shall not be limited in any way because of this provision or the exercise of the right conferred hereunder.

25. WAIVERS: A waiver by either party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. Any delay, short of the statutory period of limitations, in asserting or enforcing any right shall not be deemed a waiver of such right.

26. SCHEDULING: Energy shall be scheduled and the schedules shall be adjusted, if required, in a manner consistent with generally accepted scheduling practices in the electric utility industry.

27. NO DEDICATION OF FACILITIES: An undertaking by one party to another party under any provision of this Agreement shall not constitute the dedication of the system or any portion thereof of the party to the public or to the other party, and any such undertaking shall cease upon the termination of the party's obligations hereunder.

28. NO THIRD PARTY RIGHTS: Unless otherwise specifically provided in this Agreement, the parties do not intend to create rights in or to grant remedies to any third

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party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established hereunder.

29. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the State of Texas as if the Agreement were to be performed wholly in the State of Texas.

30. COMMISSION APPROVAL: This Agreement, and all obligations hereunder, are expressly conditioned upon the granting of such approval and authorization by any Commission or other regulatory body whose approval or authorization is required by law.

31. ASSIGNMENT: This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns. This Agreement may only be assigned with the consent of the parties hereto.

32. TERM OF AGREEMENT: This Agreement shall extend for a period of twenty (20) years from the date hereof, and from year to year thereafter, but shall be subject to termination by either party at the end of the initial period or on any anniversary date thereof by such party giving written notice of its intention to terminate not less than three (3) years prior to the end of the initial period and not less than six (6) months prior to the end of any extended one year period. Notwithstanding the foregoing, either party shall have the right to renegotiate the terms and conditions of
this Agreement at the end of the tenth (10th) and fifteenth (15th) years of the initial period, and if the terms and conditions proposed by a party do not increase the existing obligations, liabilities or burdens of the other party hereunder, they shall be accepted by such other party. If such other party refuses to accept the proposal, the proposing party shall have the right to submit to binding arbitration the question whether the proposed terms and conditions would increase the existing obligations, liabilities or burdens of such other party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized officers and their corporate seals to be affixed as of the date first above written.

ATTEST:

EL PASO ELECTRIC COMPANY

BY /s/ Donald G. Isbell

Vice President

SOUTHWESTERN PUBLIC SERVICE COMPANY

ATTEST:

BY /s/ [ILLEGIBLE]

President
EXHIBIT I

POINTS OF DELIVERY

1. This primary point of delivery for Firm Power Service by SPS to EPE shall be the point of interconnection between SPS and EPE at SPS's 230 KV Bus near the Eddy County DC terminal near Artesia, New Mexico.

2. An alternative point of delivery shall be at SPS's 230 KV Bus near the Blackwater DC terminal near Clovis, New Mexico.
1. EPE will provide or cause to be provided a Direct Current Terminal (D.C. Terminal) complete with two 345,000 volt circuit breaker, 230,000 volt capacitor installation, 230,000 volt reactive filter equipment, 230,000 volt entrance transformer, all DC rectification and inversion equipment with all control equipment, housing for the terminal and control equipment, an exit 345,000 volt transformer, 345,000 volt filter equipment, complete with all grade work and fencing to make a DC transmission terminal having a capacity of 200 Mw continuous and short time overload rating of 220 Mw.

The DC rectification and inversion equipment will include thyristor valves, bridges, converter transformers, smoothing reactors, power capacitors, AC & DC filter, valve cooling equipment, auxiliary power supply systems, and reactive power supplies. Control equipment will involve all DC rectification control equipment and protective devices including all software and all hardware necessary for the control and protection of power flows through the DC Terminal. In addition, control and protective equipment will be provided to adequately protect the integrity of SPS's electrical system from electrical disturbances occurring within the DC Terminal or from the electrical systems of EPE and other interconnected utilities. Monitoring equipment will include all necessary metering and telemetering.
equipment to allow the successful determination by the SPS System Dispatcher in SPS System Control Center at Amarillo, Texas, of power flows through the DC System as well as the status of critical system elements of the DC Terminal.

2. EPE will provide or cause to be provided (i) a 345,000 volt line with the eastern terminus at the 345,000 volt bus in the DC Terminal described above and the western terminus at a point connected with EPE's system in Otero County, New Mexico and (ii) any desired supervisory control and data acquisition equipment.

3. SPS will provide sufficient 230,000 volt station, class bus facilities to permit adequate power flows from SPS's electric power system into the DC Terminal.
SERVICE SCHEDULE A
EMERGENCY SERVICE

Section 1 - Emergency Service

Emergency Service for the purpose of this Service Schedule shall mean electric power and energy supplied by one Company (Seller) to the other Company (Buyer) under emergency conditions such that Buyer is temporarily unable to obtain the power and energy sufficient to serve its load from sources normally available.

When Buyer, in an emergency, needs power and energy which Seller is in a position to furnish, and a call shall be made by Buyer desiring emergency service from Seller, and an agreement is reached as to the amount of power and energy which can be delivered by Seller and the duration of such delivery, then Seller shall furnish the requested Emergency Service from any available source to the extent that, in the sole judgment of Seller, the generation or purchase and delivery of such energy will not impair or jeopardize service in the system of Seller or impair or jeopardize Seller's ability to fulfill the requirements set forth in the Interconnection Agreement or other commitments.

Section 2 - Payment for Emergency Service

Emergency Service supplied hereunder shall be billed and paid for under the higher amount calculated under (a) or (b) below, or under (c), if applicable:

- (a) 50.0 mills per kilowatt hour, or
- (b) Seller's cost of fuel for generating such energy including startup costs, if any, plus 5 mills per kilowatt hour, or
- (c) Procurement cost in mills per kwh, including incremental losses resulting from the transaction, plus one (1) mill per kwh, if supplied from outside the Seller's system.
TERMS OF PAYMENT: A bill becomes past due 10 days from the date it is transmitted by telex or other wire communication to Buyer. If not paid within 15 days from such date, a 3/4 of 1% late payment charge will be added. An additional 3/4 of 1% late payment charge will be added to any prior bills not paid by current bill transmittal date.

Section 3 - Term

This Service Schedule shall become effective concurrently with the Interconnection Agreement dated December 8, 1981, of which this Service Schedule is part, and shall continue in effect for so long as said Interconnection Agreement, or any extension thereof, remains in force and effect, subject to the following provision.

Nothing contained herein shall be construed as affecting in any way the right of any party furnishing or receiving service under this rate schedule to unilaterally make application to the Federal Energy Regulatory Commission for a change in rates under Section 205 of the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.

ATTEST:

EL PASO ELECTRIC COMPANY

BY /s/ Donald G. Isbell
Vice-President

SOUTHWESTERN PUBLIC SERVICE COMPANY

BY /s/ [ILLEGIBLE]
Vice-President

A-2
SERVICE SCHEDULE B ECONOMY ENERGY SERVICE

Section 1 - Definition - Economy Energy

Economy Energy as used herein shall mean electric energy which one Company (Seller) can produce at an incremental cost which is lower than the incremental cost the other Company (Buyer) would incur by producing and/or procuring equivalent energy from other available sources, and which energy Seller is willing and able to sell and deliver to Buyer.

It is understood and agreed that a Company is entitled to purchase Economy Energy only to the extent that such company has alternate dependable capacity that could otherwise be used. Any firm power capacity or unit capacity being purchased by Buyer shall be included in the alternate dependable capacity.

Section 2 - Purchase and Sale of Economy Energy

At any time that one of the Companies (Buyer) desires to purchase Economy Energy and another Company (Seller) is willing and able to supply such Economy Energy, the two Companies may effect such purchase and sale under the provisions of this Service Schedule B. Such purchase and sale shall be entirely voluntary on the part of each Company. The price to be paid by Buyer to Seller for such Economy Energy so agreed upon shall be the price calculated at the time of such agreement in accordance with Section 3 hereof.

If the Companies mutually agree to purchase and sell the specified Economy Energy, then Seller shall furnish the agreed amount of Economy Energy from any source available to it; provided that, if any emergency shall occur on Seller's system so as to
force Seller to provide energy at a rate higher than the agreed upon selling price for such Economy Energy in order to fulfill the specified Economy Energy commitment to Buyer, Buyer agrees that it will relieve Seller of its obligation to supply such Economy Energy to the extent requested by Seller.

The Buyer, having scheduled the receipt of Economy Energy, shall become disqualified to receive in part, or in entirety, such Economy Energy previously scheduled to the extent that any of the capacity included in the alternate dependable capacity at the time of such scheduling should become unavailable to Buyer; provided, however, that during an emergency on Buyer's system Buyer shall be entitled to use its reserve capacity, if required in order to carry its own load, and Buyer shall not thereby become disqualified for Economy Energy due to such use of its reserve capacity. To the extent that Buyer becomes unable to qualify for energy previously scheduled as Economy Energy, the energy scheduled in excess of the amount of energy which can be classified as Economy Energy, as set out hereinabove, shall be paid for by Buyer in accordance with the terms and conditions of Schedule A.

Buyer shall, when so requested by Seller, make available such records as are necessary to establish that it had concurrently available, at the time of any Economy Energy transaction, alternate dependable capacity that could otherwise have been used to produce or furnish the energy received as Economy Energy. Either Buyer or Seller shall, in response to request from the other, supply whatever information is necessary to a determination of the situation regarding the possibility of the exchange of Economy Energy.
Section 3 - Rates and Compensation

In case of agreement between the Companies to the Interconnection Agreement for the purchase and sale of Economy Energy, as provided for herein, payment for such energy so scheduled shall be on a "dividing the savings" basis as calculated at the time of the agreement for any specific amount of Economy Energy in accordance with the following rate:

Rate in Mills per kwh = \( \frac{A+B}{2} \)

when

\( A \) = calculated incremental cost of supplying energy involved from sources of Buyer, in Mills per kwh

\( B \) = calculated incremental cost of supplying energy involved from sources of Seller, in Mills per kwh

The methods of calculating costs for A and B above shall be determined by the company making the sale. It is intended that only incremental cost components for the particular transaction shall be taken into account.

TERMS OF PAYMENT: A bill becomes past due 10 days from the date it is transmitted by telex or other wire communication to Buyer. If not paid within 15 days from such date, a 3/4 of 1% late payment charge will be added. An additional 3/4 of 1% late payment charge will be added to any prior bills not paid by current bill transmittal date.

Section 4 - Term

This Service Schedule shall become effective concurrently with the Interconnection Agreement dated December 8, 1981, of which this Service Schedule is a part, and shall continue in effect for so long as said Interconnection Agreement, or any extension thereof, remains in force and effect, subject to the following provision.
Nothing contained herein shall be construed as affecting in any way the right of any party furnishing or receiving service under this rate schedule to unilaterally make application to the Federal Energy Regulatory Commission for a change in rates under Section 205 of the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.

ATTEST:

EL PASO ELECTRIC COMPANY

BY /s/ Donald G. Isbell
Vice-President

SOUTHWESTERN PUBLIC SERVICE COMPANY

ATTEST:

BY /s/ [ILLEGIBLE]
Vice-President

B-4
Section 1 - Interruptible Power Service

Interruptible Power Service, as used herein, shall mean electric power and accompanying energy made available by Southwestern Public Service Company (SPS) to El Paso Electric Company (EPE) in accordance with the provisions of the Interconnection Agreement between SPS and EPE dated December 8, 1981.

Section 2 - Payment of Service

For Interruptible Power Service made available hereunder, EPE shall pay to SPS each month an amount computed at the following rates:

Demand Charge:
- $670,100 for the first 100 mw, or less, of billing demand.
- $6.70 per kw for all additional billing demand, plus

Energy Charge:
- 3.17 cents per kwh for all energy delivered hereunder

BILLING DEMAND: The billing demand will be the maximum demand supplied by SPS in any hour each month as requested by EPE in writing. The minimum billing demand in any month shall be 100 mw.

The minimum billing demand may be reduced by 25 mw increments upon written notice at least three (3) years advance of each increment reduction. The minimum billing demand shall not be reduced by more than one (1) 25 mw increment in any twelve (12) month period.

BILLING ENERGY: The EPE dispatcher will schedule the hourly demand, under an arrangement to be adopted by the Operating Committee. The kilowatt hours used for energy billing shall be the monthly sum of the scheduled hourly demands.
FUEL COST ADJUSTMENT: The energy charge will be increased or decreased per kwh of sales by an amount equal to the difference between the fuel cost per kwh of sales in the base period and the estimated cost per kwh of sales in the current month adjusted for the preceding month's estimate error. Fuel cost per kwh of net generation during the base period was 3.05 cents. The loss adjustment to the point of sale is 4.4%. The energy charge adjustment will be calculated in compliance with the formula and conditions set forth in Section 35.14 of the Regulations under the Federal Power Act (Title 18, Part I, Subchapter B of the Code of Federal Regulations).

TAX ADJUSTMENT: Billings under this schedule may be increased by an amount equal to the sum of the taxes payable under federal, state and local sales tax acts, and of all additional taxes, fee or charges (exclusive of ad valorem, state and federal income taxes) payable by the utility and levied or assessed by any governmental authority on the public utility services rendered, or on the right of privilege of rendering the service, or on any object or event incidental to the rendition of service as the result of any new or amended laws after the effective date of this schedule.

MINIMUM BILL: The charge for the billing demand for the month.

TERMS OF PAYMENT: A bill becomes past due 10 days from date of mailing. If not paid within 15 days from mailing date, a 3/4 of 1% late payment charge will be added. An additional 3/4 of 1% late payment charge will be added to any prior bills not paid by current bill mailing date.

SECTION 3 – EFFECTIVE DATE; PENALTY:

This Service Schedule shall become effective on the date of commercial operation of the Interconnection or January 1, 1984, whichever is later.

In the event the commercial operation of the Interconnection is delayed beyond January 1, 1984, because the transmission facilities are not available to transmit power (except for regulatory delay as provided herein),
EPE shall pay to SPS the following amounts as a penalty for EPE's failure to have said transmission facilities in commercial operation as of January 1, 1984:

<table>
<thead>
<tr>
<th>COMMERCIAL OPERATION DATE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1984 to January 31, 1984</td>
<td>$50,000</td>
</tr>
<tr>
<td>February 1, 1984 to February 28, 1984</td>
<td>50,000</td>
</tr>
<tr>
<td>March 1, 1984 to March 31, 1984</td>
<td>50,000</td>
</tr>
<tr>
<td>April 1, 1984 to April 30, 1984</td>
<td>50,000</td>
</tr>
<tr>
<td>May 1, 1984 to May 31, 1984</td>
<td>50,000</td>
</tr>
<tr>
<td>June 1, 1984 and AFTER</td>
<td>150,000 per month</td>
</tr>
</tbody>
</table>

EPE and SPS contemplate that EPE will have obtained all necessary regulatory approvals to commence construction of the Interconnection on or before August 1, 1982. In the event that all necessary regulatory approvals have not been obtained by August 1, 1982, and, if the commercial operation of the Interconnection is delayed beyond January 1, 1984, the penalty provided above shall be abated for the same number of days the necessary regulatory approvals are delayed beyond August 1, 1982; provided, however, that said abatement shall not extend beyond 6 months in total.

SECTION 4 - TERM:

This Service Schedule shall continue in effect for so long as the Interconnection Agreement, dated December 8, 1981, of which this Service Schedule is a part, or any extension thereof, remains in full force and effect, subject to the following provision.
Nothing contained herein shall be construed as affecting in any way the right of the party furnishing service under this rate schedule to unilaterally make application to the Federal Energy Regulatory Commission for a change in rates under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder.

ATTEST: EL PASO ELECTRIC COMPANY

BY /s/ Donald G. Isbell
Vice-President

ATTEST: SOUTHWESTERN PUBLIC SERVICE COMPANY

BY /s/ [ILLEGIBLE]
Vice-President

Approved

[Signature]
Southwestern Public Service Company (SPS) shall sell, and El Paso Electric Company (EPE) shall purchase, firm power service for the replacement of capacity and energy for any of its generating resources, under the terms of this Service Schedule F which shall be attached to and made a part of the Interconnection Agreement dated December 8, 1981, (Agreement) between SPS and EPE; individually "Party" and collectively "Parties".

SECTION 1
Definitions
Section 1.1. The term "Contract Period" shall mean that period of time set forth in Exhibit 1, as may be revised from time to time, attached to this Service Schedule F.

Section 1.2. The term "Firm Power" shall mean that quantity of electric power and energy, with reserves, that SPS will continuously make available on a monthly basis to EPE during any Contract Period in accordance with this Service Schedule F.

Section 1.3. The term "KW" shall mean kilowatt.

Section 1.4. The term "KWh" shall mean kilowatt-hour.

Section 1.5. The term "Billing Demand" shall mean the contract quantity of Firm Power commitment expressed in KW.

SECTION 2
Effective Date and Term
This Service Schedule F shall become effective when signed by both Parties, and shall continue in effect as long as the Agreement remains in force and effect.
SECTION 3
Designations of Quantities of Firm Power

The Firm Power commitment for any Contract Period shall be set forth in Exhibit 1 to this Service Schedule F, as may be revised from time to time by mutual agreement.

SECTION 4
Point of Delivery

Section 4.1. SPS shall deliver electric power and energy to its 230 KV bus at the Eddy County DC terminal near Artesia, New Mexico. Additional delivery points may be established by agreement between the Parties.

Section 4.2. If SPS is unable to furnish Firm Power quantities as agreed at its delivery point near the Eddy County DC Terminal and is unable to deliver Firm Power quantities as agreed at an alternative point of delivery, the billing amount shall be adjusted downward. The Billing Demand for the month shall be adjusted downward by an amount equal to the ratio of the number of full hours that SPS is unable to deliver the Firm Power as agreed, divided by the total hours in the month. No Billing Demand adjustments shall be made for consecutive periods of interruption totaling less than 24 hours.

SECTION 5
Rates for Firm Power

Section 5.1. During the term of this Service Schedule F or any extensions or renewals thereof, and subject to change as hereinafter provided, EPE shall pay SPS for Firm Power at the following monthly rates:

Customer Charge: $320.00 per month per delivery point
Demand Charge: $6.80 per KW of Firm Power for all Billing Demand
Energy Charge: $0.07 cents per KWh for all energy delivered, plus the fuel cost adjustment as provided under Section 5.2.
Section 5.2. The above energy charges will be increased per KWh of sales equal to the estimated fuel cost per KWh of sales in the current month, adjusted for the preceding month's estimate error. The energy charge adjustment shall be calculated in compliance with the formula and conditions set forth in the Wholesale Fuel Cost Adjustment Clause contained in Attachment 1 to this Service Schedule F. Since there is no fuel cost included in base rates, the base period fuel cost per KWh of net generation is equal to zero cents.

Section 5.3. Billings under this Service Schedule F may be increased by an amount equal to the sum of the taxes payable under federal, state and local sales tax acts, and all of the additional taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by SPS and levied or assessed by any governmental authority on SPS services rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendering of the service, as the result of any new laws after January 1, 1992.

Section 5.4. The energy charge shall also be increased for any costs incurred from alternate delivery point(s) for delivery and losses.

Section 5.5. SPS shall invoice EPE by facsimile communication to a person or persons designated by EPE prior to the first billing under this Service Schedule F. The payment of the invoice by EPE shall be made by electronic funds transfer credit entry, and through the automated clearinghouse system if such system is in use by EPE, to a bank designated by SPS. The invoice will become past due 10 days from the date it is transmitted. If SPS does not receive payment within 15 days from date of transmittal, a 3/4 of 1% late payment charge will be added. An additional 3/4 of 1% late payment charge will be added to any prior bills not paid by the current bill's transmittal date.
SECTION 6
Rate Adjustment

Section 6.1. Nothing contained herein shall be construed as affecting in any way the right of SPS to unilaterally make application to the Federal Energy Regulatory Commission (FERC) for a change in rates under Section 205 of the Federal Power Act and pursuant to FERC’s Rules and Regulations promulgated thereunder. Should any such changes be made, the Parties hereto agree to implement such changes as ordered or directed, without the necessity of further agreement between the Parties.

Section 6.2. Nothing contained herein shall be construed as affecting in any way the right of EPE to protest, object to or intervene concerning any such application by SPS or to make complaint before any governmental body having jurisdiction or petition for an investigation under Section 206 of the Federal Power Act, or successor statute, concerning rates and charges, classification or service, or any provision, term, rule, regulation, condition or contract relating thereto.

SECTION 7
Miscellaneous

Section 7.1. In the event there is an inconsistency between this Service Schedule F and the Agreement, this Service Schedule F shall control.

Section 7.2. A Party claiming force majeure shall promptly notify the other of the occurrence of the event of force majeure, and shall exercise reasonable business efforts to remove the event of force majeure. In the event of force majeure, no Party shall be required to settle or resolve any labor dispute if it deems the settlement to be contrary to its best interests. A Party shall not be in breach because of a failure to perform (other than a failure to pay when due), if the failure to perform is caused by force majeure. If the breach is a failure to pay a bill by its past due date, as set forth in Section 5.5, SPS may notify EPE of
its intent to terminate this Service Schedule F in seven days or SPS may, at its discretion, and upon seven days notice to EPE, suspend its sales of power and energy under this Service Schedule F.

SECTION 8
Signature Clause

The signatories hereto represent that they have been appropriately authorized to enter into this Service Schedule F on behalf of the Party for whom they sign. This Service Schedule F is hereby executed as of the 27th day of April, 1995.

EL PASLECTRIC COMPANY

By  /s/ John C. Horne
    John C. Horne
    Vice President, Power Supply

SOUTHWESTERN PUBLIC SERVICE COMPANY

By  /s/ David M. Wilks
    David M. Wilks
    Senior Vice President

F-5
EXHIBIT 1
TO
SERVICE SCHEDULE F

CONTRACT PERIOD AND FIRM POWER COMMITMENT

1. The Contract Period shall be from May 1, 1995, through August 31, 1995, and then month to month thereafter until termination by either Party giving 15 days prior written notice of termination to the other Party.

2. The Firm Power commitment shall be 70,000 KW.

Accepted and agreed to this 27th day of April, 1995.

EL PASLECTRIC COMPANY

By /s/ John C. Horne
    John C. Horne
    Vice President, Power Supply

SOUTHWESTERN PUBLIC SERVICE COMPANY

By /s/ David M. Wilks
    David M. Wilks
    Senior Vice President
WHOLESALE FUEL COST ADJUSTMENT CLAUSE

1. The charges for actual wholesale service rendered during the current billing period shall be increased or decreased by an adjustment amount, per kilowatt-hour of sales (to the nearest 0.0001 cent), equal to the difference between the estimated fuel cost (eF) per kilowatt-hour of estimated sales (eS) in the current, or billing, period (m) and the base period (b), as adjusted to allow for wholesale losses (L), with the total charges adjusted by a dollar amount to correct for prior wholesale over or under collections:

\[
\text{Adjustment Factor} = \frac{eF_m}{eS_m} - \frac{eF_b}{eS_b} \cdot (L)
\]

2. Fuel costs (F) shall be the cost of:

   (i) Fossil and nuclear fuel consumed in Company's own plants, and Company's share of fossil and nuclear fuel consumed in jointly owned or leased plants.

   (ii) Plus, the actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in (iii) below. Included therein shall be the portion of the cost of purchases from Qualifying Facilities below Company's avoided variable energy cost.

   (iii) Plus, the net energy cost of energy purchases, exclusive of capacity or demand charges (irrespective of the designation assigned to such charges), when such energy is purchased on an economic dispatch basis. Included therein may be such costs as:

       (1) charges incurred for economy purchases and

       (2) charges incurred as a result of scheduled outages,

       all such kinds of energy being purchased by the Company to substitute for its own higher cost energy.

   (iv) Less, the cost of fossil and nuclear fuel recovered through inter-system sales, including the fuel costs recovered from economy energy sales and other energy sold on an economic dispatch basis.

3. Sales (S) shall be equated to:

   (i) the sum, measured at the bus-bar or interconnection point, of (1) generation, (2) purchases, and (3) interchange-in,

   (ii) less (1) inter-system sales, as referred to in 2.(iv) above, and (2) inter-system losses.
4. "L", the adjustment for wholesale losses, determined at the wholesale delivery points, shall be equal to:

\[
1.039 = \frac{1}{1 - 3.754}\%
\]

5. The current month adjustment for prior wholesale over or under collections shall be calculated as:

(i) the first prior month's (p) actual fuel costs (aF) divided by actual sales (aS),

(ii) minus that month's (p) estimated fuel costs (eF) divided by estimated sales (eS),

(iii) times the wholesale loss adjustment (L),

(iv) times actual wholesale sales (W) in that month (p) for each customer.

\[
\text{Adjustment Amount} = \left[ \frac{aF_p}{aS_p} - \frac{eF_p}{eS_p} \right] (L) (W_p)
\]

The adjustment amount shall be debited or credited to the current month's billing.

6. (i) The fuel cost adjustment factor calculation shall not include:

(1) the net energy cost of electric energy purchased from Celanese Corporation and,

(2) the kilowatt-hours generated at the Celanese Corporation chemical plant, not to exceed the amount of electric energy consumed at that plant.

(ii) The fuel cost adjustment factor calculation shall include both the net energy cost of energy purchased from Celanese, and the kWh generated at its plant, for any amount of energy which does exceed the amount consumed at that plant.

Attachment 1 - 2
AMRAD TO ARTESIA
345 KV TRANSMISSION SYSTEM AND DC TERMINAL
PARTICIPATION AGREEMENT
between
EL PASO ELECTRIC COMPANY
and
TEXAS-NEW MEXICO POWER COMPANY

Execution Copy
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AMRAD TO ARTESIA  
345 KV TRANSMISSION SYSTEM AND DC TERMINAL  
PARTICIPATION AGREEMENT

SECTION 1
PARTIES

1.1 The parties to this Participation Agreement are: EL PASO ELECTRIC COMPANY, a Texas corporation hereinafter referred to as "EPE" and TEXAS-NEW MEXICO POWER COMPANY, a Texas corporation, hereinafter referred to as "TNP."

1.2 TNP and EPE are also referred to collectively as "Participants" and singularly as a "Participant."

SECTION 2
RECITALS

2.1 This Participation Agreement is made with reference to the following facts, among others:

2.2 The Participants recognize that it is in their mutual interest to participate and to do so jointly, in the ownership, construction, maintenance, and operation of the Transmission System and DC Terminal described in this Participation Agreement.
2.3 This Participation Agreement is made with the expectation that a DC Terminal Construction Agreement will be executed.

SECTION 3
AGREEMENT

3.1 In consideration of the mutual covenants herein, the Participants agree as follows:

SECTION 4
DEFINITIONS

4.1 The following terms, when used herein and in the appendices attached hereto, shall have the meanings specified below:

4.1.1 Account(s): Any bank account or accounts selected and established by the Transmission System Project Manager or Transmission System Operating Agent to receive and disburse funds, pursuant to Section 15 hereof, for Construction Work, Operating Work, Capital Betterments, Capital Replacement, and Capital Additions.

4.1.2 Accounting Practice: Generally accepted accounting principles in accordance with the FERC accounts as defined in Section 4.1.26 hereof.
4.1.3 Administrative Committee: The committee established pursuant to Section 7 hereof.

4.1.4 Auditing Committee: The committee established pursuant to Section 7 hereof.

4.1.5 Capacity: Electrical rating expressed in megawatts (MW).

4.1.6 Capital Additions: Any items of tangible property which are added to the Transmission System or DC Terminal and which do not substitute for any pre-existing structures, facilities, or equipment constituting a part of the Transmission System or DC Terminal and which, in accordance with sound accounting principles, would be capitalized.

4.1.7 Capital Betterments: Enlargement or improvement of any structures, facilities, or equipment constituting a part of the Transmission System or DC Terminal, or the substitution thereof of other structures, facilities, or equipment, where the substitution constitutes an enlargement or improvement as compared with that for which it is substituted and which, in accordance with sound accounting principles, would be capitalized.

4.1.8 Capital Replacements: The substitution of any units of property constituting a part of the Transmission System or DC Terminal or
other units of property where the substitution does not constitute an enlargement or improvement of the item for which it is substituted and which, in accordance with sound accounting principles, would be capitalized.

4.1.9 Common Facilities: Those facilities required for a total switchyard or microwave repeater site in general including, but not limited to: site preparation (grading, fencing, surfacing); grounding; trenching and conduit; yard lighting; control house and equipment therein; switchyard service power facilities; and power and control cables.

4.1.10 Component(s): Any element of the Transmission System or DC Terminal described in Appendix A hereto, including associated land and land rights.

4.1.11 Construction Agreement: Any agreement entered into by the Transmission System or DC Terminal Project Manager for the design, engineering, construction, or installation of any Component for the Transmission System or DC Terminal including, without limitation, engineering, design, construction, supervisory, licensing, or consulting services in connection with the Construction Work.

4.1.12 Construction Costs: The costs of constructing the Transmission System and DC Terminal as described in Section 13 hereof.
4.1.13 Construction Funds: Monies advanced to the Transmission System or DC Terminal Project Manager for Construction Work by or on behalf of the Participants in accordance with this Agreement or any other Project Agreements.

4.1.14 Construction Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Transmission System or DC Terminal Project Manager.

4.1.15 Construction Schedule: The schedule of Construction Work to be prepared semiannually and approved by the Engineering and Operating Committee within the milestones as established by the Administrative Committee and set forth in Appendix D hereto.

4.1.16 Construction Work: All engineering, design, contract preparation, purchasing, rights-of-way acquisition, construction, excess material and equipment disposal, supervision, negotiation, preparation and performance of Construction Agreements, all reports required by regulatory authorities and the conduct of hearings, conferences, and other activities incidental to obtaining requisite permits, licenses, and certificates for the construction and operation of each Component prior to the completion of Construction Work for such Component.

4.1.17 Cost Responsibility: The financial liability percentage of each Participant for Construction Costs and Operating Funds concerning each Component or Components of the Transmission System and DC Terminal described in Section 5 and shown in Appendix B hereto.
4.1.18  Date of Firm Operation: The date with respect to each Component on which the Engineering and Operating Committee determines such Component to be reliable for the transmission of power and such Component can be expected to operate continuously at any load up to its Operating Capacity.

4.1.19  DC Terminal: The facilities, including associated land and land rights, as described in Appendix A hereto.

4.1.20  DC Terminal Operating Agent: The party designated as agent for the Participants and responsible for the performance of Operating Work and making Capital Betterments, Capital Replacements, and Capital Additions as more particularly described in Section 14A hereof.

4.1.21  DC Terminal Project Manager: The party designated as agent for the Participants and responsible for the performance of Construction Work as more particularly described in Section 8A hereof.

4.1.22  DC Terminal Spare Parts: Spare parts or equipment, the cost of which is capitalized, which are stocked for the DC Terminal.

4.1.23  Energy: Megawatt-hours (MWH).

4.1.24  Engineering and Operating Committee (E&O Committee): The committee established pursuant to Section 7 hereof.
4.1.25 Entitlement: The right, expressed in megawatts, of a Participant to utilize the components of the Transmission System or DC Terminal singularly or collectively for the transmission of power and energy as detailed in Section 6.2 and as identified in Appendix G.

4.1.26 FERC System of Accounts: The Federal Energy Regulatory Commission's "Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)" in effect as of the date of this Agreement and as such system of accounts may be amended from time to time.

4.1.27 Final Completion Report: A complete summary of Construction Costs, a description of the Transmission System, and a summary of each Participant's contributions to Construction Costs.

4.1.28 Materials and Supplies: Materials and supplies which are stocked as defined in FERC Account 154.

4.1.29 Operating Capacity: That portion of the Components of the Transmission System and DC Terminal actually available for power transfers under normal system operating conditions as identified in Appendix F which may be modified by the E&O Committee.

4.1.30 Operating Emergency: An unforeseen event or circumstance which changes the amount of Operating Capacity in the Transmission System and DC Terminal that would otherwise be made available to the
Participants under normal system operating conditions as more particularly described in Section 10 hereof.

4.1.31 Operating Funds: Monies advanced to the Transmission System or DC Terminal Operating Agent for Operating Work or Capital Betterments, Capital Replacements or Capital Additions by or on behalf of the Participants in accordance with the Project Agreements.

4.1.32 Operating Insurance: Policies of insurance to be procured and maintained or caused to be procured and maintained by the Transmission System or DC Terminal Operating Agent in accordance with the Project Agreements.

4.1.33 Operating Work: Engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, operations accounting, testing, protection, operation, use, management, retirement, reconstruction, and maintenance associated with operating the Transmission System and DC Terminal including any work undertaken by the Transmission System or DC Terminal Operating Agent pursuant to Sections 14 and 14A hereof and any work necessitated by an Operating Emergency, but excluding all work undertaken to make any Capital Betterments, Capital Replacements or Capital Additions.

4.1.34 Participant: Any Participant hereto and any successor assignee of such Participant under Section 36 hereof.
4.1.35 Payroll Taxes: Taxes of a Participant based on remuneration paid to its employees.

4.1.36 Power: Megawatts electric (MWe).

4.1.37 Project: The construction and operation of the Transmission System and DC Terminal pursuant to the Project Agreements.

4.1.38 Project Insurance: Construction Insurance and Operating Insurance.

4.1.39 Project Agreements: All documents executed by the Participants or between the Participants and SPS to construct or operate the Transmission System and DC Terminal as defined in Appendix A.

4.1.40 Transmission System: The transmission facilities including associated land and land rights, as described in Appendix A hereto, to be constructed by the Transmission System Project Manager and operated by the Transmission System Operating Agent.

4.1.41 Transmission System Operating Agent: The Participant responsible for the performance of Operating Work as more particularly described in Section 14 hereof, and making Capital Betterments, Capital Replacements, and Capital Additions as more particularly described in Section 21 hereof.
4.1.42 Transmission System Project Manager: The Participant responsible for the performance of Construction Work as more particularly described in Section 8 hereof.

4.1.43 Transmission System Spare Parts: Spare Parts or equipment, the cost of which is capitalized, which are stocked for the Transmission System.

4.1.44 Units of Property: Units of property as described in the Federal Energy Regulatory Commission's "Lists of Units of Property for Use in Connection with Uniform System of Accounts Prescribed for Public Utilities and Licensees," in effect as of the date of this Agreement, and as such list may be amended from time to time.

4.1.45 Willful Action:

4.1.45.1 Action taken or not taken by a Participant (including the Transmission System Project Manager or the Transmission System Operating Agent) at the direction of its directors, officers, or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken with conscious indifference to the consequences thereof or with intent or knowledge that injury, damage or delay of the Project would result or would probably result therefrom.

4.1.45.2 Action taken or not taken by a Participant (including the Transmission System Project Manager or Transmission System Operating
Agent) at the direction of its directors, officers, or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein; occurs or continues beyond a reasonable time to cure such default.

4.1.45.3 Action taken or not taken by a Participant (including the Transmission System Project Manager or the Transmission System Operating Agent) at the direction of its directors, officers, or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or failed to be taken is a material default under any of the Project Agreements.

4.1.45.4 The phrase "employees having management responsibility" as used in this Section 4.1.47 means employees of a Participant (including the Transmission System Project Manager or the Transmission System Operating Agent) who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such performance under any of the Project Agreements.

4.1.45.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental, or negligent.
SECTION 5
OWNERSHIP OF AND COST RESPONSIBILITY FOR THE COMPONENTS

5.1 Each Participant shall accept and hold title to an undivided interest as a tenant in common in the Transmission System and DC terminal in proportion to its Cost Responsibility in the system, as shown in Appendix B.

5.2 The ownership of and title to the components of the Transmission System and DC Terminal described in Appendix A of this Agreement, the control and communication system, as described in Appendix C, and all Capital Betterments, Capital Replacements, and Capital Additions shall vest simultaneously in the Participants so that the estate of each of them shall be deemed to be concurrent as to time, right, and priority.

5.3 The Participants shall be responsible for the Construction Costs, for the operation and maintenance (O&M) expenses, and for Capital Replacements, Capital Additions, and Capital Betterments of the Components of the Transmission System and the DC Terminal in accordance with their Cost Responsibilities.

5.4 In the event any Participant transfers or assigns any of its undivided rights, title, or interest in and to the Transmission System and DC Terminal in accordance with Section 18 hereof, the Participants and any successor shall jointly make, execute, and deliver a supplement to this Agreement, and, if appropriate, other Project Agreements, in recordable form which shall describe with such particularity and detail,
as may be warranted under the circumstances, the rights, title, and interest of each Participant and any successor following such transfer or assignment.

5.5 The communication equipment as described in Appendix C hereto, shall be operated and maintained by EPE. Cost associated with expansion and modification of the existing communication facilities shall be shared by the Participants in proportion to their Cost Responsibility as detailed in Appendix B or in Section 38.

5.6 Each Participant, excluding any nonparticipating third parties, shall own and have nonexclusive rights to the engineering work, drawings, and specifications, and such work, drawings, and specifications related to the Transmission System and DC Terminal. By mutual agreement of the Participants, the engineering work, drawings and specifications may be sold and the proceeds from such sale shall be distributed according to the Participants' Cost Responsibilities in this Project.

SECTION 6
CAPACITY AND ENTITLEMENT IN THE SYSTEM

6.1 System Capacity

6.1.1 All of the Components of the Transmission System and DC Terminal shall have an initial Operating Capacity to be determined by the E&O Committee. The Participants agree to modify the Operating Capacity of the Components of the Transmission System and DC Terminal
whenever found to be appropriate by the E&O Committee; such modification of the Operating Capacity will be considered whenever the Transmission System and DC Terminal is closely paralleled by any additional transmission lines that materially affects the Operating Capacity, by power plant construction, or upon written request by one of the Participants. All Operating Capacity ratings will be bi-directional as identified in Appendix F, subject to review by the E&O Committee.

6.1.2 Should the Operating Capacity of any of the Components of the Transmission System and DC Terminal change from time to time, as determined by the E&O Committee, increases or decreases in entitlement shall be reapportioned according to the Entitlement percentages of the Participants, presented in Appendix G.

6.1.3 Either Participant shall be able to exercise the option, at any time, to increase the Operating Capacity of the DC Terminal, Transmission System, or both. Either Participant may exercise its option by giving written notice to the other Participant.

6.1.3.1 In the event either Participant exercises its option to increase the Operating Capacity of the DC Terminal, Transmission System, or both, the other Participant shall have a right of first refusal to participate in such increase of Operating Capacity up to its Entitlement. Either Participant shall exercise its right of first refusal ("election") by giving the other Participant written notice of its election to participate within ninety (90) days of receipt of written notice from the Participant wishing to increase the Operating Capacity.
In the event that such election is made, each Participant shall pay for, and shall own, a percentage share of the increased Operating Capacity equal to its Cost Responsibility in increasing the Operating Capacity.

In the event that a Participant elects not to participate in increasing the Operating Capacity of the DC Terminal, Transmission System, or both, the other Participant shall have the right to proceed with increasing the Operating Capacity at its own cost and expense, provided that such increase of Operating Capacity does not materially effect the operation of the electrical system or the Entitlement in this Transmission System and DC Terminal of the Participant electing not to increase the Operating Capacity.

In the event that only one Participant makes such increase in Operating Capacity, that Participant shall acquire the title to and use of the increased Operating Capacity itself.

6.2 Entitlement

6.2.1 Upon completion and placement into firm operation of the Transmission System and DC Terminal, each Participant shall be entitled to use the Transmission System and DC Terminal for:

6.2.1.1 Transmission of Power and Energy on a firm basis, as supplied by the Participant less losses, not to exceed the Operating Capacity of the Transmission System and DC Terminal multiplied by the
Participants' respective Percentage Apportionment of Operating Capacity found in Appendix G.

6.2.1.2 Transmission of Power and Energy, as supplied by the Participant less losses, above that entitlement as determined in paragraph 6.2.1.1 above, provided that:

6.2.1.2.1 Such Capacity is not being used by the other Participant, as determined solely by the Participant having spare Capacity.

6.2.1.2.2 Appropriate agreement for such use has been reached.

6.2.1.2.3 Such use does not interfere with the other Participant's rights to use of its Entitlement and does not impair the capability of the system nor jeopardize continuity of service, all as determined solely by the Transmission System Operating Agent.

6.3 Interconnections and Additions

6.3.1 Besides the interconnections listed in Appendix A as preapproved interconnections, each Participant shall be entitled to interconnect the Transmission System and DC Terminal with its own or third parties transmission systems provided that:

6.3.1.1 Such Participant shall secure through the E&O Committee, the consent of the other Participant; to include arrangements for operation and control of facilities affecting the Transmission System and DC Terminal.
6.3.1.2 Such Participant shall pay all costs of the interconnection, including, where applicable, a proportionate share of the cost of Common Facilities previously installed.

6.3.1.3 A Participant establishing additional interconnections shall not be deemed to acquire additional transmission entitlement, nor shall such interconnection reduce the Capacity Entitlements of the other Participant.

6.3.2 Interconnections by third party(s) must be approved by the E&O Committee; all costs of such interconnections, including where applicable an apportionate share of the cost of Common Facilities previously installed, must be borne by third party(s) desiring such interconnection, and such interconnections must not reduce Capacity Entitlements of the Participants.

6.3.3 Third parties interconnecting with the system may engage in transactions with the Participants or other third parties at the point of interconnection to the extent that each has rights and in amounts such that it does not affect the rights of the Participants, is within the technical capability of the system, and provided that approval of the E&O Committee has been received.

6.4 No Participant shall construct or operate any portion of its separate transmission system, including interconnections with others, in such a manner as to unduly interfere with the rights of the other Participants. The Participants hereby authorize and support the
Transmission System or DC Terminal Operating Agent in such action it may deem prudent or necessary to restore the rights of the Participants.

6.5 Wheeling service to third parties.

6.5.1 Wheeling Service over the Transmission System and DC Terminal shall be afforded to third parties provided that such third party’s wheeling service does not materially affect the system operation of the Participants and such wheeling service conforms with the wheeling criteria established by the E&O Committee.

6.5.2 The Participants will each dedicate portions of Entitlement and collect the corresponding revenues from this wheeling service based on either their existing apportionment percentage of Operating Capacity in the Transmission System and DC Terminal, or on any other mutually agreeable division.

SECTION 7
ADMINISTRATION AND COMMITTEES

7.1 As a means of securing effective cooperation and interchange of information and of providing consultation on a prompt and orderly basis between the Participants in connection with various administrative and technical matters which may arise from time to time in connection with the terms and conditions of this Agreement, the Participants establish the committees described in this Section 7. The chairman for each of the committees shall be the representative of the Transmission System Project.
Manager or the Transmission System Operating Agent and shall be responsible for calling meetings and establishing agendas as required by the Participants. The various committees must meet at least annually. The responsibility and authority of each such committee shall be limited to matters in connection with the carrying out of the provisions of the Project Agreements and shall not extend to other affairs of the Participants. The following committees are hereby established and shall have the functions and responsibilities described herein.

7.1.1 An Administrative Committee consisting of one (1) representative appointed by each Participant which representative shall be an officer of said Participant or the authorized designee of the officer of the Participant.

7.1.2 An Engineering and Operating Committee consisting of two (2) representatives appointed by each Participant.

7.1.3 An Auditing Committee consisting of two (2) representatives appointed by each Participant.

7.2 Within thirty (30) days after the execution of this Participation Agreement, each Participant shall designate its representatives on the committees hereby established and give written notice thereof to the other Participant.

7.3 The Administrative Committee, the Engineering and Operating Committee, and the Auditing Committee shall keep written minutes and records of all meetings.
7.4 Any action or determination of a committee must be unanimous and shall be effective when set forth in writing and signed by each Participant's representatives.

7.5 The committees shall have no authority to modify any of the terms, covenants, or conditions of this Agreement except as specifically authorized in this Agreement.

7.6 The Administrative Committee shall have the following functions:

7.6.1 Provide liaison among the Participants at the management level.

7.6.2 Exercise, under the provisions of the Project Agreements, general supervision and guidance over, and assign other duties to, the Engineering and Operating Committee, the Auditing Committee, and any other standing or ad hoc committees established pursuant to Section 7.12 hereof.

7.6.3 Review, discuss, resolve, or make recommendations relating to disputes among the Participants and SPS arising under the Project Agreements.

7.6.4 At the request of any Participant on such terms and conditions as the Administrative Committee may deem appropriate, authorize the installation on the property comprising the Transmission System and DC.
Terminal of any structures, facilities, or equipment by any Participant or any third party for its or their own use, which structures, facilities, or equipment, shall not become a part of the Transmission System and DC Terminal.

7.6.5 Establish or modify milestone activity dates for inclusion as Appendix D to this Agreement.

7.6.6 Perform such other functions and duties as may be assigned to it in this Agreement.

7.7 The Engineering and Operating Committee shall have the following functions:

7.7.1 Provide liaison between the Participants, and the Transmission System or DC Terminal Project Manager, and the Transmission System or DC Terminal Operating Agent with respect to progress, performance, and completion of Construction Work and performance of Operating Work.

7.7.2 Be responsible for the approval of the annual capital expenditures budget, the annual operation and maintenance (O&M) budget, and the estimated quarterly cash requirements. Such budgets and cash requirements shall be prepared by the Transmission System Project Manager or Transmission System and Operating Agent, as appropriate.

7.7.3 Be responsible for planning scheduled outages for maintenance.
7.7.4 Develop the criteria for the review, approval or modification of the written statistical and administrative reports, written budgets, information and other similar records, and the form thereof, to be kept and furnished by the Transmission System or DC Terminal Operating Agent. However, such criteria shall not apply to accounting records used internally by the Transmission System or DC Terminal Operating Agent for the purpose of accumulating financial and statistical data, such as books of original entry, ledgers, work papers, and source documents.

7.7.5 Be responsible for the development and review of the procedures for Power and Energy accounting.

7.7.6 Be responsible for the development of the practices and procedures for the delivery of Power and Energy by the Components in accordance with the Participants' schedules. Such practices and procedures shall provide for modifying said schedules to meet the needs of day-to-day or hour-by-hour operation, including emergencies on a Participant's system.

7.7.7 Defining those situations that would constitute an Operating Emergency and developing the methods and procedures to be utilized in calculating any resulting reduction in the Operating Capacity of any Component.

7.7.8 Establish procedures and calculations to be applied by the Transmission System or DC Terminal Operating Agent for determining losses on the Components.
7.7.9 Determine the Date of Firm Operation for each Component, within the milestone dates of the Construction Schedule as established in Appendix D.

7.7.10 Be responsible for design concepts and any changes thereto; type and configuration of major Components of the Transmission System and the DC Terminal; and the projected cash flow for construction for the Transmission System and the DC Terminal. The E&O Committee shall discharge its responsibility detailed above within a time frame that is consistent with the Project schedule and recognizing external commitments and constraints. No such responsibility shall extend retroactively to decisions or commitments made before the effective date of this Agreement.

7.7.11 Review, approve, modify or otherwise act upon proposals concerning, but not limited to, bidders list for major equipment, the bid evaluation process, selection of architects, engineers, and/or constructors. The E&O Committee shall discharge its responsibility detailed above within a time frame that is consistent with the Project schedule and recognizing external commitments and constraints. No such right of approval shall be extended retroactively to decisions or commitments made before the effective date of this Agreement.

7.7.12 Review and modify, if required, the Operating Capacity of the Components at least annually.
7.7.13 Review, approve, modify or otherwise establish a wheeling criteria for third parties and act upon proposals for wheeling service from third parties pursuant to Section 6.5.

7.7.14 Perform such other duties as may be assigned to it under the provisions of any Project Agreement or by the Administrative Committee.

7.8 The Auditing Committee shall have the following functions:

7.8.1 Review internal control and make audits on either an annual basis, or any other basis agreed to by the Audit Committee, of the records maintained by the Transmission System and DC Terminal Project Manager and the Transmission System and DC Terminal Operating Agent in performance of Transmission System and DC Terminal construction and of operation and maintenance, as well as of any other company records maintained by the DC Terminal Project Manager or the DC Terminal Operating Agent in support of its billings to the Participants.

7.8.2 Review and approve the format and contents of the Transmission System and DC Terminal Project Managers' and Transmission System and DC Terminal Operating Agents' accounting records and reports for Transmission System and DC Terminal construction and O&M.

7.8.3 Verify to the Participants that the Transmission System and DC Terminal Project Managers' and Transmission System and DC Terminal Operating Agents' billings to the Participants resulting from construction, operation, and maintenance of the Transmission System and
DC Terminal are in accordance with this Agreement and with generally accepted Accounting Practices.

7.8.4 Review, approve, or modify the method for calculating the Participant's loadings as detailed in Appendix E when such Participant acts as construction agent for Capital Additions, Capital Betterments, or Capital Replacements.

7.8.5 Establish the minimum and maximum balances to be maintained in the accounts for construction funds and operating funds pursuant to Section 15.4 hereof.

7.8.6 Perform such other duties as may be assigned to it under the provisions of any Project Agreement or by the Administrative Committee.

7.9 Each Participant shall notify the other Participant promptly of any change in the designation of its representatives on the committees. A Participant may designate an alternate to act as its representative on any committee in the absence of the regular member or to act on specified occasions with respect to specified matters. Any alternate representative appearing at a committee meeting shall be deemed to have authority to act on behalf of the Participant he represents.

7.10 If the Engineering and Operating Committee or the Auditing Committee fail to reach agreement while performing the functions and duties delegated to it in this Agreement, then such disagreement shall be referred in writing within 30 days to the Administrative Committee for
Pursuant to Paragraph E.7.2 of Appendix E, the Audit Committee shall have the option for an initial 60 day study period prior to the aforementioned 30 day limit for referring disagreements to the Administrative Committee. Notwithstanding the terms and provisions of this Section 7.10, if in the Transmission System such disagreement will affect the Date of Firm Operation of the Transmission System or DC Terminal, then the Transmission System Project Manager shall have the right to directly refer the disputed issue to the Administrative Committee for Resolution.

7.11 If the Administrative Committee fails to reach agreement while performing the respective functions and duties assigned to it in this Agreement, then such disagreement shall be referred in writing within 30 days to chief executive officers of the Participants for resolution. If the dispute cannot be resolved by the chief executive officers within thirty (30) days, the dispute shall be resolved by arbitration pursuant to Section 29.

7.12 The Participants, acting through the Administrative Committee, shall have the right to establish standing or ad hoc committees. The authority and duties of any such committee shall be set forth in writing by the Administrative Committee.

7.13 Any expenses incurred by any member of the Administrative Committee, Audit Committee, E&O Committee, or any standing or ad hoc committees in connection with his duties on such committee shall be paid and borne by the Participant whom they represents, and shall not be directly included in Construction Costs or in costs for Operating Work.
SECTION 8
PERFORMANCE AND COMPLETION OF CONSTRUCTION WORK –
TRANSMISSION SYSTEM PROJECT MANAGER

8.1 The Transmission System shall be designed and constructed in accordance with practices generally accepted in the electric utility industry as such practices may be affected by special operational design characteristics of the Transmission System. The Transmission System Project Manager shall be responsible for the design and construction of the Transmission System.

8.2 EPE shall be the Transmission System Project Manager.

8.3 The Participants hereby appoint EPE as their agent, and EPE shall undertake as the agent for the other Participant and as principal on its own behalf, to perform, or have performed, the Construction Work and to carry out the duties and the responsibilities required by the Transmission System Project Manager under the Project Agreements.

8.4 The Transmission System Project Manager shall on behalf of the Participants:

8.4.1 Execute, administer, perform, and enforce all Construction Agreements in the name of the Transmission System Project Manager, acting as agent for the other Participant and as principal on its own, and their behalf, whether or not expressed or manifested, in which all Participants
shall have undivided interests as tenants in common equal to their respective Cost Responsibility.

8.4.2 Furnish each member of the E&O Committee with copies of all contracts with the architect, engineer, constructor, contractors, and principal subcontractors, vendors, and consultants for their review pursuant to Section 7.7.11.

8.4.3 Arrange for placement of Construction Insurance pursuant to Section 22 hereof.

8.4.4 Determine which contractors, if any, shall be required to furnish any portion of the Construction Insurance, other insurance, and faithful performance and payment bonds.

8.4.5 Investigate, settle, or defend and pay any judgments pertaining to uninsured third party claims arising out of the construction of the Transmission System. The Administrative Committee shall investigate, settle, or defend and direct the Transmission System Project Manager to pay any judgments pertaining to uninsured third party claims arising out of the Transmission System when any one claim or combination of claims exceeds $100,000 per occurrence.

8.4.6 Comply with: (a) any and all laws applicable to the performance of Construction Work, including without limitation all applicable laws, rules, and regulations for protection of the environment and all applicable provisions of any Worker's Compensation laws; and
(b) the terms and conditions of any contract, permit, or license relating to the Transmission System.

8.4.7 Expend the funds advanced to the Transmission System Project Manager as required for construction of the Transmission System in accordance with the terms and conditions of the Project Agreements.

8.4.8 Keep and maintain records of monies received and expended, obligations incurred, credits accrued, the conduct of the Construction Work, and of contracts entered into in the performance of Construction Work as may be necessary or useful in performing the functions of the Transmission System Project Manager under the Project Agreements or required to permit an audit of the Construction Work, and, upon reasonable notice, make such records available for inspection and copying by the Auditing Committee at the Transmission System Project Manager's principal place of business and during normal business hours.

8.4.9 Not suffer any liens to remain in effect unsatisfied against the Transmission System, other than liens permitted by Section 18 hereof; provided, however, that the Transmission System Project Manager shall not be required to pay or discharge any such lien as long as a proceeding shall be commenced or pending in which the lawfulness or validity of such lien shall be contested in good faith.

8.4.10 Obtain or cause to be obtained necessary construction permits, temporary access rights, and other licenses and approvals requisite to the performance and completion of Construction Work and
initiation of Operating Work; however, the Transmission System Project Manager is not required to pursue any approvals required solely by any Participant for owning, constructing, or operating the Transmission System.

8.4.11 As soon as practicable after the completion of Construction Work of each Component, and in no case later than twelve (12) months from the Date of Firm Operation of each Component, provide each Participant with a summary of the Construction Costs classified to appropriate FERC accounts.

8.4.12 As soon as practicable after the commencement of Construction Work, furnish the E&O Committee with an estimate of total Construction Costs broken down by major categories of equipment and services and a forecast of the cash requirements of each Participant to meet such Construction Costs. Such forecast shall set forth cash requirements for: (a) each quarterly period commencing on the first day of January, April, July and October of the current year in which Construction Costs shall become due; and (b) each month of the first two quarterly periods immediately following the issuance of such forecast. Such forecast shall be revised and furnished to each Participant every three (3) months thereafter until completion of Construction Work.

8.4.13 Furnish a Participant any information reasonably available pertaining to the construction of the Transmission System that shall assist said Participant in responding to a request for such information by any federal, state, or local regulatory authority, or lender.
8.4.14 Keep the Participants fully and promptly advised of significant developments in connection with the progress, performance, and completion of Construction Work, as required by the Administrative Committee or the E&O Committee.

8.4.15 Prepare and distribute the Final Completion Report to each Participant as soon as practicable, but not later than twelve (12) months after completion of Construction Work performed by the Transmission System Project Manager on the final Component, unless such time is extended by the Administrative Committee.

8.4.16 Provide the Administrative Committee with all necessary and required records and information for its use in the performance of its responsibilities under the Project Agreements.

8.4.17 Construct the Transmission System so as to comply with the Project Agreements.

8.4.18 Provide for and enforce any and all warranties on equipment, facilities, materials, and services sold to or furnished for the Transmission System, except that any equipment warranties which expire more than one (1) year after the completion of Construction Work for the final Component to be constructed by the Transmission System Project Manager shall be enforced by the Transmission System Operating Agent.

8.4.19 Secure or cause to be secured the necessary land and land rights for the Transmission System. Rights-of-way required for
construction, operation, and maintenance of the Transmission System across patented lands shall be procured by the Transmission System Project Manager in the names of the Participants. Such rights-of-way may be procured by purchase or exercise of the power of eminent domain of the fee interest in or by a grant of easement across any parcel of such lands as the Transmission System Project Manager shall in its sole discretion deem advantageous to the Participants. Prior to the exercise of the power of eminent domain, suitable notice, including a list of condemnees, will be given to the Participants. Rights-of-way or easements across nonprivate lands will be acquired by the Transmission System Project Manager in the names of the Participants.

8.4.19.1 In the case of rights-of-way or easements across military lands, the Project Manager will include in its application package to the military the 115 KV associated transmission line contemplated by TNP even though it is not part of this Project.

8.4.20 Dispose of excess material and equipment after completion of Construction Work in the best interest of all Participants and distribute proceeds from such disposal to the Participants in proportion to their Cost Responsibilities for the associated Component.

8.5 Each Participant shall provide to the extent possible all assistance required by the Transmission System Project Manager in the performance of its obligations hereunder and such Participant shall be reimbursed for its costs and expenses incurred in providing such assistance on such terms and conditions as may be agreed upon by such
Participant and the Transmission System Project Manager. Each Participant shall, within sixty (60) days after the execution of this Participation Agreement, submit to the Transmission System Project Manager any special requirement it may have regarding accounting, records, or information in order that all required records may be maintained in the same manner throughout the construction and final completion of the Transmission System. The Transmission System Project Manager shall accommodate said special requirements as specified by the committee established in Section 7 hereof.

8.6 The Project Manager shall construct the Transmission System with the objective of having the respective Components available for energization, for tests, and for operation in accordance with Appendix C, hereto, unless and until Appendix C is revised by the Administrative Committee.

SECTION 8A
PERFORMANCE AND COMPLETION OF CONSTRUCTION WORK
DC TERMINAL PROJECT MANAGER

8A.1 The performance and completion of the Construction Work and the duties of the DC Terminal Project Manager shall be defined in the DC Terminal Construction Agreement executed between Southwestern Public Service Company (SPS) and the Participants attached hereto for reference, but is not made part of this Agreement.
SECTION 9
TRANSMISSION SYSTEM OPERATING AGENT

9.1 The Participants hereby appoint EPE and as the Transmission System Operating Agent. EPE shall undertake as the agent for the Participants and as principal on its own and their behalf, to perform or have performed the Operating Work, Capital Betterments, Capital Replacement and Capital Additions, and to carry out the duties and responsibilities required by the Transmission System Operating Agent under the Project Agreements.

9.2 The Transmission System Operating Agent shall on behalf of the Participants:

9.2.1 Execute, administer, enforce, and perform or have performed the Operating Work, Capital Betterments Capital Replacement and Capital Additions as approved by the E&O Committee so as to comply with the Project Agreements and in a manner consistent with generally accepted practices in the electric utility industry, recognizing that such practices may be affected by the design and operational characteristics of the Transmission System, the rights and obligations of the Participants under this Participation Agreement, and other special circumstances affecting the Operating Work and Capital Betterments, Capital Replacement and Capital Additions.

9.2.2 Furnish from its own resources, or contract for and obtain from any other sources as approved by the E&O Committee, the services and
9.2.3 Execute, administer, perform, and enforce Project Agreements in the name of the Transmission System Operating Agent, acting as agent for the Participants and as principal on its own behalf, whether or not expressed or manifested, for Operating Work, Capital Betterments, Capital Replacements, and Capital Additions, including without limitation any and all warranties on equipment, facilities, materials, and services furnished pursuant to any such contracts.

9.2.4 Administer, perform, and enforce all other contractual obligations and arrangements, including all warranties applicable thereto, entered into by the Transmission System Project Manager and continuing beyond the period ending one (1) year after the completion of Construction Work for the final Component.

9.2.5 Furnish or recruit the necessary personnel and provide for such training as may be required to qualify them to perform the Operating Work or Capital Betterments, Capital Replacements and Capital Additions, and to meet all requirements established by law.

9.2.6 Comply with: (a) any and all laws applicable to the performance of Operating Work, Capital Betterments, Capital Replacements, and Capital Additions, including, without limitation, all applicable laws, rules, and regulations for protection of the environment and all applicable provisions of any Worker's Compensation Laws; and (b) the
terms and conditions of any contract, permit, or license relating to the Transmission System.

9.2.7 Purchase and procure, as approved by the E&O Committee, in the name of the Participants, with undivided interests as tenants in common in accordance with the Project Agreements, the equipment, apparatus, machinery, tools, materials and supplies, and Transmission System Spare Parts necessary for the performance of Operating Work, Capital Betterments, Capital Replacements, and Capital Additions.

9.2.8 Expend the Operating Funds advanced to the Transmission System Operating Agent in accordance with the terms and conditions of the Project Agreements.

9.2.9 Keep and maintain adequate records of monies received and expended, obligations incurred, credits accrued, the conduct of Operating Work, making Capital Betterments, Capital Replacements, and Capital Additions, and of Project Agreements entered into in the performance of Operating Work, Capital Betterments, Capital Replacements, and Capital Additions as may be necessary or useful in performing the functions of the Transmission System Operating Agent under the Project Agreements. And, upon reasonable notice, make such records available for inspection and copying during normal business hours by the Auditing Committee at the Transmission System Operating Agent's principal place of business.

9.2.10 Not suffer any liens to remain in effect unsatisfied against the Transmission System, other than liens permitted by Section 18 hereof;
provided, however, that the Transmission System Operating Agent shall not be required to pay or discharge any lien as long as a proceeding shall be commenced or pending in which the lawfulness or validity of such lien shall be contested in good faith.

9.2.11 Arrive for the placement and maintenance of Operating Insurance as provided in Section 22 hereof.

9.2.12 Investigate, settle, or defend, and pay any judgments pertaining to uninsured third party claims arising out of the operation of the Transmission System. The Administrative Committee shall investigate, settle, or defend, and direct the Transmission System Operating Agent to pay and judgments pertaining to uninsured third party claims arising out of the Transmission System when any one claim or a combination of claims exceeds $100,000 per occurrence.

9.2.13 Keep the Participants fully and promptly advised of material changes in conditions or other material developments affecting the performance of Operating Work, or Capital Betterments, or Capital Replacements or Capital Additions, and furnish the other Participant with copies of any notices given or received pursuant to the Project Agreements.

9.2.14 Provide the Administrative, Engineering and Operating, Auditing, and any standing and ad hoc committees, with all written statistical and administrative reports, accounting records, written budgets, information, and other records relating to Operating Work,
Capital Betterments, Capital Replacements, and Capital Additions necessary or useful in the performance of their respective responsibilities under the Project Agreements.

9.2.15 Prepare recommendations covering the matters which are to be reviewed and approved by the Engineering and Operating Committee pursuant to Section 7.7 hereof.

9.2.16 Carry out and follow the practices and procedures and directions which have been approved and issued by the Administrative Committee, the Engineering and Operating Committee, or the Auditing Committee pursuant to the Project Agreements.

9.2.17 In the event of an Operating Emergency, take such action as required by Section 10 hereof.

9.2.18 Keep the Participants informed whenever maintenance is required and whenever work on its own system external to the Transmission System will affect Transmission System operations.

9.2.19 Assure proper coordination of Operating Work with the operations of facilities external to the Transmission System.

9.2.20 As soon as practical after the Date of Firm Operation of the Transmission System and quarterly thereafter on or before the first day of March, June, September, and December furnish the E&O Committee with a budget of total O&M expenses and costs and expenses associated with
Capital Betterments, Capital Replacements, and Capital Additions, broken down by major categories, for the remainder of the current calendar year (or for the next calendar year in the case of December submissions) and a forecast of the cash requirements of each Participant to meet such costs and expenses. Such forecast shall set forth the cash requirements: (a) for each quarterly period commencing on the first day of January, April, July, and October of the current year in which such costs and expenses shall become due; and (b) for each month of the first two quarterly periods immediately following the issuance of such forecast.

SECTION 9A
DC TERMINAL OPERATING AGENT

9A.1 The duties and responsibilities of the DC Terminal Operating Agent shall be assigned and coordinated through the Operating Committee established in the Interconnection Agreement between the Participants and SPS.

SECTION 10
OPERATING EMERGENCY

10.1 In the event of an Operating Emergency:

10.1.1 The Transmission System Operating Agent will follow the procedures established by the E&O Committee as established in Section 7.7.7 for handling an Operating Emergency and for determining any
10.1.2  If, for a particular Operating Emergency, no procedures have been established by the E&O Committee, the Transmission System Operating Agent shall take, at its sole discretion, such action as it may deem prudent or necessary, to terminate the Operating Emergency, to preserve and maintain the safety, integrity, and operability of the Transmission System and DC Terminal, to maintain the maximum Operating Capability of each Component, to protect the health and safety of the public, or to minimize any adverse environmental effects, and such other action as required by Section 10 hereof.

10.2  As soon as practicable after the commencement of an Operating Emergency, the Transmission System Operating Agent shall advise the Participants of the occurrence of the Operating Emergency, its nature, and the steps taken or to be taken to terminate the Operating Emergency.

10.3  The costs incurred and amounts expended and charged to maintenance expenses by the Transmission System Operating Agent for repair and restoration, of the Transmission System as a result of an Operating Emergency shall be allocated to the Participants in proportion to their Cost Responsibility for the Component(s) being repaired or restored and shall be billed to the appropriate Participants in accordance with Section 15 hereof.
10.4 Costs proposed to be incurred and amounts to be expended by the Transmission System Operating Agent for Capital Betterments, Capital Replacements, Capital Additions as a result of an Operating Emergency, if unbudgeted, shall be submitted to the E&O Committee for review and approval and allocated to the Participants in proportion to their Cost Responsibility in the Component(s) to which such Capital Betterments, Capital Replacements, and Capital Additions are to be made, and the Transmission System Operating Agent shall bill the appropriate Participants therefor.

SECTION 11
CURTAILMENT OF OPERATING CAPACITY IN THE TRANSMISSION SYSTEM OR DC TERMINAL

11.1 In the event it becomes necessary to curtail the Operating Capacity of the Transmission System or DC Terminal either due to scheduled maintenance or upon the occurrence of a situation deemed by either the Transmission System or DC Terminal Operating Agent to constitute an Operating Emergency, pursuant to the criteria established by the E&O Committee or DC Terminal Operating Agent, the Transmission System Operating Agent shall as soon as practicable notify the dispatchers of the other Participant.

11.2 Upon occurrence of a situation for which no E&O Committee criteria apply, the Transmission System Operating Agent may, in its sole discretion, declare an Operating Emergency and as soon as practicable shall notify the dispatchers of the Participants thereof. In the event
that an Operating Emergency is declared pursuant to this section, the Transmission System Operation Agent shall as soon as practicable provide fully documented reports in support of its action to the Participants and, the E&O Committee shall at its earliest convenience review and develop criteria for future occurrences of the same nature.

11.3 In the event an Operating Emergency is declared, whether pursuant to Section 11.1 or 11.2, the Transmission System Operating Agent shall determine the amount of reduction, if any, in the Operating Capacity of each Component of the Transmission System in accordance with guidelines developed by the E&O Committee pursuant to Section 7.7.7 hereof.

11.4 In the event that Operating Capacity in any Component is reduced pursuant to Section 11.3, revised Entitlements shall be calculated for each Participant, which Entitlements shall remain in effect until the Operating Emergency is ended.

SECTION 12
TRANSMISSION SYSTEM SPARE PARTS

12.1 The Transmission System Project Manager shall purchase Transmission System Spare Parts for the initial Transmission System Spare Parts inventory in accordance with policies and budgets prepared or approved by the Engineering and Operating Committee.
12.2 The Transmission System Operating Agent shall maintain the Transmission System Spare Parts inventory in accordance with policies approved by the E&O Committee.

12.3 The Transmission System Operating Agent shall purchase replacement Transmission System Spare Parts in accordance with the policies and budgets approved by the E&O Committee.

SECTION 12A
DC TERMINAL SPARE PARTS

12A.1 The policies and procedures for the purchase of DC Terminal Spare Parts and the DC Terminal Spare Parts inventory shall be as they are defined in the DC Terminal Construction Agreement.

SECTION 13
TRANSMISSION SYSTEM CONSTRUCTION COSTS

13.1 Construction Costs of the Transmission System shall include all payments made and obligations incurred by the Transmission System Project Manager for, or in connection with, Construction Work.

13.2 All Construction Costs for each Component shall be shared by the Participants in proportion to their respective Cost Responsibility described in Appendix B hereto. Construction Costs shall be advanced by the Participants, and disbursed and accounted for by the Transmission System Project Manager, in accordance with Section 15 hereof.
13.3 Construction Costs shall consist of payments made and obligations incurred in accordance with the Project Agreements for, or in connection with, Construction Work (excluding allowance for funds used during construction and, ad valorem taxes or payments in lieu thereof) and shall consist of the following:

13.3.1 All costs of labor, services and studies performed in connection with Construction Work, if authorized and approved by the Transmission System Project Manager, and within the annual budget approved by the E&O Committee.

13.3.2 Payroll and other expenses of the Transmission System Project Manager's employees while performing the Construction Work, including applicable allocated labor loading charges as allocated in accordance with Appendix E, Sections E1 through E4.

13.3.3 Overhead costs associated with Construction Work (including the allowance for the Transmission System Project Manager's administrative and general expenses described in Section 13.3.14 hereof), costs of temporary facilities, land and land rights, structures and improvements, and equipment for the Transmission System as set forth in the Electric Plant Instructions of the FERC System of Accounts.

13.3.4 All costs and expenses, including those of outside consultants and attorneys, incurred by the Transmission System Project Manager or the other Participant with respect to the securing of licenses, permits, certificates and any other authorizations required by
law (excluding those authorizations and approvals specified in Section 25.2), compliance with any applicable laws, rules or regulations respecting the environment, conservation of the public health and safety, negotiation for the acquisition of land, land rights, and to the preparation of agreements and permits relating to Construction Work with entities other than the Participants. A Participant anticipating such costs and expenses shall submit an estimate thereof to the Transmission System Project Manager for authorization and approval. Any Participant incurring such costs and expenses after such authorization and approval shall bill the Transmission System Project Manager who will subsequently bill the Participants in proportion to their cost responsibility.

13.3.5 Applicable costs of materials, supplies, tools, machines, equipment, apparatus, and Transmission System Spare Parts in connection with Construction Work, including rental charges, transportation, and stores’ expenses applicable to such costs.

13.3.6 All costs of Construction Insurance, other than costs of Worker's Compensation insurance included in Section 13.3.2 hereof.

13.3.7 All costs of any loss, damage or liability arising out of or caused by Construction Work which are not satisfied under the coverage of Construction Insurance, and the expenses incurred in settlement of injury and damage claims, including attorneys’ fees and costs of litigation, including the costs of labor and related supplies and expenses incurred in injury and damage activities (all as referred to in FERC Account 925 and FERC Accounts Electric Plant Instruction 3(8), but excluding any
costs or expenses which have already been included in Section 13.3.2 hereof), because of any claim arising out of or attributable to the construction of the Project, the past or future performance or nonperformance of the obligations and duties of any Participant (including the Transmission System Project Manager) or the past or future performance or nonperformance of Construction Work, including but not limited to any claim resulting from death or injury to persons or damages to property. However such costs shall not be retroactive from the effective day of this Agreement.

13.3.8 All federal, state or local taxes of any character except corporate income tax imposed upon Construction Work, except any tax assessed directly against an individual Participant or against the Transmission System Project Manager unless such tax was assessed to such individual Participant or to the Transmission System Project Manager in behalf of either or both of the Participants.

13.3.9 All costs and expenses of enforcing or attempting to enforce the provisions of Construction Insurance policies, payment and performance bonds, contracts executed as Transmission System Project Manager and warranties extended to facilities constituting a part of the Project, except any costs or expenses which have already been included in Section 13.3.2 hereof.

13.3.10 All costs and expenses, including those of attorneys and consultants, incurred by the Transmission System Project Manager or a Participant with respect to environmental matters such as lawsuits,
hearings and environmental studies related thereto. All Participants anticipating such costs and expenses shall submit an estimate thereof to the Transmission System Project Manager for authorization and approval. Any Participant incurring such costs and expenses after such authorization and approval shall bill the Transmission System Project Manager who will subsequently bill the Participants in proportion to their cost responsibility.

13.3.11 The expenses incurred in auditing Construction Costs of the Project as approved by the Audit Committee.

13.3.12 Miscellaneous costs and expenses not specifically referenced in this Section 13.4 that are incidental to and necessary for the Transmission System as approved by the E&O Committee.

13.3.13 The Engineering and Supervision allowance (E&S) is applicable to any Participant who incurs expenses in conjunction with the performance of construction work. These loadings shall be applied only once to any item billed by a Participant performing the Engineering and Supervision for the Construction Work. The E&S rate shall be five percent (5%) and shall be applied to total construction cost incurred and not previously billed. The total construction cost to which this E&S rate is applied shall not include:

13.3.13.1 Any E&S charges as provided for in Section 13.3.13.
13.3.13.2 Any allowance for A&G expenses as provided for in Section 13.3.14.

13.3.14 The Administrative and General (A&G) allowance is applicable to any Participant that incurs costs in conjunction with performance of Construction Work. Said expenses shall be allocated monthly at the rate of one and five tenths percent (1.5%) (or such other rate as may be specified by the Administrative Committee) of Construction Costs incurred and not previously billed, excluding from such Constructions Costs:

13.3.14.1 Any Engineering and Supervision overhead charges referred to in Section 13.3.13.

13.3.14.2 Any allowance for administrative and general expenses provided for in this Section 13.3.14.

13.3.14.3 Expenses described in Section 13.3.7 hereof, to the extent such costs represent damage awards or settlements.

13.3.14.4 The expenses incurred in auditing construction costs of the project, as approved by the Auditing Committee.

13.3.14.5 Any cost that the Participants would have incurred in the absence of this Project.
13.4 In cases where the allocation of a cost item is made between Construction Work and other work, such allocation shall be made on a fair and equitable basis.

13.5 The Transmission System Project Manager shall develop, or cause to have developed, and shall employ a project control system which recognizes and contains the elements of scheduling, reporting, forecasting and analysis with the variables of time and money. The accounting classifications employed must be converted to the FERC accounts for the Final Completion Report, and any supplement thereto, of total cost of Construction Work.

13.6 Travel and other related expenses of employees of the Transmission System Project Manager whose salary costs are considered administrative and general expenses recoverable through the administrative and general expense allowance specified in Section 13.3.14 hereof shall only charge directly to Construction Work as Construction Costs when performing work directly related to Construction Work.

13.7 The Project Manager or any Participant shall not be entitled to a fee, price, percentage, or any other compensation over and above the costs of services rendered by the Project Manager or any Participant in the performance of Construction Work.
SECTION 13A
DC TERMINAL CONSTRUCTION COSTS

13A.1 Construction Costs of the DC Terminal shall include all payments made and obligations in connection with Construction Work as shall be defined in the DC Terminal Construction Agreement between SPS and the Participants.

SECTION 14
TRANSMISSION SYSTEM OPERATION AND MAINTENANCE COSTS

14.1 Operation and maintenance costs of the Transmission System shall include all payments made and obligations incurred in accordance with this Agreement by the Transmission System Operating Agent for or in connection with the performance of Operating Work, as follows:

14.1.1 Transmission System O&M expenses chargeable to FERC Accounts 560, 561, 562, 563, 564, 566, 567, 568, 569, 570, 571, 572, and 573. Payroll Expenses shall include those applicable allocated labor loading charges as detailed in Appendix E.

14.1.2 Payroll taxes chargeable to FERC Account 408 and expenses chargeable to FERC Account 926 shall be added to the monthly billing in proportion to the dollar amount of direct labor billed in accordance with Appendix E.
14.1.3 The expenses chargeable to FERC Account 925 incurred in complying with Worker's Compensation laws, except uninsured Worker's Compensation claims or portions thereof, shall be allocated each month to the Participants in proportion to the dollar amount of direct labor billed in that month in accordance with Appendix E.

14.1.4 Expenses incurred in connection with uninsured Worker's Compensation claims arising out of Transmission System O&M in accordance with Appendix E.

14.1.5 The expenses chargeable to FERC Accounts 924 and 925 in connection with the Transmission System Operating Agent's performance of the provisions of Section 22 hereof (insurance, excluding salaries of administrative employees whose services are compensated for under Section 14.1.6) in accordance with Appendix E, and excluding expenses incurred in connection with Workmen's Compensation and Occupational Health and Disease covered under Section 14.1.3 and Section 14.1.4.

14.1.6 Those O&M expenses associated with the control, communication and relaying as described in Section 38 hereof.

14.2 Cost of facilities external to the Transmission System: Each Participant shall be responsible for all costs incurred by it to supply Power and Energy to the Transmission System or to receive Power and Energy from the Transmission System.
14.3 The costs of Operating Work for each Component shall be shared by the Participants in proportion to their respective Cost Responsibility in the Component(s).

14.4 The costs of Operating Work shall be advanced by the Participants to the Transmission System Operating Agent and disbursed and accounted for by the Transmission System Operating Agent in accordance with Section 15 hereof.

SECTION 14A
DC TERMINAL OPERATION AND MAINTENANCE COSTS

14A.1 Operation and maintenance costs of the DC Terminal shall be defined and coordinated through the Operating Committee established in the Interconnection Agreements between the Participants and SPS.

SECTION 15
ADVANCEMENT OF FUNDS FOR THE TRANSMISSION SYSTEM

15.1 Each Participant shall advance its share of Construction Funds and Operating Funds prior to the date when funds are required by the Transmission System to pay for Construction Work, Operating Work, Capital Betterments, Capital Replacements, and Capital Additions, so that the Transmission System Operating Agent in its capacity as such will not have to advance any funds on behalf of a Participant.
15.2 Each Participant shall pay monthly, in advance, on or before a due date as specified by the Transmission System Project Manager, its share (equal to its Cost Responsibility in the Components) of all Construction Costs in accordance with the monthly budget or revisions thereof, as estimated for Construction Work, prepared by the Transmission System Project Manager and furnished to each Participant pursuant to Section 8.4.12 hereof. Following completion of all Construction Work, the Transmission System Project Manager shall compute the total Construction Costs of the Transmission System or DC Terminal and each Participant shall promptly settle any balance of its share of such total Construction Costs in accordance therewith. In the event of expenditures which are not anticipated in the budget, the Transmission System Project Manager may issue special requests with appropriate documentation to explain such request for funds to cover such costs, and each Participant shall pay, upon approval of the E&O Committee, on or before a due date specified by the Transmission System Project Manager on the request.

15.3 Each Participant shall pay monthly, in advance, on or before the due date specified by the Transmission System Operating Agent, its share (equal to its Cost Responsibility) of the operating and maintenance expenses and the costs and expenses of Capital Betterments, Capital Replacements, and Capital Additions, in accordance with the monthly operating budget, or revisions thereof, prepared by the Transmission System Operating Agent and furnished to each Participant pursuant to Section 9.2.20 hereof. Following completion of all Operating Work scheduled in a given year, the Transmission System Operating Agent shall compute the total Operating Costs of the Transmission System,
respectively, and each Participant, or the Transmission System Operating Agent, shall promptly settle any balance of its share of such total Operating Costs in accordance therewith. In the event of expenditures which are not anticipated in the budget, the Transmission System Operating Agent may issue special requests with appropriate documentation to explain such request for funds to cover such costs, and each Participant shall pay such additional amounts, upon approval of the E&O Committee, on or before a due date specified by the Transmission System Operating Agent in the request.

15.4 The Transmission System Project Manager and the Transmission System Operating Agent, with the approval of the Auditing Committee, shall establish Account(s) for Construction Funds and Operating Funds and notify the Participants in writing of the establishment of the Account(s) not later than five (5) days following its establishment.

15.5 The Auditing Committee shall establish minimum and maximum balances for Construction Funds and Operating Funds so that the Transmission System Project Manager and the Transmission System Operating Agent will have funds to pay for expenditures or obligations incurred by the Transmission System Project Manager and the Transmission System Operating Agent pursuant to this Participation Agreement. Such minimum and maximum balances may be revised by the Auditing Committee at any time.

15.6 All funds required to be advanced by the Participants in accordance with this Participation Agreement, shall be made payable to
the Account of the Transmission System Project Manager or Transmission System Operating Agent, or may be credited to the Account for Construction or Operating Funds by bank transfers.

15.7 In the event any amount invoiced by the Transmission System Project Manager or Transmission System Operating Agent, or any portion thereof, is disputed by a Participant, the Participant shall pay to the Transmission System Project Manager or Transmission System Operating Agent the undisputed amount on or before the due date. On or before the tenth (10th) day after the resolution of the dispute, the Participant shall pay the amount resolved to be due, plus interest computed in the manner described in Section 26.3. In the event that interest is paid, such interest shall be allocated among the Participants on a prorata basis considering the proportion in which the Participants (including the Transmission System Project Manager or Transmission System Operating Agent) have contributed funds to such account(s) from the date the payment was due until the date the payment is made.

15.8 Funds not advanced to the Transmission System Project Manager or the Transmission System Operating Agent on or before the due date as specified in this Section 15 shall accrue interest computed in the manner described in Section 26.3; provided, however, that the accrual of interest shall not commence until twenty (20) days after the due date for any advance of funds for which less than twenty (20) days advance notice was provided to the Participants, such advance notice to be determined by the date of mailing of the notice.
SECTION 15A
ADVANCEMENT OF FUNDS FOR THE DC TERMINAL

15A.1 The policies, duties and responsibilities concerning the advancement of Construction and Operating Funds for the DC Terminal shall be defined in the DC Terminal Construction Agreement and the Interconnection Agreements between SPS and the Participants.

SECTION 16
TAXES

16.1 The Participants shall use their best efforts to have any taxing or other authority levying any taxes or assessments, or payments in lieu thereof, or making any valuations for the purpose of levying any taxes or assessments or payments in lieu thereof, on the Transmission System or DC Terminal, or any beneficial interest or rights therein, assess and levy such taxes or assessments or payments in lieu thereof directly against the ownership interest of each Participant in the Transmission System and DC Terminal.

16.2 All taxes or assessments or payments in lieu thereof levied against each Participant's ownership interest in the Transmission System or DC Terminal, excepting those taxes or assessments or payments in lieu thereof levied against an individual Participant on behalf of any or all of the other Participants, shall be the sole responsibility of the Participant upon whose ownership interest said taxes or assessments or payments in lieu thereof are levied.
16.3 If any property taxes or payments in lieu thereof or any other taxes or assessments are levied or assessed in a manner other than as specified in Section 16.1 hereof, it shall be the responsibility of the Administrative Committee to establish equitable practices and procedures for the apportionment among the Participants of such taxes and assessments or payments in lieu thereof.

16.4 No Participant, who is exempt from any taxes or payments in lieu thereof assessed against any or all of the other Participants, shall be obligated to make any contribution toward such taxes to the extent of the exemption as long as said exemption is extended to the Project.

SECTION 17
NONPARTITIONMENT

17.1 Each Participant hereby waives any rights it may have to partition any Component of the Transmission System or DC Terminal or the Project Agreements, whether by partitionment in kind or by sale and division of the proceeds, and further agrees that it shall not resort to any action in law or in equity to partition such Component of the Transmission System or DC Terminal or the Project Agreements, and it waives the benefits of all laws that may now or hereafter authorize such partition for a term: (a) which shall be coterminous with this Participation Agreement, or (b) which shall be for such lesser period as may be required under applicable law.
SECTION 18
MORTGAGE AND TRANSFER OF INTEREST

18.1  Each Participant shall have the right at any time, and from time to time, to mortgage, create, or provide for a security interest in or convey in trust all or a part of its ownership share in the Transmission System and DC Terminal together with an equal interest in the Project Agreements to a trustee or trustees, or mortgagee or mortgagees, under deed of trust, mortgage, or indenture, or to a secured Participant or Participants under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior written consent of any other Participant and without such mortgagee, trustee, or secured Participant assuming or becoming in any respect obligated to perform any of the obligations of the Participants.

18.2  Each Participant shall have the right, without the need for the prior written consent of any other Participant, to assign its right, title and interest in the Transmission System or DC Terminal and the Project Agreements to any entity into which such Participant may be merged or consolidated and which assumes the obligations of such Participant hereunder, but such assignment shall not relieve the Participant from said obligations; in such event the other Participants shall not be afforded a first right of refusal under Section 18.4.

18.3  Each Participant shall have the right at any time, and from time to time, without the need for the prior written consent of any other
Participant, to assign, convey, or both, its right, title and interest in the Transmission System or DC Terminal and the Project Agreements to a trustee or trustees for the purpose of enabling the Participant to finance its obligations hereunder, and such trustee or trustees shall be entitled, without the prior written consent of any other Participant, to mortgage or grant a security interest in the said assets to accomplish such financing, provided that such transfers will not relieve the Participant from any of its obligations hereunder, and such trustees agree to be bound by this Agreement; provided further that such transfer will not materially interfere with the construction and operation of the Project, including the acquisition of necessary right-of-way under the power of eminent domain, and the obtaining of any necessary regulatory approvals.

18.4 Except as otherwise specifically provided in this Section 18, in case a Participant shall wish to transfer or otherwise relinquish all or part of its ownership in the Transmission System or DC Terminal and the Project Agreements, the other Participant shall have a right of first refusal to purchase the offering Participant's interest as follows:

18.4.1 The Participant desiring to transfer or relinquish shall serve written notice of its intention upon the other Participant, containing the proposed date, the terms and conditions of a bona fide offer received by that Participant (or the original cost less depreciation, in case of relinquishment), and the terms and conditions of the proposed transfer to the other Participant (which shall be at least
as favorable or be the same as the terms and conditions of the bona fide offer).

18.4.2 Within 90 days after receipt of such notice, the other Participant may signify its desire to purchase the interest proposed to be transferred. The election shall be by written notice to the other Participant.

18.4.3 When an election has been made to purchase, the Participants shall proceed in good faith and with diligence to obtain all required authorizations and approvals, and the transferor shall obtain the release of any liens and encumbrances upon the interest to be transferred. The purchase shall be consummated according to a schedule which is acceptable to both Participants.

18.4.4 If the other Participant elects not to purchase the offering Participant's interest, thereafter, the offering Participant shall have the right, subject to Section 5.4, to transfer or assign all or part of its interest in the ownership of the Transmission System or DC Terminal to any person partnership, corporation, governmental corporation, municipality, or agency engaged in the generation, transmission or distribution of energy.

18.5 Each Participant shall have the right to have any mortgagee, trustee or secured party named on all or any of the Construction or Operating Insurance policies as loss payee or additional insured as its interest may appear, by notice to the Transmission System and DC Terminal
Project Managers or Transmission System and DC Terminal Operating Agents given in writing no less than ninety (90) days prior to the procurement or renewal of the policies.

SECTION 19
DESTRUCTION AND LOSS OF RIGHT-OF-WAY

19.1 In any Components of the Transmission System or DC Terminal or equipment involved in control or communications, or relaying should be damaged or destroyed, the Participants shall, unless otherwise agreed, repair or reconstruct such Components. Similarly, if any Capital Betterments, Capital Replacements, or Capital Additions to the Transmission System, DC Terminal or equipment involved in control, communications, or relaying should be damaged or destroyed, the Participants shall, unless otherwise agreed, repair or reconstruct such Components. The Participants shall share the costs of such repair or reconstruction in proportion to their Cost Responsibility for the Components so damaged or destroyed. If a Participant elects not to participate in the reconstruction or repair of said Components or facilities, such election shall be deemed a decision to transfer or relinquish its ownership interest in the Transmission System and DC Terminal and said interest may be disposed by means pursuant to Section 18.4 hereof. If, pursuant to Section 18.4, there is no buyer for the Participant's interest, then the Participant not choosing to reconstruct or repair shall retain the status of Participant, but its Entitlement in the Transmission System or DC Terminal shall be reduced in
proportion to the fraction of the total replacement value of the System represented by the total cost of reconstruction or repairs.

19.2 In the event of loss of right-of-way upon lands not subject to eminent domain by the Participants, the Participants shall decide within a reasonable time whether to relocate and reconstruct the Transmission System and DC Terminal, pursuant to Section 19.1, or whether to terminate the Project. If a Participant elects not to participate in relocation and reconstruction of the System, said such election shall be deemed a decision to transfer or relinquish its ownership interest in the Transmission System and DC Terminal and said interest may be disposed of pursuant to Section 18.4 hereof. If, pursuant to Section 18.4, there is no buyer for the Participant's interest, then the Participant not choosing to relocate and reconstruct shall retain the status of Participant, but its Entitlement in the Transmission System and DC Terminal shall be reduced in proportion to the fraction of the total replacement value of the Transmission System and DC Terminal represented by the total cost of relocation and reconstruction. The term "loss of right-of-way" shall include, but not be limited to such a determination by a legally constituted body having jurisdiction in the matter, or a unanimous decision by the Participants that conditions that must be met to retain said right-of-way are such that to do so no longer is in the best interests of its customers.
20.1 The Participants agree that all facilities, structures, improvements, equipment, and property of whatever kind and nature constructed, placed, or affixed on the rights-of-way, easements, patented, fee and leased lands as part of, or as a Capital Betterment or Capital Replacement or Capital Addition to the Transmission System and DC Terminal shall be deemed to be and remain personal property of the Participant(s), not affixed to the realty.
SECTION 21  
CAPITAL BETTERMENTS, CAPITAL REPLACEMENTS AND CAPITAL ADDITIONS

21.1 The Participants recognize that from time to time it may be necessary or desirable to make Capital Betterments, Capital Replacements and Capital Additions, or that Capital Betterments, Capital Replacements and Capital Additions, may be required by laws and regulations applicable to the Transmission System and DC Terminal. Any such Capital Betterments, Capital Replacements and Capital Additions shall, upon request by a Participant, be described in a supplement to this Participation Agreement executed in recordable form.

21.2 All known Capital Betterments, Capital Replacements, and Capital Additions shall be included in the annual capital expenditures budget. After such budget has been approved by the Engineering and Operating Committee, each Participant shall be obligated for the Construction Costs incurred for such Capital Betterments, Capital Replacements and Capital Additions as specified in Section 13 in proportion to its Cost Responsibility in the Component or control, communication or relaying equipment to which the Capital Betterments, Capital Replacements and Capital Additions is made, and shall advance such funds as provided in Section 15.

21.3 At any time the Engineering and Operating Committee may authorize Capital Betterments, Capital Replacements and Capital Additions, not included in the annual capital expenditures budget if any such Capital Betterment, Capital Replacement and Capital Addition is required to comply with any lawful order, rule, or regulation of a state, federal, or local regulatory agency or
if the cost of any such Capital Betterment, Capital Replacements and Capital Additions is less than $100,000. All other Capital Betterments, Capital Replacements and Capital Additions not included in the annual capital expenditures may only be authorized by the Administrative Committee.

21.4 The Transmission System Operating Agent shall be responsible for the design and construction of all Capital Betterments, Capital Replacements and Capital Additions, subject to the approval of the E&O Committee for the Transmission System.

21.5 Units of property retired from service, whether considered original construction or Capital Betterments, Capital Replacements and Capital Additions, shall be disposed of by the Transmission System Operating Agent after notice to the Participants on the best available terms as soon as practicable, and the proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Cost Responsibility in the Component of which the units of property retired from service are a part.

SECTION 22
TRANSMISSION SYSTEM INSURANCE

22.1 The Transmission System Project Manager and the Transmission System Operating Agent shall cause to be in effect at all times Construction and Operating Insurance with such coverages, amounts, terms and conditions so as to provide Project Insurance that is normal in an electric utility project of this size and character.
22.2 The Transmission System Project Manager and the Transmission System Operating Agent, acting as the agent for the Participants and as principal on its own and their behalf, shall procure and maintain in force, or cause to be procured and maintained in force, comprehensive general liability for bodily injury and property damage covering the Participant's ownership in the Transmission System and also covering liability arising out of either the Participant's (including the Transmission System Project Manager and Transmission System Operating Agent) performance or nonperformance of the Construction Work, Operating Work, Capital Betterments, Capital Replacements, or Capital Additions.

22.3 The Transmission System Project Manager and the Transmission System Operating Agent shall require general contractors to procure and maintain comprehensive general and automobile liability insurance for bodily injury and property damage covering all their operations, including completed operations coverage and use of any motor vehicle in connection with the Construction Work or Operating Work. All Participants shall be named as additional insureds and such policies shall be primary as to any similar insurance carried by any Participant and such policies shall contain a cross-liability clause.

22.4 The Transmission System Project Manager and the Transmission System Operating Agent may require general contractors to procure and maintain such other insurance as the Transmission System Project Manager or Transmission System Operating Agent may deem necessary or desirable.

22.5 The general contractors shall provide certificates of insurance to the Transmission System Project Manager and the Transmission System Operating
Agent. Such certificates shall provide for not less than thirty (30) days notice of cancellation, change, or nonrenewal.

22.6 The Transmission System Project Manager and the Transmission System Operating Agent shall establish the insurable values, limits, deductibles, retentions, and other special terms and conditions with respect to the Project Insurance.

SECTION 23
PARTICIPANT'S INSURANCE

23.1 Each Participant shall maintain comprehensive automobile liability insurance for bodily injury and property damage, covering all automotive equipment used by it in connection with the Transmission System and DC Terminal.

23.2 If applicable, each Participant shall maintain aircraft liability insurance for bodily injury and property damage, covering all aircraft, whether fixed or rotary wing type, used by it in connection with the Transmission System and DC Terminal.

23.3 Each Participant shall maintain Worker's Compensation and Employers' Liability insurance covering its employees engaged in any work in connection with the Transmission System and DC Terminal. Such insurance shall comply with all statutory provisions of the state of Texas.
23.4 In the event that any Participant shall be or elect to become self-insured for any or all of the insurance coverages required of a Participant, then it shall notify the others of such self-insurance and such self-insurance shall provide coverages equal to commercially available policies in order to comply with this section hereof.

23.5 Each Participant shall be named an additional insured, individually and jointly with the other Participants, on all policies of Project Insurance, and the policies of Project Insurance shall carry cross-liability endorsements.

23.6 At the direction of the Transmission System Project Manager or Transmission System Operating Agent, if any Participant furnishes services, materials, parts, or equipment in connection with the planning, designing, engineering, procurement, construction, maintenance, operation, or use of property of the Transmission System and DC Terminal, such Participant shall be named as an insured as its interest may appear in any of the Project Insurance policies, and either the Transmission System Project Manager or the Transmission System Operating Agent may waive on behalf of each Participant its right of recovery against any such Participant for insured loss for damage to any property covered by Project Insurance as required in Sections 22 and 23 hereof, provided that no such waiver shall impair the right to recover any sums otherwise payable to any Participant under the Project Insurance.
SECTION 24
LIABILITY

24.1 Except for any judgement for liability resulting from Willful Action, and subject to the provisions of Sections 24.3 and 24.4 hereof, no Participants, its directors or members of its other governing body, officers, or employees, shall be liable to any other Participant for any uninsured loss, damage, claim, cost, charge, or expense of any kind or nature incurred by the other Participant (including direct, indirect, or consequential loss, damage, claim, cost, charge, or expense; and whether or not resulting from the negligence of a Participant, its directors, or members of its other governing body, officers, employees, or any other person or entity whose negligence would be imputed to such Participant) as a result of (i) the Construction Work, the Operating Work, and making, operation, or maintenance of Capital Betterments, Capital Replacements, or Capital Additions, or the use or ownership of the Transmission System or DC Terminal or (ii) the performance or nonperformance of the obligations of a Participant under the Project Agreements other than the obligation to pay sums which have become due, and each Participant releases each other Participant, its directors or members of its other governing body, officers and employees, from any such liability.

24.2 Except as provided in Sections 24.3 and 24.4 hereof, the costs and expenses of discharging all work liability imposed upon one or more of the Participants for which payment is not made by Project Insurance, shall be shared among and paid by all Participants in proportion to their respective Cost Responsibilities.
24.3 Each Participant shall be responsible for any direct, indirect or consequential damage, loss, claim, cost, charge, or expense that is not covered by Project Insurance and results from its own Willful Action as defined in Section 4.1.39 hereof, and shall indemnify and hold harmless the other Participant, its directors or members of its governing body, officers and employees, from such damage, loss, claim, cost, charge or expense.

24.4 Notwithstanding the provisions of Section 24.3 hereof, the aggregate liability of any Participant to the other Participants for all uninsured, indirect, or consequential damages, losses, claims, costs, charges or expenses resulting from Willful Action shall not exceed $10,000,000 per occurrence. Each Participant releases each other Participant, its directors or members of its governing body, officers and employees from any such liability in excess of $10,000,000 per occurrence.

24.5 The provisions of this Section 24 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies, nor shall they be construed to provide any third party benefits. In the event any insurer providing insurance to a Participant refuses to pay any judgment obtained by a second Participant against the first Participant or any of its directors, officers, or employees, on account of liability referred to in this Section 24, the Participant or any of its directors, officers, or employees against whom the judgment is obtained shall execute, at the request of the Participant
obtaining the judgment and in consideration of the covenant given in Section 24.1 hereof, such documents as may be necessary to effect assignment of its or their contractual rights against the nonpaying insurer.

24.6 Except for liability resulting from Willful Action, any Participant whose electric customer shall have a claim or bring action against any other Participant for any death, injury, loss, or damage arising out of or in connection with interruptions to or curtailment of electric service to such customer caused by the operation or failure of operation of the Transmission System or DC Terminal or any portion thereof shall indemnify and hold harmless such other Participant, its directors, officers, and employees from and against any liability for such death, injury, loss or damage.

SECTION 25
AUTHORIZATIONS AND APPROVALS

25.1 The Transmission System Operating Agent, shall be responsible for obtaining and continuing in effect all licenses, permits, and authorizations required to operate and maintain the Transmission System and to construct or install any budgeted and approved Capital Betterments, Capital Replacements, Capital Additions, and is authorized subject to receiving approval of the E&O Committee, on behalf of each Participant to submit and prosecute any applications therefore, including the preparation and submission of any supplementary or supporting documentation or other evidence and appearance at any hearing. The
Transmission System Operating Agent shall furnish each Participant upon request with copies of all documents submitted and all licenses, permits, and authorizations received, and shall otherwise keep each Participant informed of the status of all licenses, permits, and authorizations in effect and any pending or proposed applications therefor or for changes thereto. Each Participant shall cooperate with the Transmission System Operating Agent in the preparation, submission, and execution of such information, records, statements, or other material required to obtain and continue in effect any such licenses, permits, or authorizations and any changes thereto.

25.2 Except as provided in Section 25.1 hereof, each Participant shall be responsible for obtaining, at its own expense, its required authorizations and approvals, if any, relating to its participation in the ownership, the construction or reconstruction, and the operation of the Transmission System and to its performance of the provisions of the Project Agreements, from federal, state, or local regulatory authorities having jurisdiction to issue such authorizations and approvals, and each Participant shall keep the Transmission System Project Manager and Transmission System Operating Agent informed of its applications therefor.

SECTION 25
DEFAULTS

26.1 Each Participant hereby agrees that it shall pay all monies and carry out all other duties and obligations agreed to be paid, or
performed, or both, by it pursuant to all of the terms and conditions set forth and contained in this Agreement, and a default by a Participant in the covenants and obligations to be kept and performed pursuant to the terms and conditions set forth and contained in the Project Agreements, shall be an act of default under this Participation Agreement.

26.2 In the event of a default by either Participant in any of the terms and conditions of this Agreement, then, within ten (10) days after written notice has been given by the nondefaulting Participant to the defaulting Participant of the existence and nature of the default, the nondefaulting Participant shall remedy such default either by advancing the necessary funds and/or commencing to render the necessary performance with the nondefaulting Participant contributing to such remedy as required.

26.3 In the event of a default by any Participant in any of the terms and conditions of the Project Agreements and the giving of notice as provided in Section 26.2 hereof, the defaulting Participant shall take all steps necessary to cure such default as promptly and completely as possible and shall pay promptly upon demand to the nondefaulting Participant the total amount of money and/or the reasonable equivalent in money of nonmonetary performance, if any, paid and/or made by such nondefaulting Participant in order to cure any default by the defaulting Participant, together with interest on such money and/or the costs of nonmonetary performance accrued at the prime rate of interest as established by the Chase Manhattan Bank on the last business date of each applicable month, prorated by days from the original date of the
expenditure of such money by each such nondefaulting Participant to the date of such reimbursement by the defaulting Participant.

26.4 In the event a material default by any Participant in the payment or performance of any obligation under this Participation Agreement shall continue for a period of three (3) months or more without having been cured by the defaulting Participant or without such Participant having commenced or continued action in good faith to cure such default, then, at any time thereafter and while said default is continuing, the nondefaulting Participant, by written notice to the defaulting Participant, may either suspend the right of the defaulting Participant: (a) to be represented on and participate in the actions of any committee, and (b) to receive all or any part of its entitlement, or make all payments due and all future payments and become sole owner of the Project.

26.4.1 A defaulting Participant shall be liable to the nondefaulting Participant for all costs incurred by such nondefaulting Participant plus interest as provided in Section 26.3 hereof. The proceeds paid by any defaulting Participant to remedy any such default shall be distributed to the nondefaulting Participant in proportion to the cost actually paid by the nondefaulting Participant to remedy the default involved herein.
SECTION 27

ACTIONS PENDING RESOLUTION OF DISPUTES

27.1 If a dispute should arise which is not resolved within 30 days from the date the disputed issue is referred to the Administrative Committee, then pending the resolution of the dispute by the procedures set forth herein, the Transmission System Project Manager or Operating Agent shall proceed with Construction Work, Operating Work, or Capital Betterments, Capital Replacements and Capital Additions in a manner consistent with the Project Agreements and consistent with generally accepted practices in the electric utility industry to avoid capacity reductions or increased cost, and the Participants shall advance the funds required to perform such Construction Work, Operating Work, or Capital Betterments, Capital Replacements and Capital Additions in accordance with the applicable provisions of the Project Agreements.

SECTION 28

REMOVAL OF TRANSMISSION SYSTEM PROJECT MANAGER OR OPERATING AGENT

28.1 The Transmission System Project Manager and the Transmission System Operating Agent shall serve during the term of and pursuant to this Participation Agreement unless either one resigns by giving written notice to the Participants at least one (1) year in advance of the date resignation or until receipt by either one of notice of its removal following a determination that it is in default of this Participation Agreement as provided in Section 28.2.2 hereof. Upon the effective date of such resignation or removal, the Participants shall designate a new
28.2 The following provisions shall apply solely in regard to violations or allegations of violations of the Project Agreements by the Transmission System Project Manager or the Transmission System Operating Agent of a Component or Components of the Transmission System on the basis of which removal of either one is sought:

28.2.1 In the event any Participant shall be of the opinion that an action taken or not taken by the Transmission System Project Manager or the Transmission System Operating Agent constitutes a violation of this Participation Agreement, it may give written notice thereof to the Transmission System Project Manager or the Transmission System Operating Agent as the case may be and the other Participant, with a statement of the reasons for its opinion. Thereupon, the Transmission System Project Manager or the Transmission System Operating Agent may prepare a statement of the reasons justifying its action or failure to take action. If agreement in settling the dispute is not reached between the Transmission System Project Manager or the Transmission System Operating Agent and the Participant which gave such notice, then the matter shall be submitted to the chief executive officers for determination. If the chief executive officers cannot resolve the dispute, the matter shall be submitted to arbitration in the manner provided in Section 29 hereof. During the continuance of such arbitration proceedings, the Transmission System Project Manager or the Transmission System Operating Agent shall proceed with the Construction Work, Operating Work, Capital Betterments,
Capital Additions, or Capital Replacements in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry, and the Participants shall advance the funds required to perform such work in accordance with the Project Agreements.

28.2.2 If it is determined by arbitration that the Transmission System Project Manager or the Transmission System Operating Agent is violating the Project Agreements, then it shall act with due diligence to end such violation and shall, within six (6) months or within such lesser time following the determination as may be prescribed in the determination, take action or commence action in good faith to terminate such violation. In the event that the Transmission System Project Manager or the Transmission System Operating Agent has failed either to correct, or to commence action to correct, the violation within such allowed period (which itself may be a subject of dispute for determination as above provided) shall be deemed to be in default under the Project Agreements and shall be subject to removal upon receipt of notice, executed by all the other Participant, in accordance with Section 28.1 hereof.

28.2.3 The provisions of Section 28 hereof shall not apply to disputes as to whether or not an action or non-action of the Transmission System Project Manager or the Transmission System Operating Agent, in its capacity as such, is a violation or a default under the Project Agreements.
SECTION 29
ARBITRATION

29.1 If a dispute between any of the Participants should arise under the Project Agreements and after following the procedures defined in Sections 7.10 and 7.11, the Participants' chief executive officers have not resolved the dispute, any chief executive officer shall call for submission of the dispute to arbitration which shall be binding upon all of the Participants.

29.2 The Participant shall give written notice to the other Participant, setting forth in such notice in adequate detail the nature of the dispute including the specific issues to be resolved by arbitration, the amount or amounts, if any, involved in such dispute, and the remedy sought by such arbitration proceedings and, within twenty (20) days from receipt of such notice. Thereafter, the Participant first submitting its or their notice in the matter at issue shall have ten (10) days in which to submit a written rebuttal statement.

29.3 Within forty (40) days following delivery of the written notice by the Participant, pursuant to Section 29.2 hereof, the Participants, acting through their representatives on the Administrative Committee, shall meet for the purpose of selecting arbitrators. Each Participant, shall designate an arbitrator. The arbitrators so selected shall meet within twenty (20) days following their selection and shall select
additional arbitrators, the number of which shall be one (1) less than the total number of arbitrators selected by the Participants. If the arbitrators selected by the Participants, as herein provided, shall fail to select such additional arbitrator(s) within said twenty (20) day period, then the arbitrators shall request from the American Arbitration Association (or a similar organization if the American Arbitration Association should not at the time exist) a list of arbitrators who are qualified and eligible to serve as hereinafter provided. The arbitrators selected by the Participants shall take turns striking names from the list of arbitrators furnished by the American Arbitration Association, and the last name(s) remaining on said list shall be the additional arbitrator(s). All arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute, and no person shall be eligible for appointment as an arbitrator who is an officer or employee of any of the parties to the dispute or is otherwise interested in the matter to be arbitrated.

29.4 Except as otherwise provided in this Section 29, the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force, except that if such rules and practice, as modified herein, shall conflict with State or Federal law, as the case may be, then in force which are specifically applicable to such arbitration proceedings, such law shall govern.
29.5 Included in the issues which may be submitted to arbitration pursuant to this Section 29 is the issue of whether the right to arbitrate a particular dispute is permitted under the Project Agreements.

29.6 The arbitrators shall hear evidence submitted by the respective Participants and may call for additional information, which additional information shall be furnished by the Participant(s) having such information. The decision of a majority of the arbitrators shall be binding upon all the Participants.

29.7 The award of the arbitrators shall contain findings with respect to the issues involved in the dispute and relative to the materiality of the default, the period of time within which the defaulting party must remedy the default or commence remedial action, and the remedies which may be exercised by the non-defaulting Participants in the event the default is not remedied within such period of time.

29.8 This agreement to arbitrate shall be specifically enforceable, and the award and findings of the arbitrators shall be final and binding upon the Participants to the extent permitted by applicable law. Any award may be filed with the clerk of any court having jurisdiction over the Participant against whom the award is rendered and, upon such filing, such award, to the extent permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgement or other similar relief.
29.9 The fees and expenses of the arbitrators shall be shared equally by the Participants, unless the decision of the arbitrators shall specify some other apportionment of such fees and expenses. All other expenses and costs of the arbitration shall be borne by the Participant incurring same.

SECTION 30
RELATIONSHIP OF PARTICIPANTS

30.1 The covenants, obligations, and liabilities of the Participants are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust, or partnership or to impose a trust or partnership covenant, obligation, or liability on or with regard to any one or more of the Participants. Each Participant shall be individually responsible for its own covenants, obligations, and liabilities as herein provided. No Participant or group of Participants shall be under the control of or shall be deemed to control any other Participant or the Participants as a group. No Participant shall be the agent of or have a right or power to bind any other Participant without its express written consent, except as expressly provided in the Project Agreements.

SECTION 31
UNCONTROLLABLE FORCES

31.1 No Participant shall be considered to be in default in the performance of any of its obligations under the Project Agreements (other
than obligations of said Participant to pay costs and expenses), when a failure of performance shall be due to uncontrollable force. The term "uncontrollable force" shall be any cause beyond control of the Participant affected, including, but not restricted to, failure of or threat of failure of facilities, flood, earthquake, tornado, 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 Participant could not reasonably have been expected to avoid and which by exercise of due diligence, it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Participant to settle any strike or labor dispute in which it may be involved. Any Participant rendered unable to fulfill any of its obligations under the Project Agreements by reason of any uncontrollable force shall give prompt written notice of such fact to the other Participants and shall exercise due diligence to remove such inability with all reasonable dispatch. The term "Participant" as used in this Section 31 shall include the Transmission System Project Manager and the Transmission System Operating Agent in their capacities as such.

SECTION 32
GOVERNING LAW

32.1 This Agreement shall be governed by and construed and enforceable in accordance with the laws of the State of Texas.
SECTION 33
NONDEDICATION OF FACILITIES

33.1 The Participants do not intend to dedicate, and nothing in this Participation Agreement shall be construed as constituting a dedication by any Participant of its properties or facilities, or any part thereof, to any other Participant or to the customers of any Participant.

SECTION 34
GENERAL PROVISIONS GOVERNING PROJECT AGREEMENTS

34.1 Each Participant agrees, upon request by the other Participants to make, execute, and deliver any and all documents reasonably required to implement the Project Agreements.

34.2 In the event that any of the terms, covenants, or conditions of this Participation Agreement or any of the Project Agreements, or the application of any such term, covenant, or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants, or conditions of such agreements and their application shall not be affected thereby, but shall remain in force and effect.

34.3 This Agreement shall be subject to filing with, and to such changes or modifications as may from time to time be directed by, competent regulatory authority, if any, in the exercise of its jurisdiction.
SECTION 35
TERM AND TERMINATION

35.1 This Participation Agreement shall become effective when duly executed by all of the Participants and after the Agreement is approved by the Board of Directors of each Participant, and shall have a term of thirty (30) years from its effective date or until all property comprising the Transmission System has been disposed of and all costs to end the Project have been paid.

SECTION 36
ASSIGNMENT OF INTERESTS

36.1 Any Participant who acquires in its name an interest in any real or personal property or contract which is part of the Transmission System or DC Terminal, shall transfer and assign an undivided interest therein to the other Participant so that the ownership and rights of the Participants in such property or contract shall be as provided for in this Participation Agreement.

SECTION 37
EQUAL OPPORTUNITY

37.1 During the term of this Participation Agreement, the Transmission System Project Manager and the Transmission System Operating Agent (hereinafter in this Section 37 referred to collectively as the “Contractor”) agree as follows:
37.1.1 The Contractor will not discriminate against any applicant for employment because of race, color, religion, sex, national origin, age (except on the basis of a bonafide occupational qualification, retirement plan, or statutory requirement), mental or physical handicap (in regard to any position for which such mentally or physically handicapped applicant or employee is qualified) or being a disabled veteran or a veteran of the Vietnam era (in regard to any position for which such disabled veteran or veteran of the Vietnam era is qualified). The Contractor will take affirmative action to employ, advance in employment, and otherwise treat qualified individuals without discrimination based upon race, color, religion, sex, national origin, age, mental or physical handicap, or being a disabled veteran or a veteran of the Vietnam era. Such affirmative action shall apply to all employment practices, including, but not limited to: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff 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 setting forth the provisions of this nondiscrimination clause.

37.1.2 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, national origin, age, mental or physical handicap, or being a disabled veteran or a veteran of the Vietnam era.
37.1.3 The Contractor will comply with all applicable provisions of the Equal Employment Opportunity Act of 1972 (2000e USC 42), the Age Discrimination in Employment Act of 1967 (623 USC 29), the Rehabilitation Act of 1973 (793 USC 29) and the Vietnam Era Veterans Readjustment Assistance Act of 1974 (2012 USC 38), as amended, and with all the applicable rules, regulations or orders of the Secretary of Labor pertaining thereto.

37.1.4 The Contractor will furnish all information and reports required by the Equal Employment Opportunity Act of 1972 (2000e USC 42), the Age Discrimination in Employment Act of 1967 (623 USC 29), the Rehabilitation Act of 1973 (793 USC 29), and the Vietnam Era Veterans Readjustment Assistance Act of 1974 (2012 USC 38), as amended, and any applicable rules, regulations or orders of the Secretary of Labor pertaining thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations or orders.

37.1.5 The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
37.1.6 In the event of the Contractor's noncompliance with the requirements of this Equal Opportunity Section, actions for noncompliance may be taken in accordance with the applicable rules, regulations, or orders of the Secretary of Labor issued pursuant to the Equal Employment Opportunity Act of 1971 (2000e USC 42), the Age Discrimination in Employment Act of 1967 (623 USC 29), the Rehabilitation Act of 1973 (793 USC 29), or the Vietnam Era Veterans Readjustment Assistance Act of 1974 (2012 USC 38), as amended.

37.1.7 The Contractor will include the provisions of Sections 37.1 through 37.1.7 in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor and vendor. The Contractor will take such action with respect to any subcontract or purchase order as any administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by an administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

37.2 Certification of Nonsegregated Facilities – The Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor
certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for a specific time period) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

37.3 If Federal or Texas law changes with respect to the matters identified in this Section 37, the Transmission System and DC Terminal Project Managers and the Transmission System and DC Terminal Operating Agents shall comply with such other similar applicable law which is mandatory, or in the case of elective changes in the law, the Participants and SPS may amend this Section 37 by a unanimous vote of the Administrative Committee.
37.4 During the term of this Participation Agreement, similar provisions as of those in Section 37 hereof, shall apply to the DC Terminal Project Manager and Operating Agent as shall be defined in the Constructor's O&M Project Agreements between SPS and the Participants.

SECTION 38
CONTROL, COMMUNICATION, AND RELAYING

38.1 Each Participant shall accept and hold title to an undivided interest as a tenant in common in the control and relaying equipment in proportion to its Cost Responsibility as shown in Appendix B, Section B.2.

38.1.1 The ownership of and title to the control and relaying equipment described in Appendix C of this Agreement, and all Capital Betterments, Capital Replacements, and Capital Additions thereto, shall vest simultaneously in the Participants so that the estate of each of them shall be deemed to be concurrent as to time, right, and priority.

38.1.2 The Participants shall be responsible for the Construction Costs, for the operation and maintenance (O&M) expenses, and for Capital Betterments, Capital Replacements, and Capital Additions of the control and relaying equipment in accordance with their Cost Responsibilities as detailed in Appendix B, Section B.2, except as provided in Section 38.1.3 herein.

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38.1.3 The Participants shall be responsible for only those O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions for control and relaying equipment located at the Amrad Switchyard ("Amrad") as are necessary for this Project; nonproject related O&M expenses and Capital Betterments, Capital Replacements, and Capital Additions for control and relaying equipment at Amrad shall be borne 100% by EPE.

38.2 Each Participant shall accept and hold title to an undivided interest as a tenant in common in the common facilities associated with a new microwave repeater station to be constructed at Amrad ("Amrad Common Facilities") in proportion to its Cost Responsibility as shown in Appendix B, Section B.2.

38.2.1 The ownership of and title to the Amrad Common Facilities, and all Capital Betterments, Capital Replacements, and Capital Additions thereto, shall vest simultaneously in the Participants so that the estate of each of them shall be deemed to be concurrent as to time, right and priority.

38.2.2 The Participants shall be responsible for the Construction Costs, for the O&M expenses, and for Capital Betterments, Capital Replacements, and Capital Additions for the Amrad Common Facilities in accordance with their Cost Responsibilities as detailed in Appendix B, Section B.2, except as provided in Section 38.2.3 herein.
38.2.3 The Participants shall be responsible for only those O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions for the Amrad Common Facilities as are necessary for this Project; nonproject O&M expenses, and Capital Betterments, Capital Replacements, and Capital Additions for the Amrad Common Facilities shall be borne 100% by EPE.

38.3 EPE shall accept and hold title, and shall be the sole owner of the communication facilities located at Amrad, the communication facilities located at Eddy County Interchange, and any communication facilities located at any repeater site between Amrad and Eddy County Interchange.

38.3.1 The Participants shall be responsible for the Construction Costs, the O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions for communication facilities located at Amrad, Eddy County Interchange, and any repeater sites, in accordance with their Cost Responsibilities as detailed in Appendix B, Section B.2, except as provided in Section 38.3.2 herein.

38.3.2 The Participants shall be responsible for only those O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions for the communication facilities located at Amrad, Eddy County Interchange, and any repeater sites, as are necessary for this Project; nonproject O&M expenses and Capital Betterments, Capital Replacements, and Capital Additions for the communication facilities located at Amrad shall be borne 100% by EPE.
38.3.3 EPE shall operate and maintain the communication facilities located at Amrad, Eddy County Interchange, and any repeater sites between those two switchyards.

38.4 EPE shall accept and hold title, and shall be the sole owner of, the expansion and modifications to EPE's Newman microwave system.

38.4.1 The Participants shall be responsible for the Construction Costs for the expansion and modifications of EPE's Newman microwave system as described in Appendix C, the O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions to EPE's Newman microwave system in accordance with their Cost Responsibility as detailed in Appendix B, Section B.2, except as provided in Section 38.4.2 herein.

38.4.2 The Participants shall be responsible for only those O&M expenses and for Capital Betterments, Capital Replacements, and Capital Additions for EPE's Newman microwave system as are necessary for this Project; nonproject O&M expenses and Capital Betterments, Capital Replacements, and Capital Additions for EPE's Newman microwave system shall be borne 100% by EPE.

34.4.3 EPE shall operate and maintain its Newman microwave system.
SECTION 39
NOTICES

39.1 Except as set forth in Section 39.2 hereof, any notice, demand, or request provided for in this Participation Agreement or any other Project Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

El Paso Electric Company
c/o Secretary
Post Office Box 982
El Paso, Texas 79960

Texas-New Mexico Power Company
c/o Vice President Rates and Regulation
501 West Sixth Street
Fort Worth, Texas 76102

39.2 Communications of a routine nature, including requests for funds and related matters, shall be given in such a manner as the Administrative Committee shall arrange.

39.3 Any Participant may, at any time, by written notice to all other Participants, designate different or additional persons or different addresses for the giving of notices hereunder.
SECTION 40
EXECUTION

IN WITNESS WHEREOF, the Participants have caused this Participation Agreement to be executed as of the 8th day of December, 1981.

EL PASO ELECTRIC COMPANY

By /s/Donald G. Isbell
Title Vice President

TEXAS-NEW MEXICO POWER COMPANY

By /s/James M. Tarpley
Title Vice President
APPENDICES

A  Description of the Transmission System and DC Terminal
B  Participant's Responsibility for Costs (Percent of Costs)
C  Control, Communication, and Relaying
D  Construction Schedule
E  Payroll, Administrative & General, and Engineering & Supervision Additives for EPE
F  Criteria for Determining the Operating Capacity of the Transmission System and DC Terminal
G  Percentage Apportionment of Operating Capacity
APPENDIX A
DESCRIPTION OF THE AMRAD TO ARTESIA
345 KV TRANSMISSION SYSTEM
AND DC TERMINAL

A.1 The Transmission System is comprised of one 345 KV line connecting EPE’s Amrad Substation to SPS’s Eddy County Interchange Substation, a distance of approximately 125 miles, a new 345 KV AMRAD Substation, a 200 MVA 345/115 KV transformer at Amrad, and additions to EPE’s existing 115 KV Substation at Amrad.

A.1.1 The DC Terminal is a back-to-back AC to DC to AC conversion station located at the Eddy County Interchange Substation for the purpose of controlling power flows across the Transmission System and isolating the Western Systems Coordinating Council (WSCC) from the Southwest Power Pool (SWPP).

A.2 Substation Components of the Transmission System and DC Terminal are described as follows:

A.2.1 The Amrad Substation will be expanded to provide termination for this Project. Facilities associated with this expansion shall be as follows:

A.2.1.1 One (1) 200 MVA 345/115 KV Auto Transformer.
A.2.1.2 Four (4) 115 KV power circuit breakers and associated disconnect switches, bus work, any other appurtenant facilities and common facilities to be arranged in a breaker and one-half layout, but operated as a ring bus.

A.2.1.3 Three (3) 345 KV power circuit breakers, associated disconnect switches, bus work, any other appurtenant facilities and common facilities to be arranged in a ring bus and operated as a ring bus.

A.2.2 The Components of the DC Terminal include but are not limited to the following:

A.2.2.1 Thyristor Valves/Bridges, System Control facilities, converter transformers, smoothing reactors, power capacitors, AC and DC filters, valve cooling equipment, auxiliary power supply systems, reactive power supplies, protective equipment, monitoring equipment, measuring equipment, and communication equipment.

A.2.2.2 The associated buildings, fences, common facilities, and appurtenant facilities.

A.3 Each Participant has plans for substation modifications and transmission associated with this Project but not specifically part of this Project, and each is hereby granted preapproved points of interconnection for these associated lines:

A-2
A.3.1  For EPE, one 345 KV transmission line connecting the new Amrad 345/115 KV Substation to EPE's proposed Caliente Substation.

A.3.2  For TNP, one 115 KV transmission line connecting the new Amrad 345/115 KV Substation to one of two proposed points.

A.3.2.1 TNP Method One of Interconnection would terminate TNP's 115 KV line at a new substation constructed on TNP's existing line between the Holloman and Alamogordo Substations.

A.3.2.2 TNP Method Two of Interconnection would terminate TNP's 115 KV line at EPE's Holloman Substation.

A.3.2.3 The election for TNP to use Method One or Method Two of Interconnection shall be made at TNP's sole discretion.

A.4  Substation modifications made in connection with each Participant's associated transmission lines are not part of this Project, but are listed here for reference and completeness as follows:

A.4.1  If TNP Method One of Interconnection is decided upon and used, TNP would be the sole owner of a new substation on TNP's existing Holloman to Alamogordo Line. Facilities associated with this new substation are:
A.4.1.1 Three (3) 115 KV power circuit breakers and associated disconnect switches, bus work, grounding, any other appurtenant facilities and common facilities required for a complete substation.

A.4.2 If TNP Method Two of Interconnection is decided upon and used, EPE's Holloman Substation would be expanded to provide a termination for the line facilities associated with this expansion are as follows:

A.4.2.1 Two (2) 115 KV power circuit breakers and associated disconnect switches, bus work, and any other appurtenant facilities and common facilities required to complete a four (4) breaker ring bus to be operated as a ring bus.
### APPENDIX B

**PARTICIPANT'S RESPONSIBILITY FOR COSTS (PERCENT OF COSTS)**

#### B.1 Participant's Responsibility for Costs (Percent of Cost) for Components of the Transmission System; DC Terminal; any Capital Additions, Capital Replacements, or Capital Betterments to the Transmission System and DC Terminal; any associated transmission lines.

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<td>Three (3) 345 KV Power</td>
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<td>Circuit Breakers</td>
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<td>B.1.4</td>
<td>Eddy County Interchange</td>
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<td>back-to-back DC Terminal</td>
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<td>All Components</td>
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<td>All Associated Facilities</td>
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<td>All Construction Costs</td>
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<td>All Operation Costs</td>
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<td>B.1.5</td>
<td>Amrad to Eddy County Interchange</td>
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<td>345 KV Transmission Line</td>
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<td>All Components</td>
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<td>All Construction Costs</td>
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<td>All Maintenance Costs</td>
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<td></td>
<td>Line Reactors, if required</td>
</tr>
<tr>
<td></td>
<td>Circuit Switcher for Reactor</td>
</tr>
</tbody>
</table>

B.2  Participant's Responsibility for Costs (Percent of Cost) for control microwave, and relaying equipment as provided for in Section 38.

B.2.1  Construction work and Equipment for control, microwave expansion and modification, relaying as described in Appendix C | 66.7 | 33.3 |

B-2
### B.2.2
O&M expenses directly related to the Project

<table>
<thead>
<tr>
<th></th>
<th>EPE</th>
<th>TNP</th>
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<tbody>
<tr>
<td></td>
<td>66.7</td>
<td>33.3</td>
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### B.2.3
Capital Betterments, Capital Replacements and Capital Additions associated with control microwave and relaying

<table>
<thead>
<tr>
<th></th>
<th>EPE</th>
<th>TNP</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>66.7</td>
<td>33.3</td>
</tr>
</tbody>
</table>

### B.3
Associated transmission lines and substation modifications are listed here for reference only, they are not part of this Project.

#### B.3.1
EPE's Associated Transmission:
One (1) 345 KV transmission line from Amrad to EPE's proposed Caliente 345/115 KV Substation

<table>
<thead>
<tr>
<th></th>
<th>EPE</th>
<th>TNP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100.00</td>
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</tr>
</tbody>
</table>

#### B.3.2
TNP's Associated Transmission:
One (1) 115 KV transmission line from Amrad to the Holloman area using either TNP Method One of Interconnection or TNP Method Two of Interconnection

<table>
<thead>
<tr>
<th></th>
<th>EPE</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
<td>100.00</td>
</tr>
</tbody>
</table>

B-3
B.3.2.1 If TNP Method One of Interconnection is decided upon and used:

New 3 Beaker Ring Bus  
0.00 100.00

All Components  
0.00 100.00

B.3.2.2 If TNP Method Two of Interconnection is decided upon and used the expansion of EPE’s Holloman substation would include two (2) 115 KV power circuit breakers  
0.00 100.00

Lightning Arrestors  
50.00 50.00

Disconnect Switches  
50.00 50.00

Additional Substation Grounding  
50.00 50.00

Additional Fencing  
50.00 50.00

Additional Bus Work and Bus Supports  
50.00 50.00

Additional Station Service Equipment  
50.00 50.00

Additional Common Facilities  
50.00 50.00

Any Appurtenant Equipment  
50.00 50.00

All Operation Costs  
50.00 50.00

All Maintenance Costs  
50.00 50.00
B.4 Participant's Cost Responsibility
for costs and expenses not
included in this Appendix B and
not otherwise specifically
allocated in any Project Agreement

<table>
<thead>
<tr>
<th>EPE</th>
<th>TNP</th>
</tr>
</thead>
<tbody>
<tr>
<td>66.7</td>
<td>33.3</td>
</tr>
</tbody>
</table>
APPENDIX B (CONTINUED)

DERIVATION OF SUBSTATION COMPOSITE PERCENTAGES

**AMRAD 345**

To DC Terminal at Artesia
EPE 66.67%
TNP 33.33%

200MVA
345/115KV
Autotransformer
EPE 50.00%
TNP 50.00%

To Caliente
EPE 100%

**AMRAD 115**

EPE's Orogrande Line EPE 100%

TNP's associated line TNP 100%

EPE's Holloman line EPE 100%

Existing Non-Project Facilities

EPE's Amrad 24KV Transformer EPE 100%

**Amrad 345 Composite:**

<table>
<thead>
<tr>
<th>TNP</th>
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<tbody>
<tr>
<td>1/3 x 1/3 Artesia</td>
<td>2/3 x 1/3 Artesia line</td>
</tr>
<tr>
<td>1/2 x 1/3 Autotransformer</td>
<td>3/3 x 1/3 Caliente</td>
</tr>
<tr>
<td>27.78%</td>
<td>72.22%</td>
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**Amrad 115 Composite:**

<table>
<thead>
<tr>
<th>TNP</th>
<th>EPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2 x 1/4 Autotransformer</td>
<td>1/2 x 1/4 Autotransformer</td>
</tr>
<tr>
<td>2/2 x 1/4 Associated</td>
<td>2/2 x 1/4 Grosende</td>
</tr>
<tr>
<td>115KV Line</td>
<td>2/2 x 1/4 Holloman</td>
</tr>
<tr>
<td>37.50%</td>
<td>62.50%</td>
</tr>
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</table>
APPENDIX B (CONTINUED)

DERIVATION OF SUBSTATION COMPOSITE PERCENTAGES

Holloman composite for all costs except additional Circuit Breakers:

<table>
<thead>
<tr>
<th></th>
<th>TNP  4/4 x 1/4</th>
<th>Associated Amrad line</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>1/4 x 1/4</td>
<td>Almagordo line</td>
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<td>50.00%</td>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>EPE  4/4 x 1/4</th>
<th>Existing Holloman Transformer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4/4 x 1/4</td>
<td>Existing Amrad line</td>
</tr>
<tr>
<td></td>
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<td>50.00%</td>
</tr>
</tbody>
</table>

Two Additional 115KV Power Circuit Breakers

|                | TNP  100%       |

HOLLOMAN 115

EPE Transformer
EPE 100%

TNP Associated Amrad line
TNP 100%

TNP Alamogordo
TNP 100%

EPE Amrad
EPE 100%
C.1 The Transmission System will be protected by primary and back-up relaying scheme using a hot-standby communication system. Microwave repeater stations will be installed where required.

C.2 If required, transfer trip schemes will be provided for the DC Terminal and for the 345/115 KV transformer associated with the line.

C.3 All AC terminations will incorporate breaker failure schemes.

C.4 Expansion and modification of EPE existing Newman microwave system required for the Transmission System and DC Terminal will consist of the following:

C.4.1 Establishment of a new microwave transmitter and receiver at Amrad in a hot-standby configuration.

C.4.2 Expansion of the existing Newman microwave facilities to handle the hot-standby system at Amrad.

C.4.3 A microwave repeater, if necessary, between the Amrad site and Newman.
D.1  It is intended that the Engineering and Operating Committee established pursuant to Section 7.7 of this Agreement shall develop the Milestones and their respective target dates for completion for inclusion in this Agreement from time to time as the dates are agreed upon.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Target Date</th>
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<td>D.2</td>
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D-1
E.1 Time-Off allowances, including vacations, holidays, sick pay, accident pay, and jury pay will be added to the direct labor portion of Construction Costs, costs of Operating Work, and costs of Capital Additions, Capital Betterments, and Capital Replacements, exclusive of such time-off allowances, in the same manner as that used internally by the Project Manager or Operating Agent.

E.2 Legally required payroll taxes, and workmen's compensation, will be added to the direct labor portion of Construction Costs, costs of Operating Work, and costs of Capital Additions, Capital Betterments, and Capital Replacements on a prorata allocation of total labor charges of the Project Manager or Operating Agent.

E.3 Employee welfare and miscellaneous, pension and insurance, costs (FERC Account 926) will be added to the direct labor portion of Construction Costs, costs of Operating Work and costs of Capital Additions, Capital Betterments, and Capital Replacements on a prorata allocation of total labor charges of the Project Manager or Operating Agent.
E.4 Transportation expenses will be added to the direct labor portion of Construction Costs, costs of Operating Work and costs of Capital Additions, Capital Betterments, and Capital Replacements in the same manner as that used internally by the Project Manager or Operating Agent.

E.5 Stores expenses will be added to the direct material portion of Construction Costs, costs of Operating Work and costs of Capital Additions, Capital Betterments, and Capital Replacements in the same manner as that used internally by the Project Manager or Operating Agent.

E.6 Supervision, Engineering, and Accounting expenses will be added to the direct labor portion of costs of Operating Work; costs of Capital Additions, Capital Betterments, and Capital Replacements; costs of construction to install Capital Additions, Capital Betterments, and Capital Replacements in the same manner as that used internally by the Project Manager or Operating Agent. During the Construction Work of the Transmission System and DC Terminal the Project Manager shall collect the E&S allowance pursuant to Section 13.3.13.

E.7 Revisions to the methods used in calculating rates for the additives described in Sections E.1 through E.6 will be made as needed. Any Participant may challenge the method if such Participant deems the method to result in an inappropriate allocation of costs to the project. In such case, the procedure will be as follows:

E.7.1 The Participant will inform the Audit Committee in writing of its concerns and will propose alternatives.
E.7.2 In the event the Audit Committee fails to reach agreement on the challenged method within 60 days of presentment, the challenge shall be resolved pursuant to the provision of Section 7.10 and 7.11 of the Participation Agreement.

E.7.3 Revisions shall become effective as determined by the Project Manager or Operating Agent, notwithstanding any dispute under this Section E.7. Upon final resolution of the dispute, the disputed methods shall be appropriately adjusted retroactively.
F.1 The operating capacity of the Transmission System is limited to the current carrying capacity of the DC Terminal.

F.2 The E&O Committee will direct the Operating Agent to operate the DC Terminal at some current carrying level up to its design rating.

   F.2.1 The operating capacity of the Transmission System can be raised by the Participant's purchasing the appropriate additional equipment for the DC Terminal, and amending this Participation Agreement and any other Project Agreement as necessary.

   F.2.2 The operating capacity of the Transmission System can be lowered by the E&O Committee by unanimous vote or by the Operating Agent for Operating Emergencies, or scheduled maintenance.

F.3 The operation of the transmission System will require a source of vars to maintain adequate voltage at each end of the line. It is expected that within the conditions of this Participation Agreement this var supply is completely accounted for; therefore, the Transmission System and DC Terminal shall not require any additional var generation from the systems it connects and shall not be voltage limited in its operating capacity.
G.1 In all cases, except those specific cases listed below, the apportionment of Operating Capacity of any component in the Transmission System, DC Terminal, or associated transmission lines is made using the same percentage as the percent of costs shown in Appendix B of this Agreement.

G.1.1 The operating capacity of the Amrad 200 MVA 345/115 KV autotransformer shall be apportioned fifty percent (50%) to TNP and fifty percent (50%) to EPE.
SUPPLEMENTAL AGREEMENT TO THE
AMRAD TO ARTESIA 345 KV TRANSMISSION SYSTEM
AND DC TERMINAL
PARTICIPATION AGREEMENT
BETWEEN EPE AND TNP

This Agreement supplements the AMRAD TO ARTESIA 345 KV TRANSMISSION SYSTEM AND DC TERMINAL PARTICIPATION AGREEMENT ("Participation Agreement") between EPE and TNP dated December 8, 1981.

WHEREAS, because of Federal Communication Commission licensing requirements, only one party may license, own and operate microwave equipment; and

WHEREAS, pursuant to the Participation Agreement, EPE will license, own and operate such microwave equipment relating to the Project; and

WHEREAS, TNP will contribute 1/3 of the cost and EPE will contribute 2/3 of the cost of such microwave equipment; and

WHEREAS, the installed cost of such microwave equipment is not presently known; and

WHEREAS, the Participant's desire to adjust the percentage ownership in the Amrad 200 MVA 345/115 KV autotransformer to reflect TNP's contribution in the microwave equipment and its attendant lack of ownership therein.
NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, receipt of which is hereby acknowledged, the Participants hereby agree that:

Upon final determination of the costs associated with the microwave equipment and the Amrad 200 MVA 345/115 KV autotransformer, the Participants will amend Appendix B to increase TNP's ownership in the Amrad 200 MVA 345/115 KV autotransformer in an amount equal to the TNP's share of the installed cost of the microwave equipment.

Executed in duplicate as of December 8, 1981.

EL PASO ELECTRIC COMPANY

By /s/Donald G. Isbell

TEXAS-NEW MEXICO POWER COMPANY

By /w/James M. Tarpley
EPE - TNP
SECOND SUPPLEMENTAL AGREEMENT
TO THE
AMRAD TO ARTESIA 345 KV TRANSMISSION SYSTEM
AND
DC TERMINAL PARTICIPATION AGREEMENT

Execution Copy
EPE - TNP

SECOND SUPPLEMENTAL AGREEMENT TO

AMRAD TO ARTESIA 345 KV TRANSMISSION SYSTEM AND DC TERMINAL PARTICIPATION AGREEMENT

SECTION 1: PARTIES

The Parties to this Second Supplemental Agreement are El Paso Electric Company, a Texas corporation ("EPE") and Texas-New Mexico Power Company, a Texas corporation ("TNP"), sometimes individually called "Participant" and collectively "Participants."

SECTION 2: RECITALS

2.1 TNP and EPE have heretofore entered into an agreement entitled "Amrad to Artesia 345 KV Transmission System and DC Terminal Participation Agreement," dated December 8, 1981, and an agreement entitled "Supplemental Agreement to the Amrad to Artesia 345 KV Transmission System and DC Terminal Participation Agreement Between EPE and TNP," dated December 8, 1981, (collectively, the "Participation Agreement").

2.2 The Parties now wish to amend and supplement the Participation Agreement to incorporate the Parties' agreement on certain transmission facilities associated with the Amrad to Artesia 345 KV Transmission System and DC Terminal Project. This Agreement shall become a part
SECTION 3: EFFECTIVE DATE

This Second Supplemental Agreement shall become effective upon execution by both Participants and approval of the Settlement Agreement by the Federal Energy Regulatory Commission ("FERC").

SECTION 4: AGREEMENT

In consideration of the premises and mutual covenants set forth herein, the Participants agree that the Participation Agreement is hereby amended and supplemented as follows:

4.1. A new Section 5A is added to the Participation Agreement to read as follows:

"SECTION 5A: NONPROJECT FACILITIES

5A.1 Each Participant is contemplating possible substation and transmission modifications associated with this Project but not specifically part of this Project ("Nonproject Facilities"). No Participant is required to pursue and construct these Nonproject Facilities. It is expressly understood that Nonproject Facilities are described only for informational purposes and to identify the Nonproject Facilities.
for purposes of preapproval for interconnection. No Participant shall rely, for any purpose or reason, on the performance or nonperformance of the other Participant to pursue and construct Nonproject Facilities. Notwithstanding the foregoing, each Participant is hereby granted the preapproved right to construct and interconnect at Amrad Substation the following Nonproject Facilities:

5A.1.1. For EPE, (a) one 345 KV transmission line (and associated substation modifications) connecting the new Amrad 345/115 KV Substation and the proposed Caliente Substation of EPE and (b) a possible new substation located at the point TNP's 115 KV Amrad to Alamogordo Line interconnects with TNP's 115 KV Holloman to Alamogordo Line which is located between the Holloman and Alamogordo Substations, as further described in Section 5A.3.

5A.1.2. For TNP, one 115 KV transmission
line (and associated substation modifications) connecting the new Amrad 345/115 KV Substation to a point on TNP's existing 115 KV Holloman to Alamogordo Line which is located between the Holloman and Alamogordo Substations ("TNP's 115 KV Amrad to Alamogordo Line").

5A.2 Each Participant agrees to cooperate fully with the other Participant regarding the construction, operation and maintenance of Nonproject Facilities to include associated metering facilities.

5A.3 EPE may elect to construct, at the sole expense of EPE, a new substation and associated facilities to be located at the point that TNP's 115 KV Amrad to Alamogordo Line interconnects with TNP's existing 115 KV Holloman to Alamogordo Line which is located between the Holloman and Alamogordo Substations (the "EPE Mule Peak Substation"). If EPE builds the EPE Mule Peak Substation, EPE shall be responsible for operation and maintenance of the EPE Mule Peak Substation, at the sole expense of EPE. If,
as a direct result of the operations of the EPE Mule Peak Substation, TNP needs to install additional equipment that would not be required but for the construction, operation and maintenance by EPE of the EPE Mule Peak Substation, EPE shall reimburse TNP for the reasonable cost of material and labor associated with the purchase and installation of such required equipment.

5A.4 Section B.3 of Appendix B to this Participation Agreement contains the Participants' respective responsibility for the costs of Nonproject Facilities."

4.2. Appendix A to the Participation Agreement is cancelled and a new Appendix A in the form attached to this Second Supplemental Agreement is adopted.

4.3. Appendix B to the Participation Agreement is cancelled and a new Appendix B in the form attached to this Second Supplemental Agreement is adopted.

4.4. Appendix D to the Participation Agreement is cancelled and a new Appendix D in the form attached to this Second Supplemental Agreement is adopted.

SECTION 5: FULL FORCE AND EFFECT

Except as provided herein, the Participation Agreement, as amended and supplemented by this Second Supplemental Agreement, is hereby confirmed and is effective as of the date hereof.
Agreement, shall remain in full force and effect.

SECTION 6: SIGNATURE CLAUSE

The signatories hereto represent that they have been appropriately authorized to enter into this Second Supplemental Agreement on behalf of the Participant for whom they sign. This Second Supplemental Agreement is hereby executed as of the 29th day of April, 1987.

TEXAS-NEW MEXICO POWER COMPANY

By /s/James M. Tarpley
President and
Chief Operating Officer

ATTEST:

/s/Evern R. Wall
President and Chairman of the Board

EL PASO ELECTRIC COMPANY

By /s/Theta S. Fields
Secretary

ATTEST:

/s/Theta S. Fields
Secretary
APPENDIX A

DESCRIPTION OF THE AMRAD TO ARTESIA

345 KV TRANSMISSION SYSTEM
AND DC TERMINAL

A.1 The Amrad to Artesia 345 KV Transmission System (the "Transmission System") is comprised of (a) one 345 KV line connecting the Amrad Substation of EPE to the Eddy County Interchange Substation of Southwestern Public Service Company ("SPS"), a distance of approximately 125 miles, (b) a new 345 KV Amrad Substation, (c) a 200 MVA 345/115 KV transformer at Amrad, and (d) additions to the existing 115 KV Substation at Amrad.

A.2 The DC Terminal (the "DC Terminal") is a back-to-back AC to DC to AC conversion station located at the Eddy County Interchange Substation of SPS for the purpose of controlling power flows across the Transmission System and isolating the Western Systems Coordinating Council ("WSCC") from the Southwest Power Pool ("SWPP").

A.3 Construction, operation and maintenance of the Transmission System, DC Terminal and related substation components are sometimes referred to in this Appendix A as the "Project".

A.4 Substation Components of the Transmission System and
DC Terminal are described as follows:

A.4.1. The Amrad Substation of EPE shall be expanded to provide termination for this Project. Facilities associated with the expansion shall be as follows:

A.4.1.1. One 200 MVA 345/115 KV Auto Transformer.

A.4.1.2. Four 115 KV power circuit breakers and associated disconnect switches, bus work, any other appurtenant facilities and common facilities to be arranged in a breaker and one-half layout, but operated as a ring bus.

A.4.1.3. Three 345 KV power circuit breakers, associated disconnect switches, bus work, any other appurtenant facilities and common facilities to be arranged in a ring bus and operated as a ring bus.

A.4.2. The Components of the DC Terminal include, but are not limited to, the following:

A.4.2.1. Thyristor Valves/Bridges, System Control facilities, converter transformers, smoothing reactors, power capacitors, AC and DC filters, valve cooling equipment, auxiliary power supply systems, reactive power supplies, protective
equipment, monitoring equipment, measuring equipment, and communication equipment.

A.4.3. The associated buildings, fences, common facilities, and appurtenant facilities.
APPENDIX B

PARTICIPANTS' RESPONSIBILITY FOR
COSTS (PERCENT OF COSTS)

B.1 Participants' Responsibility for Costs (Percent of Cost) for Components of the Transmission System; DC Terminal; any Capital Additions, Capital Replacements, or Capital Betterments to the Transmission System and DC Terminal; and associated Nonproject Transmission Facilities.

| B.1.1  | Amrad 200 MVA 345/115 KV Autotransformer | 50.00 | 50.00 |
|        | Associated Operation and Maintenance Costs | 50.00 | 50.00 |
|        | Associated Lightning Arrestors | 50.00 | 50.00 |

| B.1.2  | Amrad 115 KV Switchyard Expansion | 62.50 | 37.50 |
| Four (4) 115 KV power circuit breakers and the associated four (4) bays | 62.50 | 37.50 |
| Lighting Arrestors | 62.50 | 37.50 |
| Disconnect Switches | 62.50 | 37.50 |
| Potential Devices | 62.50 | 37.50 |
| Additional Substation Grounding | 62.50 | 37.50 |
| Additional Fencing | 62.50 | 37.50 |
| Additional Bus Work & Bus Supports | 62.50 | 37.50 |
| Additional Station Service Equipment | 62.50 | 37.50 |
| Additional Common Facilities | 62.50 | 37.50 |
| Any Appurtenant Equipment | 62.50 | 37.50 |
| All Operation Costs | 62.50 | 37.50 |
| All Maintenance Costs | 62.50 | 37.50 |
Other project related modifications necessary for interconnection to existing Amrad facilities

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<tr>
<th>Item</th>
<th>EPE</th>
<th>TNP</th>
</tr>
</thead>
<tbody>
<tr>
<td>The existing EPE circuit breaker and its associated bay</td>
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B.1.3 **New Amrad 345 KV Substation**

Three (3) 345 KV Power Circuit Breakers

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<tr>
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<th>TNP</th>
</tr>
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<tbody>
<tr>
<td>Disconnect Switches</td>
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<td>Substation Grounding System</td>
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<td>27.78</td>
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<td>Potential Devices</td>
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<td>27.78</td>
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<td>Control House</td>
<td>72.22</td>
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<tr>
<td>Bus Work, Bus Supports, Bus Fittings</td>
<td>72.22</td>
<td>27.78</td>
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<tr>
<td>Line Deadend Tower</td>
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<tr>
<td>Lightning Arrestors</td>
<td>72.22</td>
<td>27.78</td>
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<tr>
<td>Other Common Facilities</td>
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<tr>
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<tr>
<td>All Maintenance Costs</td>
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B.1.4 **Eddy County Interchange**

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<tr>
<td>All Maintenance Costs</td>
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B.1.5 **Amrad to Eddy County Interchange**

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<td>All Maintenance Costs</td>
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<td>Line Reactors, if required</td>
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B.2 Participant's Responsibility for Costs (Percent of Cost) for control microwave and relaying equipment as provided for in Section 38.
B.2.1 Construction work and equipment for control, microwave expansion and modification, relaying as described in Appendix C

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B.2.2 O&M Expenses directly related to the Project

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B.2.3 Capital Betterments, Capital Replacements and Capital Additions associated with control microwave and relaying

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B.3 Associated nonproject transmission lines and substation modifications are listed below for information and reference only, as set forth in Section 5A of the Participation Agreement. It is expressly understood that they are not part of this Project.

B.3.1 EPE's Associated Transmission:

One (1) 345 KV transmission line from Amrad to EPE's proposed Caliente 345/115 KV Substation

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One Substation located at the point TNP's 115 KV Amrad to Alamogordo Line interconnects with TNP's 115 KV Holloman to Alamogordo Line which is located between the Holloman and Alamogordo Substations

<table>
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B.3.2 TNP's Associated Transmission:

One (1) 115 KV transmission line from the Amrad 345 KV Substation to the point of interconnection on TNP's 115 KV Holloman to Alamogordo Line which is located between the Holloman and Alamogordo Substations

<table>
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B-3
Participant's Cost Responsibility
for costs and expenses not included
in this Appendix B and not otherwise
specifically allocated in any Project
Agreement.

66.7

33.3

B-4

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APPENDIX D

CONSTRUCTION MILESTONE DATES

D.1 The Engineering and Operating Committee established pursuant to Section 7.7 of this Agreement has developed certain milestones and target dates for completion of certain aspects of this Agreement. These dates are set forth in the minutes of the Engineering and Operating Committee.

D.2 It is understood and agreed that the Transmission System and DC Terminal were completed on the target date for completion.
EPE - TNP
THIRD SUPPLEMENTAL AGREEMENT
TO THE
AMRAD TO ARTESIA 345 KV TRANSMISSION SYSTEM
AND
DC TERMINAL PARTICIPATION AGREEMENT
EPE-TNP

THIRD SUPPLEMENTAL AGREEMENT TO

AMRAD TO ARTESIA 345 KV TRANSMISSION

SYSTEM AND DC TERMINAL PARTICIPATION AGREEMENT

Section 1: PARTIES

The Parties to this Third Supplemental Agreement are El Paso Electric Company, a Texas corporation ("EPE") and Texas-New Mexico Power Company, a Texas corporation ("TNP"), sometimes individually called "Participant" and collectively "Participants."

Section 2: RECITALS

2.1 TNP and EPE have heretofore entered into an agreement for the construction and operation of a 345 KV transmission line from Amrad to Artesia and associated DC terminal (Project) entitled "Amrad to Artesia 345 KV Transmission System and DC Terminal Participation Agreement," dated December 8, 1981, an agreement entitled "Supplemental Agreement to the Amrad to Artesia 345 KV Transmission System and DC Terminal Participation Agreement Between EPE and TNP," dated December 8, 1981, and an agreement entitled "EPE-TNP Second Supplemental Agreement to Amrad to Artesia 345 KV Terminal System and DC Terminal Participation Agreement" dated April 29, 1987, (collectively, the "Participation Agreement").

2.2 Upon completion of the Project microwave system, the Supplemental Agreement provided for an adjustment of the Participants' respective percentage ownership in the Amrad 200 MVA 345/115 KV autotransformer to reflect TNP's contribution to the microwave equipment related to the Project and TNP's lack of ownership therein. Such adjustment in

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ownership will have no affect on the Parties' present rights to utilize the capability of the Amrad 200 MVA 345/115 KV autotransformer on a 50-50 basis.

2.3 The Parties now wish to amend and supplement the Participation Agreement to reflect an adjustment of the Parties' respective percentage ownership in the Amrad 200 MVA 345/115 KV autotransformer.

Section 3: EFFECTIVE DATE
This Third Supplemental Agreement shall become effective upon execution by both Participants.

Section 4: AGREEMENT
In consideration of the premises and mutual covenants set forth herein, the Participants agree that the Participation Agreement is hereby amended and supplemented as follows:

Section B.1.1 of Appendix B is deleted in its entirety and a new Section B.1.1 is added to read as follows:

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Section 5: FULL FORCE EFFECT
Except as provided herein, the Participation Agreement, as amended and supplemented by this Third Supplemental Agreement, shall remain in full force and effect.

/  
/  

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2
Section 6: SIGNATURE CLAUSE

The signatories hereto represent that they have been appropriately authorized to enter into this Third Supplemental Agreement on behalf of the Participant for whom they sign. This Third Supplemental Agreement is hereby executed as of the 7th day of December, 1987.

EL PASO ELECTRIC COMPANY

By [Illegible] Vice President

TEXAS-NEW MEXICO POWER COMPANY

By /s/ J. V. Chambers Vice President

Execution Copy
INTERCONNECTION AGREEMENT

of

July 19, 1966

Between

EL PASO ELECTRIC COMPANY

And

PUBLIC SERVICE COMPANY OF NEW MEXICO
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INTERCONNECTION AGREEMENT

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**SERVICE SCHEDULE A**

TRANSMISSION SERVICE AND CONTINGENT CAPACITY EXCHANGE

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<tr>
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**SERVICE SCHEDULE B**

ENERGY INTERCHANGE AND SPINNING RESERVE INTERCHANGE

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**SERVICE C**

RESERVE CAPACITY AND RECIPROCAL EMERGENCY ASSISTANCE

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INTERCONNECTION AGREEMENT

This INTERCONNECTION AGREEMENT, entered into as of 19th day July of 1966, between El Paso Electric Company (herein called "El Paso"), a Texas Corporation, and Public Service Company of New Mexico (herein called "New Mexico"), a New Mexico Corporation,

WITNESSETH:

WHEREAS, El Paso owns and operates an electric system serving in parts of the State of Texas and the State of New Mexico, and New Mexico owns and operates an electric system serving in a part of the State of New Mexico; and

WHEREAS, the parties are presently interconnected by means of the 115 KV transmission system of the Bureau of Reclamation's Rio Grande Project and are members of the New Mexico Power Pool operating under that certain Agreement, identified by the Bureau of Reclamation as Contract No. 14-06-500-254, dated October 3, 1956; and,

WHEREAS, the parties, together with others, are planning to participate in the ownership and operation of two 755 MW (nameplate) generating units to be installed at the Four Corners Generating Station of Arizona Public Service Company under terms and conditions of that certain Letter of Intent dated April 26, 1965, as amended by Supplement No. 1 dated May 12, 1965, and Supplement No. 2 dated June 11, 1965, hereinafter referred to as the Four Corners Project; and,

WHEREAS, the parties desire to establish a direct interconnection between their respective systems to provide for delivery of El Paso's en-
titlement of power from the Four Corners Project over New Mexico’s existing and proposed transmission system and to make possible a substantial degree of coordination in the development and operation of their respective electric systems;

NOW THEREFORE, IT IS AGREED:

SECTION 1

COOPERATION IN DEVELOPMENT AND OPERATION

1.1 The provisions of this Interconnection Agreement relate to the establishment of a direct interconnection between the electric systems of the parties, to cooperation in development and operation of the two systems, to sale or exchange of power and interchange of energy between the parties, to mutual emergency assistance, and to transmission service between the parties. Each party will comply with said provisions and assume and fulfill the responsibilities herein assigned to it.

1.2 The parties, through authorized representation, will regularly consult with each other and cooperate as to planning of system power sources and transmission networks, and as to maintaining coordination in operations and realizing the benefits attainable therefrom.

SECTION 2

FACILITIES TO BE PROVIDED

2. Interconnection Sites - Interconnection points between the two parties will be as follows:

   (A) Albuquerque - At New Mexico's 345 KV bus at its West Mesa
Switching Station.

(B) Las Cruces - At the point at which El Paso's 115 KV System is connected to the 115 KV System of the United States Bureau of Reclamation.

(C) Four Corners Project - At the 345 KV Switchyard, wherein El Paso and New Mexico, among others, respectively own undivided interests as tenants in common, and

(D) Future Provision - at a point on El Paso's 115 KV transmission system, at or near Hatch, New Mexico, to be mutually agreed upon.

2.2 Facilities to be Provided by El Paso - El Paso will construct, own and operate and maintain a 345 KV transmission line from its Newman Generating Station in Texas to the Albuquerque interconnection site, a distance of approximately 240 miles. El Paso will provide and maintain terminal facilities including breakers, disconnects, metering and relaying equipment, reactors and other appurtenances at the Newman Station, and the required line reactors at the West Mesa Switching Station. Said facilities shall be constructed and placed in service by El Paso on or before April 1, 1969, unless completion at such time be prevented by uncontrollable forces.

2.3 Facilities to be Provided by New Mexico - New Mexico at the present time has a 230 KV transmission line extending from its West Mesa Switching Station to the existing 230 KV bus structure of the Four Corners Generating Station of Arizona Public Service
Company. In addition, New Mexico, in connection with the Four Corners Project and this Interconnection Agreement will construct, own, and operate the following additional facilities:

(i) Two 345 KV transmission lines with necessary terminal and accessory facilities extending from its West Mesa Substation to a point of interconnection to the 345 KV switchyard of the Four Corners Project, a distance of approximately 160 miles for each transmission line. New Mexico agrees to complete the first 345 KV transmission line on or before April 1, 1969, and the second 345 KV transmission line on or before April 1, 1970, unless construction at such times be prevented by uncontrollable forces.

(ii) New Mexico will provide a line bay in its 345 KV West Mesa Switching Station together with related terminal facilities (breakers, disconnects, metering and relaying equipment and appurtenances) for attachment of El Paso's 345 KV line and suitable space at the West Mesa Switching Station for El Paso's line reactors.

SECTION 3

SERVICE SCHEDULES

3.1 It is contemplated by the parties that they will from time to time effect specific arrangements for various reciprocal services and for interim sales of power, and that such specific arrangements will be incorporated in service schedules which, upon their execution by authorized representatives, will become parts of this Interconnection Agreement for the respective periods to which, by their terms, they are applicable.

-4-
3.2 The following service schedules, agreed to initially are hereby made parts hereof:

   Service Schedule A - Transmission Service and Contingent Capacity Exchange
   Service Schedule B - Energy Interchange and Spinning Reserve Interchange
   Service Schedule C - Reserve Capacity & Reciprocal Emergency Assistance

SECTION 4

COMMITTEES

4.1 As a means of securing effective cooperation in system planning and of dealing on a prompt and orderly basis with the various operating and technical problems which arise in connection with delivery of power, reciprocal services and system coordination under changing conditions, the parties will establish a "Coordination Committee" and an "Operating Committee," each charged with certain responsibilities hereunder.

4.2 Coordination Committee - The Coordination Committee shall consist of two representatives, one designated by each party, and each such representative shall be authorized by the party by whom he is designated to act on its behalf with respect to those matters herein provided to be responsibilities of the Coordination Committee. The functions and responsibilities of the Coordination Committee shall be:

   (i) to establish general policies to be followed in coordination of the operation of the electric systems of the parties (consistent with the provisions of this agreement),

   (ii) to review periodically the prospective aggregate power requirements of the two systems, to arrange
for investigations with respect to additional power sources and related transmission facilities, including possible additional interconnections with other systems, in order to provide for such aggregate power requirements in a manner consistent with overall effectiveness and economy, and to present recommendations as to such matters to the parties,

(iii) to exercise general supervision and guidance over the Operating Committee,

(iv) to consider and act upon matters referred to the Coordination Committee by the Operating Committee, and

(v) to do such other things as are provided for herein and as may be specified from time to time by the parties; provided that the Coordination Committee shall have no authority to modify any of the provisions of this agreement except as provided in Section C6.3. Any decision or agreement by the Coordination Committee shall be effective when signed by both members of the Committee. Each party will notify the other party promptly of the designation of its representatives on the Coordination Committee and of any subsequent change in such designation. Either party may designate an alternate or substitute to act as its representative on the Coordination Committee on specified occasions or with respect to specified matters.
4.3 **Operating Committee** - The Operating Committee shall consist of four representatives, two designated by each party, and each such representative shall be authorized on behalf of the party designating him to act with respect to those matters herein provided to be responsibilities of the Operating Committee. The functions and responsibilities of the Operating Committee shall be:

(i) to establish procedures and standard practices (consistent with the provisions hereof) for the guidance of load dispatchers and other operating employees as to matters affecting interconnected operations of the respective systems, delivery of power, interchange of energy, reciprocal emergency assistance, and other similar operating matters.

(ii) to establish procedures and standard practices as to determinations of costs and expenses and energy losses in connection with inter-system transactions hereunder,

(iii) to establish detailed arrangements for metering, communication and control facilities,

(iv) to bring to the attention of the Coordination Committee matters needing its attention, and

(v) to do such other things as are provided for herein; provided that the Operating Committee shall have no authority to modify any of the provisions of this agreement except as provided in Sections c6.1 and c6.2.
The establishment of any procedure or practice and any other action or determination by the Operating Committee, within the scope of the Operating Committee's responsibility, shall be effective when signed by at least one designated representative of each of the parties. Each party will notify the other party promptly of the designations of its representatives on the Operating Committee and of any subsequent changes in such designations.

4.4 **Disagreements** - If the Operating Committee shall disagree as to any action to be taken or decision to be made, or as to the need for taking any action or making any decision, or as to whether any matter is within the scope of the Operating Committee's responsibilities hereunder, the question or questions at issue shall be referred to the Coordination Committee for its action or instructions.

SECTION 5

**CONDITIONS OF INTERCONNECTED OPERATIONS**

5.1 **Parallel Operations** - The electrical systems of the parties shall to the extent feasible normally be operated in parallel

(i) at the aforesaid interconnection sites, and

(ii) at indirect interconnection points through facilities of third parties, where third party arrangements require such parallel operation, or where third party arrangements permit such parallel operation and the Operating Committee shall determine that such parallel operation is a desirable practice. It is the intent of
the parties that their respective systems shall operate in parallel with the Rio Grande Project Power System of the United States. It is the intent of the parties that their systems shall normally be operated as fully interconnected as may be necessary or convenient to achieve operating economies and to protect quality and reliability of service to consumers. Deviations from normal parallel operation may be made as directed by the Operating Committee, or as provided for in standard practices adopted by the Operating Committee, or as may under special temporary conditions be arranged between the respective load dispatchers.

5.2 Outage Schedules - The parties will cooperate in scheduling the times and durations of removal from service of major generating units and important transmission circuits for inspection, maintenance or repair, to the end that hazard to or interference with service to consumers will be minimized. The arranging of such coordinated schedules shall be a responsibility of the Operating Committee.

5.3 Communication and Control Facilities - The types and arrangement of inter-system communication facilities for load dispatcher and system operations, of equipment for the line load control, and of relay equipment for control of interconnection circuits shall be in accordance with recommendations of the Operating Committee, and the operating procedures in connection therewith shall be in accordance with standard practices from time to time established by the Operating Committee.
5.4 **Electrical Disturbances** - Each party will, insofar as practicable, so construct, operate and maintain its system and facilities as to avoid or minimize the likelihood of a disturbance originating from its system which might cause impairment of service in the system of the other party.

5.5 **Frequency** - Insofar as interconnected system frequency is within the control of the parties, it shall be a responsibility of the Operating Committee to establish operating arrangements for maintaining frequency within limits satisfactory for the types of loads served by the two systems.

5.6 **Voltage** - Variations and fluctuations in voltage at the interconnection sites shall be kept within limits which will minimize adverse effects upon operation of either system or upon service supplied by either system. The respective responsibilities of the parties with respect to voltage control shall be in accordance with standard practices established from time to time by the Operating Committee.

5.7 **Reactive Kilovolt-Amperes** - Except as may be provided in a service schedule hereunder or as may be arranged in specific cases by the Operating Committee, neither party shall be entitled to receive kilovars from the other party or obligated to supply kilovars to the other party. Each party will cooperate with the other party to minimize unintended flow of kilovars between the systems. It shall be within the responsibility of the Operating Committee to adopt standard practices for scheduling flow of kilovars between the systems under conditions when there may be a mutual advantage from such flow and for controlling or limiting unscheduled kilovar flow.
5.8 **Scheduling of Power Deliveries** - The Operating Committee shall arrange for all power transactions hereunder to be accounted for on the basis of amounts scheduled between the respective load dispatchers. Arrangements made therefor by the Operating Committee shall provide that the respective load dispatchers will maintain in duplicate a running record of deviations from aggregate schedules, and that such cumulative deviations will be compensated for by opposite deviations made as promptly as practicable, provided that such compensatory deviations are to be made under generally similar load and resource conditions or to be subject to adjustment factors to take account of differences in load and resource conditions between the time when initial deviations occur and the time when compensatory deviations are made.

5.9 **Temporary Interchange Arrangements** - In cases where, from time to time, there may be a mutual advantage from sale or interchange of power between the parties upon a basis not provided for in any service schedule then in effect and the circumstances are such that arrangements must be made promptly in order to realize such advantage, or in cases of emergency or of temporary and unusual operating conditions, temporary arrangements for individual transactions or classes of transactions may be made by the Operating Committee; provided, however, that no continuing commitment involved in any arrangement so made at any time by the Operating Committee shall extend for a longer period than thirty (30) days.
5.10 Substitute Power Deliv eries - It shall be within the responsibility of the Coordination Committee to approve and put into effect arrangements whereby in specific cases or classes of cases and under specific conditions an amount of power or energy provided in any service schedule hereunder to be delivered by one party to the other party, or to be received by one party from the other party, may be delivered to or received from a third party for the account of the party originating such substitute transaction. In such a substitute transaction the arrangements shall be such that only the party originating the transaction shall be involved in money settlements with the third party.

5.11 Operating Data - Each party will make available to the other party operating data with respect to effective capacities of generating units and transmission circuits, incremental costs of power sources, current and estimated future loads of its electric system and sections thereof, and similar matters, to the extent that such data may from time to time be needed by the Coordination Committee or the Operating Committee in the discharge of their responsibilities hereunder or may be needed in connection with load dispatching and energy accounting for transactions hereunder.
6.1 **Metering Facilities** - Arrangements with respect to locations, type and ownership of metering facilities required for purposes of control of or settlements for power transactions hereunder shall be in accordance with any specific provisions of the service schedules covering such power transactions, and otherwise shall be a responsibility of the Operating Committee. The owner of a metering installation, the registrations of which are important in connection with settlements for transactions hereunder, upon request of the other party, will make available suitable space and facilities for installation of check metering.

6.2 **Testing and Reading of Meters** - Metering equipment owned by either party, the registrations of which are involved in settlements for transactions hereunder, shall be inspected and tested by the owner at annual intervals or at such shorter intervals as may be directed by the Operating Committee, and any inaccuracy disclosed by such tests shall be corrected promptly by the owner. Additional inspections and tests at particular installations shall be made by the owner upon request of the other party. Representatives of the other party shall be afforded opportunity to be present at all official inspections and tests. If at any test a meter shall be found to be inaccurate by more than one per cent, fast or slow, an adjustment shall be made in settlements between the parties to compensate for the effect of such inaccuracy over...
a period equal to one-half of the time elapsed since the meter was installed, or one-half of the time elapsed since the previous test, whichever is later. All adjustments due to inaccurate meters shall be limited to the preceding six months. If at any time a meter should fail to register, its registration for billing purposes shall be based upon records of check meters if available; or otherwise upon the best obtainable data. Arrangements with respect to meters belonging to others than the parties hereto, the registrations of which may be involved in settlements for transactions hereunder, shall be a responsibility of the Operating Committee.

SECTION 7

SETTLEMENTS

7.1 Accounting Period - The accounting period for transactions hereunder shall be one month. Such one-month period shall be a calendar month unless the Coordination Committee shall specify a different one-month period.

7.2 Billing and Payment - Except as otherwise provided in a service schedule, bills for amounts payable for any month shall be due on the 19th day of the succeeding month or on the 5th day after receipt of bill, whichever be later. To such extent as may be approved by the Coordination Committee, bills for a current month may be rendered on the basis of estimated data with corrective adjustment being made with the bill rendered for the succeeding month. Payment shall be made at such office of the party to which payment is due as that party shall designate by written notice. Amounts
not paid on or before the due date shall be payable with interest accrued at the rate of 0.5 per cent compounded monthly from the due date to the date of payment.

7.3 **Disputed Bills** - In case a portion of any bill be in dispute, the undisputed amount shall be paid when due, and the remainder, if any, upon determination of the correct amount, shall be paid promptly after such determination with interest accrued at the rate of 0.5 per cent compounded monthly from the original due date.

SECTION 8

**GENERAL PROVISIONS**

8.1 **Uncontrollable Forces** - No party shall be considered to be in default in respect of any obligation under this agreement if prevented from fulfilling such obligation by reason of uncontrollable forces, the term "uncontrollable forces" being deemed to mean any cause which is beyond the control of the party affected, including, but not limited to injunction, fire, strike, riot, explosion, flood, accident, break-down, Acts of God or a public enemy, or other acts or conditions beyond Company's control, or interruption, irregular or defective service as the result of the ordinary negligence of any employee, servant or agent of the Company, or as a result of the voluntary cooperation by the Company in any method of operation, or in any program recommended or requested by civil or military authorities during a national, state or local emergency, the Company shall not be liable to the other party hereunder. Furthermore, each party
shall not be liable for damages occasioned by interruption of service when such interruptions are necessary to make repairs or changes in the Company's equipment and facilities. Each party hereby expressly waives its right to assert claims against the other party for damages caused by any interruption, irregularity, defect or failure described in this paragraph. Nothing contained herein shall be construed to obligate a party to forestall or settle a strike against its will.

8.2 Arbitration. - In the event the parties acting through their representatives on the Coordination Committee, are unable to reach agreement with respect to a matter arising hereunder in regard to which such agreement is necessary or in the event any dispute between the parties should arise under this agreement, either of the parties may call for submission of such matter or dispute to arbitration in the manner hereinafter set forth, which call shall be binding upon the parties.

The party calling for arbitration shall give written notice to the other party, setting forth in such notice in adequate detail the nature of the dispute, the amount or amounts, if any, involved in such dispute, and the remedy sought by such arbitration proceedings, and, within twenty (20) days from receipt of such notice the other party involved may, by written notice to the first party, prepare its own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated. Thereafter, the party first submitting its statement of the matter at issue shall have ten (10) days in which to submit a rebuttal statement, copies of
which shall be given to the other party.

Within ten (10) days following the submission of the rebuttal statement, the parties, acting through their representatives on the Coordination Committee, shall meet for the purpose of selecting arbitrators. Each party shall designate an arbitrator. The arbitrators so selected shall meet within twenty (20) days following their selection and shall select an additional arbitrator. If the arbitrators selected by the parties, as herein provided, shall fail to select an additional arbitrator within said twenty (20) day period, then the arbitrators shall request a list of arbitrators from the American Arbitration Association. The arbitrators selected by the parties shall take turns striking names from the list of arbitrators furnished by the American Arbitration Association and the last name remaining on said list shall be the additional arbitrator. The arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute and no person shall be eligible for appointment as an arbitrator who is an officer, employee, shareholder of, or otherwise interested in any of the parties to the dispute or in the matter to be arbitrated.

Except as otherwise provided in this Sub-section 8.2 the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force, except that if such rules and practice, as modified herein, shall conflict with the New Mexico Rules of Civil Procedure or any other provision of New Mexico law then in force, such New Mexico rules and provisions shall govern.
In addition to the questions which may be submitted to arbitration pursuant to this Sub-section 8.2, the parties shall submit to arbitration in the manner herein provided all questions as to whether the right to arbitrate exists.

The arbitrator shall hear evidence submitted by the respective parties and may call for additional information, which additional information will be furnished by the party having such information.

This agreement to arbitrate shall be specifically enforceable, and the award of the arbitrator shall be final and binding upon the parties to the extent provided by the laws of New Mexico. Any award may be filed with the Clerk of any Court having jurisdiction over the parties or any of them against whom the award is rendered, and, upon such filing, such award, to the extent permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgment or other similar relief.

The fees and expenses of the arbitrators shall be shared equally by the parties unless the decision of the arbitrators shall specify some other apportionment of such fees and expenses. All other expenses and costs of the arbitration shall be borne by the party incurring the same.

In the event that any party shall attempt to institute or to carry out the provisions herein set forth in regard to arbitration, and such party shall not be able to obtain a valid and enforceable arbitration decree, such party shall be entitled to seek legal remedies in a Court having jurisdiction in the premises, and the provisions in this agreement referring to decisions of a Board of Arbitration shall be then deemed applicable to final decisions of such Court.
8.3 **Waivers** - A waiver at any time by a party of its rights with respect to a default under this agreement, or with respect to any other matter arising in connection with this agreement, shall not be deemed a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.

8.4 **Notices** - Any formal notice, demand or request provided for in this agreement, or given or made in connection with this agreement, shall be deemed to be properly given or made if personally delivered or telegraphed or sent by registered or certified mail, postage prepaid, to the person specified below:

To or upon New Mexico –

The Secretary of the Company  
Post Office Box 2267  
Albuquerque, New Mexico

To or upon El Paso –

The Secretary of the Company  
Post Office Box 982  
El Paso, Texas

A party may at any time change by written notice the designation or the address of the person so specified. This paragraph does not apply to notices and requests of a routine character in connection with delivery or receipt of power or in connection with operation of facilities, which shall be given in such manner as the Operating Committee from time to time shall arrange.

8.5 **Regulatory Authorities** - This contract, including the tariff made a part hereof, shall at all times be subject to such changes or modifications as shall be ordered from time to time by any legally
constituted regulatory body having jurisdiction to require such changes or modifications.

8.6 Successors and Assigns - This agreement, including service schedules hereunder, shall be binding upon and inure to the benefits of the respective successors and assigns of the parties.

SECTION 9

TERM

9.1 Effective Date - This agreement shall become effective upon the date of obtaining any necessary approval by or effecting any necessary filing with such regulatory authority or authorities as may initially have jurisdiction hereover.

9.2 Duration - This agreement, after becoming effective, shall continue in effect indefinitely unless and until terminated as hereinafter provided. In case at any time

(i) No service schedule is in effect hereunder, and

(ii) No new service schedule has been executed to become effective at a future date, and

(iii) No new service schedule is the subject of bona fide negotiation between the parties,

this agreement shall be terminable as of such time, and either party may declare it to be terminated by notice given thirty (30) days in advance of the termination date specified in such notice.
SECTION 10

APPLICABLE LAW

This agreement shall be construed and interpreted in accordance with the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officers and their corporate seals to be affixed, all as of the day and year first herein written.

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]
  PRESIDENT

Attest:

/s/ [ILLEGIBLE]

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
  PRESIDENT

Attest:

/s/ [ILLEGIBLE]
  SECRETARY

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SERVICE SCHEDULE A
TRANSMISSION SERVICE AND CONTINGENT CAPACITY EXCHANGE

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SERVICE SCHEDULE A
TRANSMISSION SERVICE AND CONTINGENT CAPACITY EXCHANGE

This Service Schedule A is agreed upon as a part of the Interconnection Agreement between El Paso Electric Company and Public Service Company of New Mexico.

SECTION 1
PURPOSE

A1.1 The purpose of this Service Schedule is, (i) to provide capacity in New Mexico transmission facilities for use by El Paso in transmitting electric power and energy between the Four Corners Project and the Albuquerque Interconnection Site; (ii) to provide for future use by New Mexico of existing and proposed El Paso transmission facilities under terms of the Interconnection Agreement; and (iii) to provide for contingent capacity by El Paso to New Mexico.

SECTION 2
TERM

A2.1 This Service Schedule shall become effective concurrently with the Interconnection Agreement and shall remain in effect unless terminated, modified, or superseded by mutual agreement, for a period of 35 years from the date of firm operation of Unit 5 of the Four Corners Project; provided, however, that transmission service as provided under Sections 3 and 4 of this Service Schedule, shall not be initiated prior to the date of initial start-up of Unit No. 4 of the Four Corners Project.
SECTION 3

TRANSMISSION SERVICE FOR EL PASO

A3.1 Commencing with the date of initial start-up of Unit No. 4 of the Four Corners Project, New Mexico will provide capacity in its transmission system, between the Four Corners Project and the Albuquerque Interconnection Site in amounts which El Paso may from time to time require up to a maximum of seven percent (7%) of the actual net capability of the Four Corners Project, or such greater amount as may be mutually agreed upon between the parties.

A3.2 New Mexico shall accept power and energy scheduled by El Paso at the points described in Section A3.1 hereof and shall transmit and deliver such power and energy, less applicable positive or negative transmission losses, to the Albuquerque Interconnection Site, or to the Four Corners Project, for the account of El Paso in amounts up to a maximum input rate of seven percent (7%) of the net actual generating capability of the Four Corners Project or such greater amount as may be agreed upon. The Operating Committee shall establish suitable procedure for the scheduling and accounting of New Mexico's deliveries to El Paso under this Service Schedule and shall determine transmission losses to be supplied by El Paso.

SECTION 4

TRANSMISSION SERVICE FOR NEW MEXICO

A4.1 Upon receipt of advance written notice of at least twelve months from New Mexico, El Paso will provide capacity in its transmission system between the Albuquerque Interconnection Site Point (A) and El Paso's 115 KV transmission system at or near
El Paso's existing point of connection to the U. S. Bureau of Reclamation near Las Cruces, New Mexico, Point (B), and/or at or near Hatch, New Mexico, Point (D), as may be mutually agreed upon by the parties. The amount of capacity will be specified in the notice but shall not exceed 25,000 kilowatts. In subsequent notices, New Mexico may increase its use of El Paso's transmission system up to a maximum or 25,000 kilowatts or may reduce or terminate its use of capacity in El Paso's transmission system.

A4.2 In the event New Mexico requests transmission service:

   (i) In amounts exceeding 25,000 kilowatts, to either interconnection points "B" or "D", individually and in cumulative, or

   (ii) to other interconnection point or points not specified herein,

either condition subject to mutual consent, then, to the extent additional plant investment by El Paso is required for New Mexico's sole use, New Mexico, unless otherwise agreed upon by the parties, will pay a monthly wheeling charge of 1¼% of such additional investment during the period such facilities are to be used by New Mexico, but for not less than five years. In the event New Mexico requests transmission service to a point at or near Hatch, which service will require an investment by El Paso to increase the transmission capacity of existing lines prior to the time that such additional capacity will be required for El Paso's needs, then New Mexico will, unless otherwise agreed upon by the parties, pay a monthly wheeling charge of 1¼% of the required additional plant investment for a period to be mutually agreed upon.

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A4.3 El Paso shall accept power and energy scheduled by New Mexico at the Albuquerque point of interconnection and shall transmit and deliver such power and energy, less applicable transmission losses, to points of delivery designated by New Mexico in amounts up to the maximum capacity reserved for New Mexico's use under Sections A4.1 and/or A4.2 hereof. The Operating Committee shall establish suitable procedures for the scheduling and accounting of El Paso's deliveries to New Mexico under this service schedule and shall determine transmission losses to be supplied by New Mexico.

SECTION 5

CONTINGENT CAPACITY FOR NEW MEXICO

A5.1 As consideration for transmission service supplied hereunder to El Paso by New Mexico, El Paso agrees to provide contingent capacity for New Mexico in the amounts and under terms and conditions hereinafter set forth.

A5.2 Contingent Contract Demand - The amount of contingent capacity which, during any month El Paso is obligated to deliver or make available to New Mexico hereunder shall be amount hereinafter referred to as Contingent Contract Demand. The Contingent Contract Demand shall be equal to one-half of the difference between New Mexico's obligation to provide transmission service, as described in Section 3 of this Service Schedule, and any amount of transmission service being supplied to New Mexico by El Paso pursuant to Section 4 of this Service Schedule. El Paso's obligation hereunder to maintain and make available to New Mexico, the amount of contingent capacity represented by the Contingent Contract Demand shall be contingent to the extent herein provided, upon availability to El Paso in day-to-day and hour-to-hour operation of its electric system of the particular generating units named in
paragraph A5.3. When one or more of said generating units are not so available, El Paso's obligation to provide contingent capacity shall be limited to the contingent capacity to be supplied from the particular unit or units available for operation by El Paso.

A5.3 Units Upon Which Capacity is Contingent - The particular units referred to in paragraph A5.2 and the contingent capacity to be supplied from each such unit shall, unless otherwise agreed upon by the parties be as follows:

One-half of the Contingent Contract Demand from Unit No. 6 of El Paso's Rio Grande Generating Station and one-half of the Contingent Contract Demand from Unit No. 7 of El Paso's Rio Grande Generating Station; provided, however, that it is the intent of the parties that the Contingent Contract Demand shall be supplied from generating units normally operated by El Paso in the conduct of its own day-to-day operations and the units named herein for contingent capacity shall be subject to change to newer generating units by mutual agreement of the parties as additional generating capacity is added to El Paso's resources.

A5.4 Delivery and Scheduling of Contingent Capacity - El Paso will deliver contingent capacity in amounts which New Mexico may from time to time require up to a maximum rate of delivery equal to the Contingent Contract Demand. Such deliveries shall be made at the Albuquerque Interconnection Site and/or the delivery points specified in Section A4.1 hereof; provided, that for purposes hereof, deliveries shall be measured from the 115 KV switchyard of the Rio Grande Generating Station, or the high voltage switchyard of any replacement
units, and adjusted for appropriate transmission losses, either: positive or negative, applicable to the actual delivery point. The Operating Committee shall establish suitable procedures for the scheduling and accounting of El Paso's deliveries of contingent power and shall determine losses to be applicable to such deliveries.

A5.5 **Energy Rate for Contingent Capacity** - For energy supplied in connection with contingent capacity deliveries, El Paso will charge and New Mexico will pay on a monthly basis, an amount equal to the kilowatthours supplied multiplied by one hundred and ten percent (110%) of El Paso's base cost, as defined in paragraph B5.5 of Service Schedule B, on Units 6 and 7 of its Rio Grande Generating Station or such other units as may be agreed upon by the parties; **Provided**, that energy deliveries made during the interim period as defined in Paragraph A5.7 shall be paid for by New Mexico at a rate equal to 110% of El Paso's actual base cost as previously defined, but not restricted to Units 6 and 7 of El Paso's Rio Grande Generating Station.

A5.6 **Scheduling of Shutdowns** - In order to minimize adverse effects upon New Mexico's system due to suspension of delivery of contingent capacity arising from unavailability of the generating units specified in Paragraph A5.3 hereof, El Paso will cooperate with New Mexico in scheduling planned shutdowns of said generating units for inspection, maintenance or repairs so that such shutdowns, to the extent reasonably possible, will be at times least likely to interfere with service to customers or to necessitate reliance upon reserve power sources with high operating costs and El Paso will give New Mexico any possible advance notice of forced shutdown of any of said generating units.
A5.7 **Interim Delivery of Contingent Capacity** - By mutual agreement of the parties, New Mexico may, by written notice or notices to El Paso, elect to receive contingent capacity deliveries during all or part of the period beginning with the effective date of this Service Schedule, and extending to the date of firm operation of Unit No. 4 of the Four Corners Project, and in such event said deliveries shall be considered in lieu of equivalent contingent capacity deliveries for a two year period following the date of firm operation of Unit No. 5 of the Four Corners Project, or for such longer period as may be required to offset contingent capacity deliveries by El Paso to New Mexico during the Interim Period. The notices to be provided by New Mexico, under terms of this Paragraph, shall specify the quantities and period for which advance deliveries of contingent capacity are requested and the equivalent reduction in contingent capacity deliveries during the latter period. Prior to the time that El Paso's transmission facilities to the Albuquerque Interconnection Site have been completed and placed in service, any advance deliveries of contingent capacity to New Mexico shall be made at the point at which the 115 KV transmission system of El Paso is attached to the 115 KV transmission system of the United States Bureau of Reclamation's Rio Grande Project at or near Las Cruces, New Mexico.

This Service Schedule A is agreed upon as of the date of the Interconnection Agreement.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]

PRESIDENT

Attest:

/s/ [ILLEGIBLE]

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]

PRESIDENT

Attest:

/s/ [ILLEGIBLE]

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<td>Section 7</td>
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This Service Schedule B is agreed upon as part of the Interconnection Agreement between El Paso Electric Company and Public Service Company of New Mexico.

SECTION 1

PURPOSE

B1.1 The purpose of this service schedule is to provide for energy interchange and spinning reserve interchange between the power systems of the parties and to establish terms and conditions for such interchange.

B1.2 The type of energy interchange primarily intended to be provided for herein is that type commonly known as economy energy interchange, which can be supplied from power sources available at the time which would not otherwise be fully utilized and which can be utilized by the receiver to reduce generation from more expensive units, to avoid starting generating units not in active service, to reduce or avoid more expensive energy purchases, and to avoid curtailing deliveries of secondary or interruptible power. It is not the intent of the parties that use of energy interchange hereunder shall be rigidly limited to situations where the energy received is a replacement or substitution for energy from an alternative source immediately available to the receiver. On the other hand, except in accordance with Service Schedule "C" or other reserve capacity arrangement, it is not intended by
the parties that energy interchange shall be utilized by the receiver as a substitute for providing adequate power resources by power purchase or installation of generating facilities, or that either party shall be obligated to supply to the other party, as energy interchange hereunder, power or energy which it believes would be utilized by the receiver for such purpose.

B1.3 The type of interchange intended to be provided for herein as spinning reserve interchange is the occasional operation by one party of more spinning reserve capacity (synchronized generating capacity in excess of load being carried) than would be called for by conditions in its own system in order to make up for a deficiency of such spinning reserve capacity being operated at the time by the other party, when circumstances are such that an unbalance in proportions of spinning reserve is in the interest of overall economy or overall reliability in the combined systems of the parties. It is not intended by the parties that spinning reserve interchange hereunder shall be utilized by the receiver as a substitute for providing adequate power resources by power purchase or installation of generating facilities.

SECTION 2

TERM

B2.1 This Service Schedule shall become effective concurrently with the Interconnection Agreement and shall continue in effect for an initial period of five (5) years from the effective date, and thereafter until terminated by either party by notice to the other.
party given at least three (3) years in advance of the date of the termination designated in the notice; provided, however, that in the event of termination at any time of the Interconnection Agreement, this Service Schedule shall terminate simultaneously.

SECTION 3

SUPPLY OF ENERGY INTERCHANGE

B3.1 Each party will keep the other party currently informed with respect to unutilized generating capacity in its system and other unutilized power sources which might be used for supplying energy interchange and with respect to the approximate base cost of such sources. Such information may be furnished by communications between load or system supervisors or through such other channels as the Operating Committee may arrange. The information shall be made available on a tentative basis sufficiently in advance to permit orderly formulation of load schedules.

B3.2 Each party will supply energy interchange when and as requested by the other party in amounts up to the otherwise unutilized capacity of its available power sources and transmission connections, subject to the following conditions:

(a) That in the judgment of supplier, such supply will not result in impairment of or jeopardy to service in its system;

(b) That no opportunities are available at the time for sale to third parties which would afford a better market; and
That, when energy interchange is being supplied, the supply may be discontinued at the supplier's discretion; and

That the net combined savings estimated from the energy interchange transaction will not be less than 0.25 mills per KWH or such other minimum as the Operating Committee may from time to time establish.

B3.3 Insofar as practicable, the supplier in energy interchange transactions will utilize for such purpose those otherwise unutilized power sources available at the time which have the lowest base cost.

B3.4 Each party shall be the judge as to the conditions under which it is economical and practicable for it to receive energy interchange, but neither party will refuse to receive energy interchange which would yield significant mutual savings without first giving careful consideration to all other factors involved, including such factors as minimum load on those generating units needed to be kept in operation, local area hazards arising from dependence upon transmission, minimum limits on purchases of power from certain sources, and minimum limits on purchases of fuel.

B3.5 Insofar as practicable, hourly schedules for energy interchange transactions shall be arranged between load or system supervisors on a tentative basis at least one day in advance, subject, if unforeseen circumstances arise, to later modification by verbal communication between load or system supervisors. The establishing of standard practices for scheduling of energy interchange shall be a responsi-
bility of the Operating Committee.

B3.6 Each party in the daily operation of its system will endeavor to carry out as consistently as possible any energy interchange scheduled, subject to unforeseen contingencies interfering with the scheduled operation of its power sources or affecting adequacy of service in its system.

B3.7 The delivery point for energy interchange shall be at the interconnection sites, subject to the provisions of Paragraph 5.10 of the Interconnection Agreement with respect to substitute power deliveries. Settlements in respect of energy interchange hereunder shall be based upon the amounts of energy interchange scheduled, hour by hour, between the respective load or system supervisors, except as the Operating Committee may arrange otherwise for any particular situations, including cases where schedules are interfered with by unforeseen contingencies.

SECTION 4

SUPPLY OF SPINNING RESERVE

B4.1 The daily scheduling of spinning reserve capacity in the systems of the parties shall be in accordance with standard practices established by the Operating Committee as to aggregate amount of spinning reserve, during heavy load hours and during other hours, to be provided in the combined systems, and as to the apportionment of this aggregate amount among specific generating units in the two systems. In day-to-day operation such apportionment shall be guided by considerations of
(i) location of spinning reserve at points which are effective in securing overall reliability of service in the combined systems.
(ii) economical sources for carrying spinning reserve, and
(iii) availability and dependability of transmission capacity into local areas.

B4.2 The Operating Committee in establishing standard practices with respect to scheduling of spinning reserve, shall give consideration to the following factors:

(a) As a normal minimum the aggregate amount of spinning reserve capacity to be scheduled for any period should be at least the greater of
   (i) an amount estimated to be sufficient to provide regulating margin and an allowance for actual aggregate power loads in excess of the loads estimated in the daily load schedules, or
   (ii) an amount reasonably related to the loss in aggregate load carrying ability which would result from forced shutdown of the largest single generating unit or transmission circuit scheduled to be in operation, due allowance being made for emergency assistance, if any, expected to be immediately available from third party systems;

(b) The cost of starting up, for spinning reserve purposes, cold units not ordinarily operated, which might indicate the advisability of an occasional temporary scaling down of customary spinning reserve standards;
(c) The extent to which either party deems it advisable for its system to be dependent upon spinning reserve in the system of the other party.

SECTION 5

DEFINITIONS

B5.1 As used in this service schedule, the terms set forth below shall have the meanings indicated.

B5.2 "Energy interchange" in relation to the supplying party means energy which such party obtains by increasing generation or energy purchases, or by decreasing energy deliveries to third parties, simultaneously with and for the purpose of delivering equivalent energy to the other party as energy interchange.

B5.3 "Energy interchange" in relation to the receiving party means energy which such party utilizes by decreasing or avoiding generation or other energy purchases, or by increasing deliveries to third parties, simultaneously with and as a result of receipt of equivalent energy interchange.

B5.4 "Base Cost" in general means a cost assigned for purposes of settlements hereunder to energy supplied as energy interchange. It is to be expressed in mills per kilowatt-hour delivered at interconnection points and is to comprise

(i) the base cost of such energy at power resources as defined in paragraphs B5.5 and B5.6,

(ii) the base cost of energy obtained by decreasing energy sales to third parties as defined in paragraph B5.7, and

(iii) the base cost transmission allowance, if any, provided in paragraph B5.8.

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B5.5 "Base Cost" as applied specifically to energy from thermal generating stations, in terms of net output at high voltage station buses, means the sum of

(i) incremental fuel cost of the station or unit from which energy is obtained, such incremental cost being estimated over the applicable range of variation in output, plus

(ii) Additional cost, if any be incurred, of starting up a station or unit specifically for supply of energy interchange, plus

(iii) an allowance for other incremental costs, including incremental accrued maintenance and any other elements of incremental costs. The normal allowance for such other incremental costs at steam generating stations, until the Operating Committee shall provide for determination in some other manner, shall be as follows:

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<tr>
<td>Under 750 psig</td>
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B5.6 "Base cost" as applied specifically to purchased energy means the incremental or out-of-pocket costs actually resulting from the increased taking from the purchased energy source.

B5.7 "Base cost" as applied specifically to decrease in energy sales to third parties means the out-of-pocket loss actually resulting from the decrease in such sales.
"Loss Allowance," positive or negative, means an allowance for incremental transmission loss incurred or avoided from the incremental source of energy interchange to point of interchange delivery, which allowance shall be five percent unless and until the Operating Committee shall establish some different allowance or range of allowances.

"Base Value" in general means a value assigned for purposes of settlements hereunder to energy received as energy interchange. It is to be expressed in mills per kilowatt-hour received at interconnection points and is to comprise

(i) the base value at power sources of energy displaced as defined in paragraph B5.10,
(ii) the base value at delivery points of energy resold as defined in paragraph B5.11, and
(iii) the base value transmission allowance, if any, provided in paragraph B5.8.

"Base value" as applied specifically to an alternative source of generation or purchased energy has a meaning corresponding to that of "base cost" in the case of the supplying party (as defined in paragraphs B5.5 through B5.7) except that the incremental costs involved are those avoided rather than those incurred, after allowance for subsequent additional cost, if any be incurred, for starting up a station or unit specifically resulting from having received energy interchange.

"Base value" as applied specifically to energy interchange which is resold as such means the incremental or in-pocket gain received for such resold energy at the point of resale.
B5.12 "Ceiling value" as applied to energy interchange received means a maximum value which shall be used instead of base value in cases where base value is not determined or is higher. Until and unless the Operating Committee shall establish a different value, ceiling values shall be the higher of the following:

(a) 9 mills per kilowatthour  
(b) 120 percent of suppliers base cost  

B5.13 "Emergency capacity" of a power source as of any day means the amount of power which that source can be depended upon to supply under emergency conditions of infrequent occurrence. It is to be determined as to all power sources in terms of net kilowatt input into transmission and distribution feeders at power sources and as to classes of power sources on the following basis:

(a) As to thermal generating units, the capacity of such units at those kilowatt ratings which the owner is willing and able to use for 5 hours of continuous operation;  
(b) As to third party sources of purchased power, 104% of the capacity contractually available on that day in the case of firm power sources, and the amount actually being received in the case of secondary or interruptible sources.  

B5.14 "Peak-prepared-for" means, as to either party for any day, the sum in kilowatts during the peak period of that day of

(i) emergency capacity of its generating facilities actually in operation, plus  
(ii) the emergency capacity from third party sources as defined in paragraph B5.13(b) above and actually
available, the peak period for that day being that hour when the combined load of the parties' systems is at a maximum for that day.

B5.15 "Peak spinning reserve" means, as to either party for any day, the kilowatts of peak-prepared for less the kilowatts of load carried by that party's sources of power, not including energy interchange generated for the other party, during the aforesaid peak period for that day.

B5.16 "Peak spinning reserve quota" means, as to a party for any day, the aggregate peak spinning reserve of the parties' systems multiplied by a factor equal to the "reserve responsibility ratio" of that party derived as provided in paragraph C3.8 of Service Schedule "C", but not to exceed the responsibility ratio multiplied by the largest single hazard of the combined systems for which the Operating Committee has agreed to supply spinning reserve protection. Unless otherwise agreed upon by the parties the peak spinning reserve quota shall not apply during the interim period defined in Paragraph A5.7 of Service Schedule A and any interchange of spinning reserve during the interim period shall be accounted for as provided in Paragraph B7.1 hereof.

SECTION 6

SETTLEMENTS FOR ENERGY INTERCHANGE

B6.1 Settlements with respect to energy interchange transactions hereunder shall be by payment by the receiving party to the supplying party of an amount equivalent to the base cost to the supplying party plus one-half of the aggregate saving indicated by subtracting such base cost from the base value to the receiving party or from the ceiling value as the case may be. The data for computing such settlements shall be recorded on the basis of clock hour intervals, and computations for such settlements shall be carried out monthly.
B6.2 The monthly bill for the aggregate net amount of money resulting from energy interchange shall be rendered by the party to whom such aggregate net amount is due. The bill shall show the aggregate gross transactions in each direction in kilowatthours and in money amounts.

B6.3 Payment of bills with respect to energy interchange transactions hereunder shall be made monthly on the basis provided in Article 7 of the Interconnection Agreement.

B6.4 If circumstances arise such that the parties consider it desirable that certain specific energy interchanges or other non-firm intersystem energy transactions should be carried out and settled for on some special arrangement (such for instance as by non-concurrent return of energy either in equivalent amount or in some ratio other than unity of energy returned to energy supplied), it shall be within the responsibility of the Operating Committee to work out such arrangement and such form of settlement. Any such arrangements so worked out by the Operating Committee shall not be effective for a longer period than 30 days unless approved by the parties.

SECTION 7

SETTLEMENTS FOR SPINNING RESERVE

B7.1 Settlement with respect to surplus or deficiency of peak spinning reserve compared with peak spinning reserve quota shall be based upon a charge per kilowatt per day payable by the party with a deficiency to the party with a surplus. Such charge shall be established from time to time by the Operating Committee on the basis of the estimated average incremental costs per kilowatt per day of providing spinning reserve capacity over the heavy load period of the day. Unless and until the Operating Committee shall establish a difference charge, such charge shall be 6.0 mills per kilowatt per day of peak spinning reserve
deficiency, provided that during the interim period, spinning reserve interchange shall be calculated at a rate equal to actual cost of starting up units specifically for spinning reserve.

B7.2 The monthly bill for the aggregate net amount of money resulting from spinning reserve interchange shall be rendered by the party to whom such aggregate net amount is due. The bill shall show the aggregate gross transactions in each direction in kilowatt-days and in money amounts.

B7.3 Payment of bills with respect to spinning reserve interchange hereunder shall be made monthly on the basis provided in Article 7 of the Interconnection Agreement.

This Service Schedule B is agreed upon as of the date of the Interconnection Agreement.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
PRESIDENT

Attest:

/s/ [ILLEGIBLE]
PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]
PRESIDENT

Attest:

/s/ [ILLEGIBLE]
## Reserve Capacity and Reciprocal Emergency Assistance

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SERVICE SCHEDULE C
RESERVE CAPACITY AND
RECIPROCAL EMERGENCY ASSISTANCE

This Service Schedule C is agreed upon as part of the Interconnection Agreement between El Paso Electric Company and Public Service Company of New Mexico.

SECTION 1
PURPOSE

C1.1 The purpose of this Service Schedule C is

(i) to establish minimum generating reserve requirements for the combined operations of the parties and the responsibility of each party to provide its proportionate share,

(ii) to establish arrangements for either party to purchase reserve generating capacity from the other party, and

(iii) to establish conditions and terms for reciprocal emergency assistance between the parties under emergency conditions when power supply to consumers is threatened or curtailed in either system.

C1.2 It is not contemplated by the parties that purchase of reserve generating capacity under terms of this service schedule are likely to be used ordinarily by either party to offset a capacity deficiency in its system of continuing character or of major magnitude, or as an alternate to increasing its power resources by other means. However, the provisions for purchase of reserve generating capacity are intended to be applicable to any disparity in margin of reserve capacity which may from time to time exist, including conditions of zero margin or negative margin on one of the systems.
SECTION 2

TERM

C2.1 This service schedule shall become effective concurrently with the Interconnection Agreement and shall continue in effect for an initial period of five (5) years from the effective date, and thereafter until terminated by either party by notice to the other party given at least three (3) years in advance of the date of the termination designated in the notice; provided however, that in event of termination at any time of the Interconnection Agreement this service schedule shall terminate simultaneously.

SECTION 3

DEFINITIONS

C3.1 For the purpose of this service schedule the terms set forth below shall have the meanings indicated.

C3.2 "Daily system demand", as applied to the interconnected system of either party for any day, means the aggregate power requirements for supplying its firm power customers, but not including any power sale by one party to the other. Furthermore, it does not include the power requirements for supplying

(i) any interruptible or secondary power loads which the party has the right to discontinue at its discretion and which it is the party's practice to discontinue when need arises, or

(ii) any load which the party is supplying contingent upon the availability for operation in its system of one or more particular generating units.

Daily system demand is to be expressed in terms of net kilowatt input into transmission and distribution feeders at power sources or such other points as the Operating Committee may specify for
the clock hour during which such aggregate power requirements are a maximum.

C3.3 "Monthly system demand," as applied to the interconnected system of either party for any month, means the average of the three highest daily system demands occurring during the twelve-month period comprising the current month and the preceding eleven months, said three demands to be selected so that not more than one of the three is from the same calendar week and not more than two of the three are from the same calendar month.

C3.4 "Accredited capacity" of a power source of either party means the amount of power which that source can contribute to meeting the power requirements of that party's interconnected system, provided that in determining the aggregate accredited capacity of a party no reduction shall be made because of the first 45 days of any period of temporary unavailability of a generating unit or other power source arising from outage for inspection, repair or rehabilitation, and provided further that the Operating Committee at its discretion may waive the omission of such generating unit or other power source from accredited capacity for a longer period of unavailability than 45 days. Accredited capacity is to be determined as to all power sources in terms of net kilowatt input into transmission and distribution feeders at power sources, or at such other points as the Operating Committee may specify, and as to classes of power sources on the following basis:

(a) Thermal generating stations, on the basis

   (i) of all essential equipment being available for service.
(ii) of condensing water temperatures being those normally available as an average during the month of the year
when combined system load is maximum, and

(iii) at those kilowatt ratings for individual generating units which the owner is willing to use for regular day-to-day
operation on a 24-hour schedule for base load units and on a 10-hour schedule for peaking units;

(b) Purchased or contract power, on the basis of the capacity available under contracts in regular day-to-day operation
during the heavy load hours of the purchaser's system.

C3.5 "System capacity," as applied to the interconnected system of either party for any month, means the summation of the
accredited capacities of its power sources after

(i) deducting a number of kilowatts equal to the contract demand of any firm power sales to the other party, and

after

(ii) deducting a number of kilowatts equal to the contract demand of any capacity which the party is supplying to
the other party or to third parties contingent upon the availability for operation in its system of one or more particular
generating units.

(iii) the Contingent Contract Demand will constitute:

(a) a deduction in the determination of the system capacity of El Paso.

(b) an addition in the determination of the system capacity of New Mexico.
C3.6  "Reserve Margin", as applied to the Interconnected System of either party for any month, means the excess of that party's system capacity over its monthly system demand adjusted by adding thereto the amount of reserve capacity contractually available from third party systems; provided, however, that reserve capacity contractually available to both systems shall be accounted for by appropriate reduction in the largest single combined hazard for which reserve margin is to be provided pursuant to Section C3.9 hereof; and, provided further, that the Operating Committee shall establish suitable procedures for determining adjustments for reserve capacity available from third party systems.

C3.7  "Largest single hazard," as applied to the interconnected system of either party for any month, means the maximum amount of reduction in its system capacity which would result from the outage of any single generating unit or any single transmission circuit. In case a party is supplying capacity contingent upon the availability of one particular unit in its system, the hazard from the outage of such unit shall be the accredited capacity of that generating unit minus the contract demand of such contingent capacity. In case a party is supplying capacity contingent upon the availability of two or more particular generating units, the hazard from the outage of any one such unit shall be the accredited capacity of that unit minus a number of kilowatts equal to the contract demand of such contingent capacity divided by the number of supplier's generating units upon the availability of which the supply of such capacity is contingent.
C3.8  "Reserve responsibility ratio," as applied to the interconnected system of either party for any month, means the following ratio:

(a) largest single hazard of that system plus 25% of the monthly system demand of that system, divided by

(b) Sum of the largest single hazards of each of the systems plus 25% of the sum of the monthly system demands of each of the systems.

C3.9  "Reserve responsibility," as applied to the interconnected system of either party means a number of kilowatts equal to the reserve responsibility ratio of the system multiplied by the largest single hazard of the combined systems for which the parties shall have agreed upon in advance to jointly provide reserve generating capacity, provided that if either party should in the future establish a largest single hazard which is greater than the parties have mutually agreed upon to jointly provide reserve generating capacity, then in such event the reserve responsibility of the party establishing the greater hazard shall be increased by the difference between its largest single hazard and the largest hazard for which the parties have agreed to jointly provide generating capacity; and, provided further, that the provisions of this Service Schedule C regarding reserve responsibility shall not apply prior to the date of firm operation of Unit No. 4 of the Four Corners Project.

C3.10  "Reserve deficiency," as applied to the interconnected system of a party, means the number of kilowatts by which that party's reserve responsibility exceeds its reserve margin.
"Reserve power," means power which a party is entitled to receive to protect or restore service in its system up to the amount of such system's reserve deficiency, under the conditions set out in paragraph C4.1.

"Emergency assistance," means power which a party needs to receive in order to protect or restore service in its system which it is not entitled to call for as reserve power (either because it needs more power than its reserve power entitlement or because it is not the party having a reserve deficiency and paying a reserve capacity charge).

SECTION 4

RESERVE CAPACITY

C4.1 Reserve Power - During any period when one of the parties has a reserve deficiency and is paying a capacity charge thereon as provided in paragraph C4.2, such party shall be entitled to receive from the other party, at an active interconnection point, reserve power under the following conditions:

(a) When the supply of such reserve power will not require the suppling party to curtail supply of interruptible or secondary power to third parties or to start up cold generating equipment;

(b) After all of the reserve power available under the conditions of subparagraph (a) above has been supplied and it is necessary in order to protect or restore service to the combined firm load requirements to curtail deliveries of interruptible or secondary power or to start up cold generating equipment, or both, the entitle-
ment to receive additional reserve power and the obligation to supply such additional reserve power shall be on the basis of each party curtailing delivery of interruptible or secondary power in proportion to its reserve responsibility ratio;

(c) After all of the reserve power available under conditions of subparagraphs (a) and (b) above has been supplied and there are still insufficient aggregate power resources available in the systems to meet aggregate firm load requirements, curtailment of firm load by the parties shall be in accordance with operating procedures to be established by the Operating Committee.

C4.2 **Reserve Capacity Charge** - From and after the date of commercial operation of Unit No. 4 of the Four Corners Project, a party having a reserve deficiency in any month will pay to the other party a reserve capacity charge for that month in an amount equal to its reserve deficiency in kilowatts multiplied by the applicable rate set out below.

- $0.7917 per kilowatt per month for the first 10,000 kilowatts, plus
- $0.8750 per kilowatt per month for the next 10,000 kilowatts, plus
- $0.9583 per kilowatt per month for all additional kilowatts.

C4.3 **Reserve Capacity Surcharge** - If in any month the reserve margin of one party's interconnected system shall be negative, such party will pay a surcharge to the other party of $0.25 per kilowatt-month on the
kilowatts of negative reserve margin; provided, however, that such surcharge shall be inapplicable during any specified period as to which the parties may have agreed in advance to its waiver.

C4.4 Energy Charge for Reserve Power - The energy received in connection with use of reserve power by the receiving party, shall be accounted for as energy interchange, and settlements therefor shall be made as provided for in Service Schedule B.

C4.5 Payment of Bills - Payment of bills with respect to reserve capacity transactions hereunder shall be made monthly on the basis provided in Article 7 of the Interconnection Agreement.

SECTION 5

RECIPROCAL EMERGENCY ASSISTANCE

C5.1 Either party will, upon request of the other party, supply as emergency assistance such power as the requesting party may need in order to protect or restore service to its firm power customers, subject to the availability of such power and subject to the condition that such supply will not result in impairment of or serious jeopardy to firm power service in the supplier's system. A party from whom emergency assistance is requested will to the extent required call upon all power sources available to it and will give such emergency assistance priority over interruptible or secondary deliveries to third parties.

C5.2 There shall be no demand charge in connection with emergency assistance, and the energy received in connection therewith shall be accounted for as energy interchange and settlements therefor shall be made as provided for in Service Schedule B.
C5.3 Payment of bills with respect to energy interchange transactions hereunder shall be made monthly on the basis as provided in Article 7 of the Interconnection Agreement.

SECTION 6

RESPONSIBILITIES OF COMMITTEES

C6.1 The Operating Committee shall determine from time to time what portions, if any, of either party's interconnected system are so ineffectively interconnected that they cannot suitably be included as part of the party's interconnected system for purposes of this service schedule.

C6.2 The Operating Committee, in addition to the general responsibilities assigned to it in the Interconnection Agreement, shall establish rules and standard practices for determining system demands, accredited capacities and reserve capacity deficiencies, consistent with the definitions in Section C3, shall approve the accredited capacities assigned to power sources before they become effective for computing settlements hereunder and shall review at least quarterly the accredited capacities then in effect.

C6.3 It shall be within the scope of the responsibilities of the Coordination Committee to review and make revisions of the following provisions hereof; provided, however, that revisions of the charges referred to in subparagraphs (b) and (c) shall be subject to the approval of the parties.

(a) The provisions of paragraph C3.8 in respect to the relative weight to be given to the system demand and to the largest single hazard;
(b) The provisions of C4.2 in respect of the rates per kilowatt-month for the reserve capacity charge;

(c) The provisions of paragraph C4.3 in respect of the reserve capacity surcharge.

This Service Schedule C is agreed upon as of the date of the Interconnection Agreement.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
   PRESIDENT

Attest:

/s/ [ILLEGIBLE]

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]
   PRESIDENT

Attest:

/s/ [ILLEGIBLE]
This Service Schedule E is entered into as of March 1, 1979, and is agreed upon as a part of the Interconnection Agreement between El Paso Electric Company and Public Service Company of New Mexico, dated July 19, 1966, as amended April 6, 1977.

**SECTION 1**

**PURPOSE**

In order for either Party to utilize certain power and energy available to it, each Party shall make available to the other such transmission capacity determined to be surplus by the providing Party, as may be requested by the other Party. The transmission capacity shall be provided hereunder on an interruptible basis, and such capacity shall be provided only when it will not result in impairment of or jeopardy to service in the system of the Party providing service.

**SECTION 2**

**TERM**

This Service Schedule shall become effective upon execution by both Parties, subject to its acceptance for filing by the Federal Energy Regulatory Commission, and shall remain in effect concurrently with the Interconnection Agreement dated July 19, 1966, as amended, unless modified or superseded by some other agreement between the Parties; however,
either Party may cancel this Service Schedule E by giving not less than sixty (60) days written notice to the other Party of such intent to cancel.

SECTION 3

SERVICE

3.1 **Wheeling for El Paso**: All deliveries made under this section shall be considered as originating from the source selected by El Paso. Power and energy delivered by El Paso to New Mexico for transmission by New Mexico to a designated Point of Delivery shall include power and energy to compensate for transmission losses. Under this Service Schedule E, New Mexico shall accept for transmission such power and energy as El Paso may request, up to the amount which in New Mexico's sole opinion is available in New Mexico's transmission system.

3.2 **Wheeling for New Mexico**: All deliveries made under this section shall be considered as originating from the source selected by New Mexico. Power and energy delivered by New Mexico to El Paso for transmission by El Paso to a designated Point of Delivery shall include power and energy to compensate for transmission losses. Under this Service Schedule E, El Paso shall accept for transmission such power and energy as New Mexico may request, up to the amount which in El Paso's sole opinion is available in El Paso's transmission system.

3.3 Surplus transmission capacity and amounts to be wheeled shall be agreed upon by the respective dispatchers of the Parties from time to time in advance of scheduling usage.

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SECTION 4
LOSSES

Unless and until the Operating Committee shall assign a different loss factor, losses shall be assigned to the receiving Party at the rate of three percent (3%) of the power and energy scheduled for transmission hereunder.

SECTION 5
RATE

It is agreed by the Parties that as consideration for the interruptible wheeling service as provided herein, the Party receiving transmission service shall compensate the Party providing transmission service at the rate of one (1) mill per kWh scheduled for transmission hereunder.

SECTION 6
OTHER PROVISIONS

Other terms and conditions of this Service Schedule shall be as set forth in the Interconnection Agreement of July 19, 1966, as amended between the Parties.

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IN WITNESS THEREOF, the Parties have caused this Service Schedule E to be executed by their duly authorized officers and their corporate seals to be affixed, all as of the day and year first herein written.

ATTEST:

EL PASO ELECTRIC COMPANY

/s/ [ILLEGIBLE]
Secretary

BY
/s/ [ILLEGIBLE]
Vice-President

ATTEST:

PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ [ILLEGIBLE]
Secretary

BY
/s/ [ILLEGIBLE]
Vice President
This Service Schedule F is entered into as of January 28, 1983, and is agreed upon as part of the Interconnection Agreement between El Paso Electric Company (El Paso) and Public Service Company of New Mexico (New Mexico), dated July 19, 1966, as amended April 6, 1977.

SECTION 1

PURPOSE

1.1. New Mexico will have, in addition to energy already reserved for other customers, surplus energy available during the mid-1980s. El Paso will have the ability to reduce the generation of gas-fired energy from their generation resources through the purchase of more economical energy during the period March 1983 through January 1984. The parties now desire by this Service Schedule F to establish terms and conditions under which nonfirm energy may be sold by New Mexico to El Paso thereby making more efficient use of the parties' electrical system resources.

SECTION 2

TERM

2.1. This Service Schedule F shall become effective upon its execution by the parties subject to its acceptance for filing by the Federal Energy Regulatory Commission. This Service Schedule F shall continue

-1-
in force and effect until January 31, 1984, and from month to month thereafter, until terminated by either party in accordance with Section 2.3. Such termination shall not relieve El Paso of its obligation to make payments, in accordance with Section 7 hereof, for energy purchased prior to the termination date.

2.2 The date of initial service, upon which date deliveries of energy to El Paso shall commence (hereinafter referred to as the "Date of Initial Service"), shall be March 1, 1983; provided, that El Paso is satisfied that the Texas Public Utility Commission will allow full pass through of El Paso's expenses incurred hereunder through its jurisdictional fuel adjustment clause. In the event El Paso notifies New Mexico prior to March 1, 1983, that it has been unable to obtain such rate treatment for its expenses hereunder, the Date of Initial Service shall be changed to a later date satisfactory to both parties or, in the event the parties fail to agree, this Service Schedule shall be renegotiated to provide the parties the respective benefits presently anticipated to be obtained hereunder and allowing rate treatment satisfactory to El Paso.

2.3 Either party may unilaterally terminate this Service Schedule F upon at least 30 days written notice to the other party specifying a termination date, provided that such termination date shall not be earlier than January 31, 1984. In the event both parties give notice of termination, in accordance with the above, the earliest date selected shall be the termination date.
SECTION 3

SERVICE

3.1 New Mexico shall make available to El Paso, and El Paso shall purchase during the term hereof, energy, in the amount of approximately four hundred (400) gigawatt hours, at a minimum rate of delivery of fifty (50) megawatts each hour, subject to the conditions set forth in Sections 3 and 4 hereof. For purposes of this Service Schedule F, the energy associated with a delivery rate of fifty (50) megawatts per hour shall be deemed to be "Block Energy."

3.2 Should Block Energy schedules be reduced by either party pursuant to Section 4.1.2 or Section 4.2.2, respectively, the parties will use their best efforts to reschedule and deliver that Block Energy not previously delivered, during similar hours within the next succeeding thirty (30) days. In the event the parties are unable to reschedule deliveries of Block Energy not previously delivered within the above stated thirty (30) day period, the Operating Committee, pursuant to Section 5.9 of the Interconnection Agreement, may mutually agree to reschedule Block Energy not previously delivered prior to the date of termination of this Service Schedule F. New Mexico shall have no obligation to deliver rescheduled Block Energy during any hour if the costs to New Mexico to deliver such energy exceeds the rate for energy stated in Section 7.1.1 of this Service Schedule F.

3.3 A party's obligation to schedule or deliver Block Energy, including that under Section 3.2, shall cease upon the termination of this Service Schedule F.
SECTION 4

INTERRUPTIBILITY

4.1 New Mexico may curtail or interrupt deliveries to El Paso in accordance with the following:

4.1.1 Immediately, upon verbal notice to El Paso, if the scheduled energy is required to serve New Mexico's firm customer load, or without notice if due to Uncontrollable Forces, as defined in Section 8.1 of the Interconnection Agreement.

4.1.2 Upon providing a minimum of two hours verbal notice to El Paso, if New Mexico's cost to generate or procure energy for delivery hereunder is more than the rate specified in Section 7.1.1 hereof and provided that all New Mexico economy energy sales to third parties are reduced to zero.

4.2 El Paso may curtail or interrupt its scheduled deliveries of Block Energy from New Mexico in accordance with the following:

4.2.1 Immediately, without notice, if due to Uncontrollable Forces, as defined in Section 8.1 of the Interconnection Agreement.

4.2.2 Upon providing a minimum of two hours verbal notice to New Mexico, if system operating conditions, other than Uncontrollable Forces, limit El Paso's ability to import energy hereunder and provided
that all of El Paso's economy energy imports have been reduced to zero. El Paso's rights to curtail or interrupt its scheduled receipts hereunder are limited to a maximum aggregate reduction of schedules of one (1) gigawatt hour each calendar month, except, if unexpected system operating conditions limiting El Paso's ability to import energy persist, El Paso may continue to curtail or interrupt deliveries of Block Energy hereunder, over and above one (1) gigawatt hour each calendar month, provided all of El Paso's imports from third parties have been reduced to zero.

4.3 In the event Block Energy schedules are curtailed or interrupted pursuant to Section 4.1 or 4.2 hereof, Block Energy schedules shall be reinitiated two hours after notification by the party originating the reduction of schedule that it is prepared to resume the schedule unless the system dispatchers mutually agree to a lesser period. Such notification to resume Block Energy schedules shall be given by the originating party as soon as possible after any such curtailment or interruption.

SECTION 5

ADDITIONAL ENERGY DELIVERIES

5.1 The rate of delivery for any hour may be increased by mutual agreement of the system dispatchers to provide deliveries of additional energy to El Paso by New Mexico. Such energy shall not be considered a part of the Block Energy to be provided pursuant to Section 3. In such event, either party may reduce the increased schedule upon verbal notice to the other party provided, however, that New Mexico's aggregate
schedule to El Paso shall not be reduced to less than the hourly rate of fifty (50) megawatts each hour, except as provided in Section 4 hereof.

SECTION 6

POINT OF DELIVERY

6.1 The Point of Delivery for transactions hereunder shall be Public Service Company of New Mexico's West Mesa 345 kV switching station, located near Albuquerque, New Mexico.

6.2 Other delivery points may be mutually agreed upon by the parties' respective system dispatchers if energy deliveries cannot be made available by Public Service Company of New Mexico, or accepted by El Paso, at West Mesa.

SECTION 7

RATES

7.1 Commencing on the Date of Initial Service, and in consideration of the faithful performance of the convenants of this Service Schedule, El Paso shall pay New Mexico:

7.1.1 For all energy delivered hereunder at a rate of delivery of 50 MW or less per hour, twenty-four ($24.00) dollars per megawatt hour.

7.1.2 For all energy delivered hereunder at a rate of delivery in excess of 50 MW per hour, (a) twenty-three dollars ($23.00) per megawatt
hour, and (b) if the state of New Mexico imposes any new tax upon electrical energy generated within the state of New Mexico which is appropriately assessed upon the energy described in this Section 7.1.2, El Paso shall pay to New Mexico the amount of such tax up to a limit of the rate of one ($1.00) dollar per megawatt hour.

7.2 The charges specified in Sections 7.1.1 and 7.1.2 hereunder shall not be subject to change during the term of this Service Schedule F.

7.3 The monthly billings and payments shall be addressed as follows:

7.3.1 El Paso Electric Company
Post Office Box 982
El Paso, Texas 79960
Attention: General Accounting Department

Public Service Company of New Mexico
Alvarado Square
Albuquerque, New Mexico 87103
Attention: Cash Management

SECTION 8
OTHER PROVISIONS

8.1 Other terms and conditions of this Service Schedule F, as applicable, shall be as set forth in the Interconnection Agreement of July 19, 1966, as amended between the parties.
IN WITNESS THEREOF, the parties have caused this Service Schedule F to be executed by their duly authorized officers all as of the day and year first herein written.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]__
Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]__
Sector Vice President

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This Service Schedule G is agreed upon as a part of the Interconnection Agreement between El Paso Electric Company (EPE) and Public Service Company of New Mexico (PNM).

G.1 PURPOSE

G.1.1 The purpose of this Service Schedule is to provide the terms and conditions under which PNM agrees to reserve and provide firm transmission capacity in the PNM transmission system for EPE.

G.2 DEFINITIONS

G.2.1 The following terms, when used herein, whether in the singular or in the plural, shall have the meanings specified;

G.2.2 ANPP: The Arizona Nuclear Power Project, consisting of three electrical generating units, associated 500 kV switchyard, and certain 500 kV transmission lines within the state of Arizona.

G.2.3 FCAP: The planned Four Corners-Ambrosia-Pajarito transmission line together with related termination facilities.

G.2.4 Springerville-Luna-El Paso Transmission Project: EPE’s planned 345 kV transmission line emanating from Tucson Electric Power
Company's and PNM's Springerville 345 kV switching station and looped in and out of the Luna 345 kV switching station, then onto and terminating in the vicinity of El Paso, Texas.

G.3 TERM

G.3.1 Subject to the acceptance of the Federal Energy Regulatory Commission (FERC), and unless otherwise agreed by the Parties in writing, service under this Service Schedule shall commence on the earlier of the commercial operation date of ANPP Unit 2 or May 1, 1985.

G.3.2 This Service Schedule shall remain in effect until the earlier of the in-service date of FCAP or May 1, 1995, unless terminated earlier pursuant to section G.4.2 or section G.5.2; provided that if EPE's reserved transmission capacity is reduced to zero (0) megawatts at anytime after June 1, 1987, this Service Schedule shall terminate.

G.4 SERVICE TO BE PROVIDED

G.4.1 Period I: Commencing the earlier of the commercial operation date of ANPP Unit 2 or May 1, 1985, until the in-service date of EPE's Springerville-Luna-El Paso Transmission Project, but no later than June 1, 1987, PNM shall reserve one hundred (100) megawatts in aggregate of firm bidirectional transmission capacity for EPE to schedule as EPE requires between the San Juan and West Mesa 345 kV switchyards, the Four Corners and West Mesa 345 kV switchyards, and the Greenlee and Luna 345 kV switchyards; provided, however, EPE's scheduled usage of PNM's
transmission capacity between the Greenlee and Luna 345 kV switchyards may not exceed fifty (50) megawatts.

G.4.2 Period II: Commencing on the earlier of the in-service date of EPE's Springerville-Luna-El Paso Transmission Project or June 1, 1987, until the in-service date of FCAP, PNM shall reserve fifty (50) megawatts in aggregate of firm bidirectional transmission capacity for EPE to schedule as EPE desires between the San Juan and West Mesa 345 kV switchyards and the Four Corners and West Mesa 345 kV switchyards. EPE shall have the option during Period II to increase the amount of reserved transmission capacity by an addition of up to fifty (50) megawatts with two (2) years advance notice to PNM. PNM shall be obligated to reserve the additional firm transmission capacity only to the extent it is available. EPE shall have the option to reduce or terminate service under this Service Schedule upon two (2) years advance written notice to PNM, such reduction or termination to be effective no earlier than June 1, 1987.

G.5 PAYMENT FOR SERVICE

G.5.1 EPE's average scheduled usage of transmission capacity reserved by PNM hereunder coincident with PNM's monthly system peak is estimated to be approximately fifty percent of such reserved transmission capacity on an annual basis. PNM and EPE have agreed that transmission service hereunder shall take such diversity into consideration and therefore, EPE shall pay $1.50/kW-month for such reserved transmission capacity; provided, however, that in each contract year, EPE shall use
its best efforts to limit the sum of its megawatt wheeling schedules for the transmission capacity reserved hereunder during the PNM system peak hour of each month to twelve (12) times the reserved transmission capacity times the diversity value used in PNM’s rate filing to derive the $1.50/kW-month.

G.5.2 At any time subsequent to the initial rate acceptance by the FERC, PNM may unilaterally file with the FERC for an increase in such rate under Section 205 of the Federal Power Act; provided, however, that any increase in rate shall not become effective prior to June 1, 1987. After final approval by the FERC of any rate change hereunder or 180 days after the rates have been placed into effect, whichever occurs sooner, EPE shall, for a period of thirty (30) days, have an option to terminate or reduce service under this Service Schedule immediately.

G.6 LOSSES

G.6.1 PNM shall be reimbursed by the return of energy by EPE for actual average system losses as such losses result from EPE’s use of PNM's transmission system hereunder. The methodology for determining such losses shall be agreed upon by the Operating Committee prior to January 1, 1985. In the event the Operating Committee is unable to mutually agree by such time, the loss methodology issue shall be resolved in accordance with Section 4.4 (Disagreements) of the PNM/EPE Interconnection Agreement.
G.7 MISCELLANEOUS

G.7.1 Other terms and conditions of this Service Schedule G shall be as set forth in the PNM/EPE Interconnection Agreement; provided, however, in the event of a conflict between this Service Schedule G and the PNM/EPE Interconnection Agreement, this Service Schedule G shall govern.

G.7.2 In the event this Service Schedule G shall be terminated, the obligations of the Parties with respect to payment for transmission service received prior to the termination date shall continue until all payments due under this Service Schedule G have been made.

Executed in duplicate this 18th day of March, 1983.

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]

ATTEST: EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
November 15, 1993

Mr. Curtis L. Hoskins
Executive Vice President &
Chief Operating Officer
El Paso Electric Company
303 North Oregon Street-Mills Building
El Paso, TX 79901

Dear Mr. Hoskins:

Subject: Amendment to Service Schedule G

Section 5.1 of the TRANSITION AGREEMENT BETWEEN EL PASO ELECTRIC COMPANY (EPE) AND PUBLIC SERVICE COMPANY OF NEW MEXICO (PNM) dated September 2, 1993 (Transition Agreement), contemplates that PNM and EPE would amend SERVICE SCHEDULE G dated March 18, 1983 (Service Schedule G), as follows:

To be effective on the date of execution of this letter, Section G.3.2 of Service Schedule G shall be deleted in its entirety and shall be replaced to read as follows:

"G.3.2 This Service Schedule shall remain in effect until September 1, 1995, unless extended by mutual agreement of the Parties."

Except as otherwise provided herein, the terms and conditions of Service Schedule G shall remain in full force and effect.

Your signature in the space provided below shall indicate EPE's agreement to and acceptance of this amendment to Service Schedule G.

Sincerely,

M. Phyllis Bourque
Senior Vice President

Accepted for EPE:

Curtis L. Hoskins
Executive Vice President

Date: November 24, 1993

M.PB:cm

Alexandra Spru
Albuquerque, New Mexico 87108
705-364-2510
SERVICE SCHEDULE H

BLOCK ENERGY SALE

This Service Schedule H is entered into as of March 16, 1984, and is agreed upon as part of the Interconnection Agreement between El Paso Electric Company (El Paso) and Public Service Company of New Mexico (New Mexico) dated July 19, 1966, as amended.

SECTION 1

PURPOSE

New Mexico will have, in addition to energy already reserved for other customers, surplus energy available during 1984. El Paso will have the ability to reduce the generation of gas-fired energy from their generation resources through the purchase of more economical energy during the term of this Service Schedule H. The parties now desire by this Service Schedule H to establish terms and conditions under which nonfirm energy may be sold by New Mexico to El Paso thereby making more efficient use of the parties' electrical system resources.

SECTION 2

TERM

2.1 This Service Schedule H shall become effective upon its execution by the parties subject to its acceptance for filing by the Federal Energy Regulatory Commission (FERC). This Service Schedule H shall continue in force and effect until terminated by either party in accordance with Section 2.3. Such termination shall not relieve El Paso of its obligation to make payments, in accordance with Section 7 hereof, for energy purchased prior to the termination date.

2.2 The "Date of Initial Service," upon which date deliveries of

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March 1, 1984
energy to El Paso shall commence, shall be April 1, 1984.

2.3 Either party may unilaterally terminate this Service Schedule H upon at least thirty (30) days written notice to the other party specifying a termination date, provided that such termination date shall not be earlier than December 31, 1984. In the event both parties give notice of termination, in accordance with the above, the earliest date shall be selected as the termination date.

SECTION 3

SERVICE

3.1 New Mexico shall make available to El Paso, and El Paso shall purchase during the term hereof, energy in the amount of approximately four hundred and ninety-five (495) gigawatt-hours, at a minimum rate of delivery of seventy-five (75) megawatts each hour, subject to the conditions set forth in Sections 3 and 4 hereof. For purposes of this Service Schedule H, the energy associated with a delivery rate of seventy-five (75) megawatts (MW) each hour shall be deemed to be "Block Energy."

3.2 Should Block Energy schedules be reduced by either party pursuant to Section 4.1.2 or Section 4.2.2, respectively, the parties will use their best efforts to reschedule and deliver that Block Energy not previously delivered, during similar hours within the next succeeding thirty (30) days. In the event the parties are unable to reschedule Block Energy not previously delivered within the above stated thirty (30) day period, the Operating Committee, pursuant to Section 5.9 of the Interconnection Agreement, may mutually agree to reschedule such Block Energy prior to the date of termination of this Service Schedule H.

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March 1, 1984
New Mexico shall have no obligation to deliver rescheduled Block Energy during any hour if New Mexico's Cost to Supply (as defined in Section 4.1.2) such energy exceeds $26.00/MWH during any Peak Hour or $20.00/MWH during any other hour than a Peak Hour.

3.3 In the event New Mexico provides notice of a pending curtailment or interruption to El Paso pursuant to Section 4.1.2, El Paso, at its option, may require New Mexico to continue energy schedules to El Paso in an amount not to exceed seventy-five (75) MW for a period not to exceed the lesser of: (1) eight hours, unless the parties' respective system dispatchers agree to a longer period, or (2) the reinitiation of Block Energy schedules pursuant to Section 4.3. For all such energy delivered to El Paso after the two-hour notice period, El Paso agrees to pay New Mexico's incremental fuel cost or New Mexico's purchased power cost from third parties, whichever is greater; plus either: (1) $1.00/MWH, if such energy is scheduled by El Paso at the Four Corners 345 KV or San Juan 345 KV switchyards or (2) $2.50/MWH, if such energy is scheduled by El Paso at the West Mesa 345 KV switchyard. The parties' respective system dispatchers shall agree in advance of each hour's deliveries as to the price for all such deliveries during that next hour, provided that El Paso may terminate its receipt of energy under this Section 3.3 for that next hour.

3.4 A party's obligation to schedule or deliver Block Energy, including that under Section 3.2, shall cease upon the termination of this Service Schedule H.
SECTION 4

INTERRUPTIBILITY

4.1 New Mexico may curtail or interrupt scheduled deliveries of Block Energy to El Paso in accordance with the following:

4.1.1 Immediately, upon verbal notice to El Paso, if the scheduled energy is required to serve New Mexico's firm customer loads, or without notice, if due to Uncontrollable Forces, as defined in Section 8.1 of the Interconnection Agreement.

4.1.2 Upon providing a minimum of two-hours verbal notice to El Paso, if New Mexico's Cost to Supply Block Energy hereunder is greater than: (1) $26.00/MWH during any Peak Hour or (2) $20.00/MWH during any hour other than a Peak Hour; provided, however, that Block Energy schedules to El Paso shall have priority over all economy energy sales by New Mexico and over all other block energy sales by New Mexico with the following exceptions: (i) a maximum of 85 MW of other block energy sales during each hour for the period from the Date of Initial Service through April 30, 1984; and (ii) a maximum of 50 MW of other block energy sales during each hour for the period May 1, 1984, through the term of this Service Schedule H. For the purposes of this Service Schedule H, the term "Cost to Supply" shall mean the weighted average of New Mexico's incremental fuel cost or New Mexico's purchased power cost from third parties (as such costs are incurred by New Mexico to supply Block Energy to El Paso), plus $1.00/MWH. Calculations by New Mexico of its Cost to Supply shall be made in increments not to exceed 25 MW. New Mexico's right to curtail or interrupt deliveries to El Paso under this Section 4.1.2, shall not apply to that portion of Block Energy schedules.
in which New Mexico's Cost to Supply is less than $26.00/MWH during any Peak Hour or $20.00/MWH during any hour other than a Peak Hour.

4.1.3 Immediately, upon verbal notice to El Paso, if due to transmission system limitations; provided, however, that (1) any curtailments to El Paso arising from this Section 4.1.3 shall be on a pro rata basis with other simultaneous block energy sales by New Mexico which affect the transmission system used for deliveries hereunder, and (2) all economy energy sales by New Mexico which contribute to such transmission system limitations have been interrupted. Block Energy deliveries hereunder may be interrupted or curtailed by New Mexico prior to interrupting or curtailing service to New Mexico's firm customer loads.

4.2 El Paso may curtail or interrupt its scheduled receipts of Block Energy from New Mexico in accordance with the following:

4.2.1 Immediately, without notice, if due to Uncontrollable Forces, as defined in Section 8.1 of the Interconnection Agreement.

4.2.2 Upon providing a minimum of two-hours verbal notice to New Mexico, if system operating conditions, other than Uncontrollable Forces, limit El Paso's ability to import energy hereunder and provided that all of El Paso's economy energy imports have been reduced to zero. El Paso's rights to curtail or interrupt its scheduled receipts of Block Energy hereunder are limited to a maximum aggregate reduction of schedules of one and one-half (1.5) gigawatt-hours each calendar month, except, if unexpected system operating conditions limiting El Paso's ability to import energy persist, El Paso may continue to curtail or interrupt its scheduled receipts of Block Energy hereunder, over and
above one and one-half (1.5) gigawatt-hours each calendar month, provided all of El Paso's imports from third parties have been reduced to zero. Notwithstanding any other provision of this Service Schedule H, El Paso shall have no obligation under this Service Schedule H to reduce its importation of energy from remote generating sources owned by El Paso in order to accept Block Energy from New Mexico.

4.3 In the event Block Energy schedules are curtailed or interrupted pursuant to Section 4.1 or 4.2 hereof, Block Energy schedules shall be reinitiated two hours after notification by the party originating the reduction of schedule that it is prepared to resume the schedule unless the system dispatchers mutually agree to a lesser period. Such notification to resume Block Energy schedules shall be given by the originating party as soon as possible after any such curtailment or interruption.

SECTION 5

ADDITIONAL ENERGY DELIVERIES

The rate of delivery for any hour may be increased by mutual agreement of the system dispatchers to provide deliveries of additional energy ("Additional Energy") to El Paso by New Mexico. Such energy shall not be considered a part of the Block Energy to be provided pursuant to Section 3. Either party may reduce the increased schedule upon verbal notice to the other party provided, however, that New Mexico's aggregate schedule to El Paso shall not be reduced to less than the hourly rate of seventy-five (75) megawatts, except as provided in Section 4 hereof.
SECTION 6

POINT OF DELIVERY

6.1 The Point of Delivery for transactions hereunder shall be New Mexico's West Mesa 345 KV switchyard located near Albuquerque, New Mexico; provided, however, that El Paso shall have the option to designate the Four Corners 345 KV or San Juan 345 KV switchyards as the Point of Delivery for all, or any portion, of the energy to be delivered under this Service Schedule H.

6.2 Other Points of Delivery may be mutually agreed upon by the parties' respective system dispatchers.

SECTION 7

RATES

7.1 Except as may be otherwise provided for in Sections 7.2, 7.3 and 7.4, El Paso shall pay New Mexico for the energy delivered hereunder, as follows:

7.1.1 During Peak Hours: (a) $24.50/MWH for the first 25 MWH delivered in each hour; (b) $26.00/MWH for the second 25 MWH delivered in each hour; and (c) $27.00/MWH for the third 25 MWH delivered in each hour; provided, however, that the applicable price for any Block Energy scheduled by El Paso at the Four Corners 345 KV or San Juan 345 KV switchyards pursuant to Section 6.1 shall be reduced by $1.50/MWH. Peak Hour deliveries of Additional Energy shall be priced as the parties' respective system dispatchers mutually agree. For the purpose of this Service Schedule H, "Peak Hours" shall be defined as any hour during the period Monday through Friday from 7 a.m. Mountain Standard Time (MST) to 11 p.m. MST, and Peak Hours shall exclude Memorial Day, Independence Day,

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March 1, 1984
Labor Day, Thanksgiving Day, Christmas Day and New Year's Day, as observed.

7.1.2 During hours other than Peak Hours: (a) $22.00/MWH for the first 25 MWH delivered in each hour; (b) $20.00/MWH for the second 25 MWH delivered in each hour; (c) $18.50 MWH for the third 25 MWH delivered in each hour; and (d) $16.50 MWH for any Additional Energy deliveries in each hour; provided however, that the applicable price for any Block Energy and Additional Energy scheduled by El Paso at the Four Corners 345 KV or San Juan 345 KV switchyards pursuant to Section 6.1 shall be reduced by $1.50/MWH.

7.2 Should Block Energy schedules be interrupted or curtailed by New Mexico pursuant to Sections 4.1.1 and 4.1.3, Block Energy rates of delivery shall be reduced according to the following priority: first, the highest-priced 25 MW; second, the median-priced 25 MW; and third, the lowest-priced 25 MW.

7.3 Should Block Energy schedules be interrupted or curtailed by El Paso pursuant to Section 4.2 hereunder, Block Energy rates of delivery shall be reduced according to the following priority: first, the lowest-priced 25 MW; second, the median-priced 25 MW; and third, the highest-priced 25 MW.

7.4 Should Block Energy schedules be interrupted or curtailed by New Mexico during any hour pursuant to Section 4.1.2 hereof, El Paso shall have the right to curtail all, or any part, of the remaining Block Energy schedules during such hour; provided, however, that any continuing Block Energy schedules shall be priced at $26.00/MWH during Peak Hours and at $20.00/MWH during any hour other than a Peak Hour.
7.5 The prices specified in this Service Schedule H shall not be subject to change during the term of this Service Schedule H, absent subsequent written agreement of the parties hereto.

7.6 The monthly billings and payments shall be addressed as follows:

7.6.1 El Paso Electric Company
    Post Office Box 982
    El Paso, Texas 79960
    Attention: General Accounting Department

7.6.2 Public Service Company of New Mexico
    Alvarado Square
    Albuquerque, New Mexico 87158
    Attention: Cash Management
SECTION 8
OTHER PROVISIONS

Other terms and conditions of this Service Schedule H, as applicable, shall be as set forth in the Interconnection Agreement of July 19, 1966, as amended between the parties.

IN WITNESS WHEREOF, the parties have caused this Service Schedule H to be executed by their duly authorized officers as of the day and year first herein written.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]
Senior Vice President

Execution Copy
March 1, 1984
SERVICE SCHEDULE I
TRANSMISSION SERVICE FOR EPE

TO THE
INTERCONNECTION AGREEMENT
BETWEEN

PUBLIC SERVICE COMPANY OF NEW MEXICO

AND

EL PASO ELECTRIC COMPANY

1.0 Parties:

This Service Schedule I (Service Schedule I) is entered into as part of the Interconnection Agreement between El Paso Electric Company (EPE) and Public Service Company of New Mexico (PNM) dated July 19, 1966, as amended (EPE/PNM Interconnection Agreement). EPE and PNM are sometimes referred to individually as "Party" and collectively as "Parties."

2.0 Purpose:

The purpose of this Service Schedule I is to provide the terms and conditions under which PNM agrees to reserve and provide firm transmission capacity in the PNM transmission system for EPE along with interruptible transmission service.
3.0 Recitals:

3.1 As a result of negotiations that have been ongoing with respect to the operation of the northern New Mexico (NNM) and southern New Mexico (SNM) transmission systems, EPE and PNM have developed and are signatories to the following agreements:

3.1.1 Phase Shifter Support Principles dated February 22, 1994 (Support Principles);


3.1.3 Interim Agreement #2 dated May 5, 1995;

3.1.4 EPE/PNM Operating Procedure #10, Incremental Energy Cost, dated May 5, 1995 and subsequently suspended by letter agreement with an effective date of August 3, 1995;

3.1.5 Amendment No. 2 to the West Mesa Reactor Switch Agreement dated May 5, 1995;

3.1.6 Letter Agreement between EPE and PNM dated May 5, 1995 which memorializes PNM's recognition of the Interconnection Agreement between EPE and Tucson Electric Power Company;

3.1.7 Contingent Capacity Bank Settlement Letter Agreement dated November 21, 1994; and,

3.1.8 Contingent Contract Demand Letter Agreement
3.2 EPE, PNM and third parties have also developed and are signatories to the following other agreements, related in part to the development of a common understanding of the operation of the NNM and SNM transmission systems:

3.2.1 Airport Substation Letter Agreement among PNM, EPE and Texas-New Mexico Power Company (TNP), dated November 21, 1994;

3.2.2 Pre-PST Transmission System Operating Procedure between PNM, EPE, TNP and Plains-Electric Generation and Transmission Cooperative, Inc. (Plains) with an effective date of May 8, 1995;

3.2.3 Amendment No. 5 to the SWNMT Participation Agreement among EPE, PNM and TNP, dated November 21, 1994 (SWNMT Amendment No. 5);

3.2.4 A letter agreement between PNM and TNP dated November 21, 1994 regarding suspension of Schedule G to the PNM-TNP Interconnection Agreement; and,

3.2.5 Long Term Firm Transmission Service Agreement between EPE and Plains dated September 21, 1994 (EPE/Plains Agreement).

3.3 Execution of the agreements set forth in Sections 3.1 and 3.2 enables PNM and EPE to enter into this Service Schedule I in conjunction with the following other agreements:

3.3.1 The Post-PST New Mexico Transmission System
Operating Procedure (Post-PST Operating Procedure) which provides the basis for the operation of the SNM and NNM transmission systems under normal and outage conditions; and,

3.3.2 The Operating Agent Transfer Letter Agreement (Transfer Letter Agreement) among PNM, TNP and EPE to recognize the PNM transfer to EPE of operating agent status of all 345 KV SWNMT project facilities including the Hidalgo and Luna substations (SWNMT Project Facilities).

3.4 Execution of this Service Schedule I, the Post-PST Operating Procedure and the Transfer Letter Agreement fulfills the obligations set forth and agreed to by the Parties in Interim Agreement #2 and provides the basis under which PNM will agree to transfer to EPE operating agent status of the SWNMT Project Facilities.

4. **Effective Date and Termination:**

4.1 This Service Schedule I shall become effective on September 1, 1995, the in-service date of EPE's phase shifting transformer (PST), hereinafter referred to as the "Effective Date", subject to acceptance for filing by the Federal Energy Regulatory Commission (FERC).

4.2 This Service Schedule I shall remain in effect until the earlier of May 1, 1998, or the in-service date of the least cost system addition distinct from PNM's Ojo Line Extension (OLE) project (or its replacement), as contemplated by PNM and EPE in Paragraph 5 of the Support Principles, and shall continue in effect from year to year thereafter until terminated by either EPE or PNM giving one year's prior written notice to the
5.0 **Services to be Provided:**

5.1 Beginning on the Effective Date, PNM shall provide, and EPE shall purchase, 20 MW of firm point to point transmission service at PNM's firm transmission rate. PNM shall take receipt of EPE power at the Four Corners Generating Station (Four Corners) and deliver such power to EPE at the 345 KV bus of PNM's West Mesa switching station (West Mesa).

5.2 In the event that EPE's PST is either unavailable or by-passed, PNM shall provide, if available, and at PNM's sole discretion, interruptible transmission service upon request by EPE in accordance with the following:

5.2.1 PNM shall notify EPE of any amounts of interruptible transmission service required and EPE shall have the option of either lowering SNM imports to 750 MW or scheduling and paying for thirty percent (30%) of the difference between 750 MW and actual imports into SNM.

5.3 Except as otherwise provided in Section 5.2, PNM shall provide, if available, and at PNM's sole discretion, interruptible transmission service to EPE upon request.

6.0 **Payment for Service**

6.1 The initial rate for firm transmission service provided pursuant to Section 5.1 shall be PNM's firm transmission rate as currently accepted for filing by the FERC. That rate is currently $3.00/KW-MO.
6.2 The initial rate for interruptible transmission service provided pursuant to Sections 5.2 and 5.3 shall be PNM's non-firm transmission rate as currently accepted for filing by the FERC. That rate is currently $3.00/MWH.

6.3 The Parties acknowledge that PNM's existing transmission rates set forth in Sections 6.1 and 6.2 have been challenged at the FERC pursuant to Section 206 of the Federal Power Act. If the FERC directs a change in PNM's filed transmission rates, the Parties agree to conform to these rates as of the effective date of FERC's final order to PNM.

6.4 Nothing contained in this Service Schedule I shall be construed as affecting in any way the right of the Party furnishing service to unilaterally make application to the FERC for a change in rates, charges, classifications of service or in any rule, regulation, or contract relating hereto under Section 205 of the Federal Power Act and pursuant to the FERC's Rules and Regulations promulgated thereunder. Nor shall anything contained herein be construed as affecting in any way the right of the receiving Party to seek a modification of such rates or other terms under Section 206 of the Federal Power Act and pursuant to the FERC's Rules and Regulations promulgated thereunder.

7.0 Transmission Losses

PNM and EPE shall, in conjunction with this Service Schedule I, execute and maintain in full force and effect Operating Procedure 9. Such Operating Procedure 9 shall establish the loss percentages for transmission service provided by PNM to EPE and EPE to PNM and the method for scheduling the return of such transmission losses and updating loss percentages.
from time to time.

8.0 Miscellaneous Provisions

8.1 Upon the Effective Date of this Service Schedule I, the Post-PST Operating Procedures and Transfer Letter Agreement, and in recognition of the execution of the contractual agreements set forth in Sections 3.1 and 3.2, the Parties agree that the following agreements are to be terminated and shall be of no further force or effect:

8.1.1 Interim Agreement #2;

8.1.2 Service Schedule G to the EPE/PNM Interconnection Agreement;

8.1.3 Amendment to Service Schedule G, dated November 15, 1993;

8.1.4 The Support Principles; and,

8.1.5 The Merger Issues Letter.

8.2 PNM shall make the appropriate filing of this Service Schedule I with the FERC and shall at the same time file notices of termination of Interim Agreement #2, Service Schedule G to the PNM/EPE Interconnection Agreement (as amended), the Support Principles and the Merger Issues Letter. EPE shall file a certificate of concurrence in such filing.

8.3 PNM and EPE shall use their best efforts to exchange all data between their respective power operations departments required to effectively implement the operation and control of the NNM and SNM transmission
8.3.1 This shall include but not be limited to upgrades to the existing data exchange equipment or installation or upgrades to the communication facilities between the Parties.

8.3.2 Any such upgrades to either the data exchange equipment or communication facilities shall be accomplished under separate contractual arrangements.

8.4 Other terms and conditions of this Service Schedule I shall be as set forth in the PNM/EPE Interconnection Agreement; provided, however, in the event of a conflict between this Service Schedule I and the PNM/EPE Interconnection Agreement, this Service Schedule I shall govern.

8.5 In the event this Service Schedule I shall be terminated, the obligations of the Parties with respect to payment for transmission service received prior to the termination date shall continue until all payments due under this Service Schedule I have been satisfied.
9.0 Signature Clause:

The signatories hereto represent that they have been appropriately authorized to enter into this Service Schedule I on behalf of the Party for whom they sign. This Service Schedule I is hereby executed as of the 8th day of September, 1995.

EL PASO ELECTRIC COMPANY

BY /s/ [ILLEGIBLE]
Its: Vice President
Power Supply

PUBLIC SERVICE COMPANY OF NEW MEXICO

BY /s/ [ILLEGIBLE]
Its: Senior Vice President
Bulk Power Business Unit
1.0 Parties

This Amendment Number One ("Amendment 1") to Service Schedule I is entered into as part of the Interconnection Agreement between El Paso Electric Company ("EPE") and Public Service Company of New Mexico ("PNM"), dated July 19, 1966, as amended. EPE and PNM are sometimes referred to individually as "Party" and collectively as "Parties".

2.0 Purpose

The purpose of this Amendment 1 is to implement the terms of the Stipulation and Agreement dated December 17th, 1996 (Stipulation) by providing for a modification in the rate for the firm transmission capacity in the PNM transmission system under Service Schedule I, a rate modification for the interruptible transmission service provided under Service Schedule I, and provide for the collection of certain taxes.

3.0 Term

Such Amendment 1 shall be effective as of December 1, 1996 provided that the Commission grants the Joint Motion to Permit Interim Implementation of Rate Schedules and Collection of Settlement Rates filed on December 17th, 1996 and subject to the Commission approval of the Stipulation and shall extend through the term of Service Schedule I, unless superseded or modified in accordance with Service Schedule I; Provided, however, in the event that the Stipulation does not become effective in accordance with Article 12 of the Stipulation, then Amendment Number Two filed by PNM in the July 15, 1996 Compliance filing, Docket No. ER96-1462-000 shall become effective the first day of the second month following the date of such Commission rejection, subject to modification to reflect the outcome of that proceeding.

4.0 Rate Modification

Section 6.1 of Service Schedule I is hereby amended to read in its entirety as follows:

"(6.1) The rate for firm transmission service provided pursuant to Section 5.1 shall be two dollars and seven cents per kilowatt month ($2.07/kW-month), which shall
be subject to adjustment pursuant to Section 6.4 of Service Schedule I. Each month's bill for transmission service hereunder shall be calculated as $2.07/kW-month times the amount of transmission capacity reserved for EPE (20MW)."

Section 6.2 of Service Schedule I is hereby amended to read in its entirety as follows:

"(6.2) The rate for interruptible transmission service provided pursuant to Sections 5.2 and 5.3 shall be $2.84/MWH which shall be subject to adjustment pursuant to Section 6.4 of Service Schedule I. Each month's bill for transmission service hereunder shall be calculated as $2.84/MWH times the amount of energy transmitted for EPE by PNM, as measured in MWH's."

5.0 Transmission Service

Section 5.2.1 shall be deleted in its entirety and replaced with the following:

"5.2.1 PNM shall notify EPE of any amounts of interruptible transmission service required and EPE shall have the option of either lowering SNM imports to 785 MW or scheduling and paying for thirty percent (30%) of the difference between 785 MW and actual imports into SNM."

6.0 New Mexico Gross Receipts Tax

Section 8.6 shall be added to Service Schedule I and reads in its entirety as follows:

"(8.6) Billings under this Amended Service Schedule I shall be increased by an amount equal to the sum of the taxes payable under the New Mexico Gross Receipts and Compensating Tax Act, New Mexico Supervision and Inspection Fee (one-half of one percent of its gross receipts transacted in New Mexico) and all other new taxes, fees, and charges (exclusive of all ad valorem, state and federal income taxes) payable and levied or assessed by any State taxing authority based upon revenues received from the service rendered. Nothing, herein shall prevent EPE from opposing any State taxing authority's determination that revenue related taxes are applicable to services provided under Service Schedule I."
7.0 **Other Provisions**

(a) Except for the change in Sections 6.1, 6.2, and 8.6, reflected herein, all other terms and conditions of Service Schedule I shall remain in full force and effect.

(b) The signatories hereto represent that they have been appropriately authorized to enter into Amendment 1 on behalf of the Party for whom they sign.

Amendment 1 is hereby executed as of the 31st day of December, 1996.

EL PASO ELECTRIC COMPANY

By: /s/ [ILLEGIBLE]

Its: Vice President, Power

Generation

PUBLIC SERVICE COMPANY OF NEW MEXICO

By: /s/ [ILLEGIBLE]

Its: Sr. Vice President,

Bulk Power Services
AMENDMENT NUMBER ONE TO
THE INTERCONNECTION AGREEMENT BETWEEN
EL PASO ELECTRIC COMPANY AND PUBLIC SERVICE
COMPANY OF NEW MEXICO, July 19, 1966;
AND TO SERVICE SCHEDULE A AND SERVICE SCHEDULE B
OF THAT AGREEMENT

This Agreement is made the 5th day of April 1977, and between Public Service Company of New Mexico, a New Mexico corporation, (hereinafter called "PNM") and El Paso Electric Company, a Texas corporation, (hereinafter called "El Paso"). PNM and El Paso are sometimes hereinafter referred to collectively as the "Parties."

WITHNESSETH:

WHEREAS, PNM and El Paso heretofore entered into an Interconnection Agreement dated July 19, 1966; and

WHEREAS, attached to said Interconnection Agreement is Service Schedule A, entitled "Transmission Service and Contingent Capacity Exchange," dated July 19, 1966; and


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NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein,

IT IS AGREED that the Agreement between the Parties dated July 19, 1966, is amended and supplemented to the extent set forth herein.

Section A

AMENDMENT TO GENERAL PROVISIONS

Section 8 of the Interconnection Agreement of July 19, 1966 is amended by deleting Section 8.5 and substituting Section 8.5, therefore.

8.5 Regulatory Authorities - Nothing contained herein shall be construed as affecting in any way the right of the Party furnishing service under this rate schedule to unilaterally make application to the Federal Power Commission for a change in rates, charges, classification, or service, or any rule, charges, or contract relating thereto, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder.

Section B

AMENDMENTS TO SERVICE SCHEDULE A

Section 5 of Service Schedule A to the Interconnection Agreement of July 19, 1966 is amended by deleting Sections A5.3 and A5.5 and substituting Sections A5.3 and A5.5, therefore.
A5.3  **Units Upon Which Capacity is Contingent** - The particular units referred to in paragraph A5.2 and the contingent capacity to be supplied from each such unit shall, unless otherwise agreed upon by the Parties, be as follows:

One-fourth of the Contingent Contract Demand from Unit No. 7 of El Paso's Rio Grande Generating Station and three-fourths of the Contingent Contract Demand from Unit No. 8 of El Paso's Rio Grande Generating Station; provided, however, that it is the intent of the Parties that the Contingent Contract Demand shall be supplied from generating units normally operated by El Paso in the conduct of its own day-to-day operations and the units named herein for contingent capacity shall be subject to change to newer generating units by mutual agreement of the Parties as additional generating capacity is added to El Paso's resources.

A5.5  **Energy Rate for Contingent Capacity** - For energy supplied in connection with contingent capacity deliveries, El Paso will charge and New Mexico will pay on a monthly basis:

(i) an amount equal to the kilowatt-hours supplied multiplied by one hundred percent (100%) of El Paso's base cost, as defined in paragraph B5.5 of Service Schedule B, on Units 7 and 8 of its Rio Grande Generating Station or such other units as may be agreed upon by the Parties; plus,
(ii) an amount equal to the kilowatt-hours supplied multiplied by one-half (½) mill per kilowatt-hour.

Section C

AMENDMENT TO SERVICE SCHEDULE B

Section 5 of Service Schedule B to the Interconnection Agreement of July 19, 1966 is amended by deleting Sections B5.5 and B5.12 and substituting Sections B5.5 and B5.12, therefore.

B5.5 "Base Cost" as applied specifically to energy from thermal generating stations, in terms of net output at high voltage station buses, means the sum of

(i) incremental fuel cost of the station or unit from which energy is obtained, such incremental cost being estimated over the applicable range of variation in output, plus

(ii) additional cost, if any be incurred, of starting up a station or unit specifically for supply of energy interchange, plus

(iii) an allowance for other incremental costs, including incremental accrued maintenance and any other elements of incremental costs. Until and unless the Operating Committee shall establish different values brought about by escalation or unforeseen factors, the normal allowance for such other incremental costs at steam generating stations shall be as follows:
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<td>Under 750 psig</td>
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B5.12  "Ceiling value" as applied to energy interchange received means a maximum value which shall be used instead of base value in cases where base value is not determined. Until and unless the Operating Committee shall establish a different value, ceiling value shall be one-hundred thirty percent (130%) of supplier's base cost.

Section D

This Amendment amends and supplements the Interconnection Agreement between the Parties of July 19, 1966 and Service Schedule A and Service Schedule B thereof, and which Agreement is by reference made a part hereof unless specifically modified or supplemented herein.
IN WITNESS WHEREOF, the Parties have caused this Amendment Number One to be executed the day and year first above written.

ATTEST: EL PASO ELECTRIC COMPANY

/s/ [ILLEGIBLE] 
Secretary

BY /s/ [ILLEGIBLE] 
Sr. Vice President

ATTEST: PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ [ILLEGIBLE] 
Secretary

BY /s/ [ILLEGIBLE] 
Vice President

-6-
Public Service Company's hourly capacity entitlement is three (3) times the hourly contingent schedule up to a maximum of the agreed upon contingent capacity.

APPROVED BY:
EL PASO ELECTRIC COMPANY

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

APPROVED BY:
PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]
SUBJECT: LEAD TIME REQUIRED AND MINIMUM COMMITMENT TO CALL ON CONTINGENT CAPACITY

Public Service Company of New Mexico (PNM) will provide at least two hours advanced notice to El Paso Electric Company (EPE) when contingent capacity is required. If the capacity is available with less than the minimum notice it may be scheduled as agreed by the operators.

Consistent with standard operating practices, a ten minute ramp time will be used.

The minimum commitment for contingent capacity will be six hours, unless otherwise mutually agreed between the operators.

APPROVED BY:

EL PASO ELECTRIC COMPANY

/s/ [ILLEGIBLE]

PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]
1.0 Parties

This Amendment One (Amendment 1) to PNM/EPE Operating Procedure 9 is entered into between El Paso Electric Company (EPE) and Public Service Company of New Mexico (PNM). EPE and PNM are sometimes referred to individually as "Party" and collectively as "Parties".

2.0 Purpose

The purpose of Amendment 1 is to change the transmission loss factor for both firm and interruptible transmission service.

3.0 Term

Such Amendment 1 shall be effective as of December 1, 1996 provided that the Commission grants the Joint Motion to Permit Interim Implementation of Rate Schedules and Collection of Settlement Rates filed on December 17, 1996 and subject to the Commission approval of the Stipulation and Agreement dated December 17, 1996 (Stipulation) and shall extend through the term of Operating Procedure 9, unless superseded or modified in accordance with Operating Procedure 9; Provided, however, in the event the Commission rejects the Stipulation or approves it with conditions or modifications that are unacceptable that are not cured, the Operating Procedure 9 filed by PNM in the Docket No. ER96-1462-000 shall become effective the first day of the second month following the date of such Commission rejection, subject to modification to reflect the outcome of that proceeding.

4.0 Transmission Losses

Section A1., Firm Losses Owed to PNM by EPE for Four Corners to West Mesa Deliveries, is amended to read in its entirety as follows:

1. Four Corners to West Mesa

   For firm deliveries to EPE at PNM's West Mesa Switching Station (West Mesa) each hour's firm losses shall be
calculated as 3.0% of hourly West Mesa metered kilowatt hours delivered toward EPE on the West Mesa/Arroyo 345kV transmission line facility less:

i. PNM's hourly scheduled amounts delivered directly to EPE at West Mesa;

ii. PNM's hourly scheduled transmission service use under Service Schedule A calculated as any use of PNM's wheeling rights available under Service Schedule A (up to 25MW for any one hour) reduced by any PNM use of Contingent Capacity available under Service Schedule A delivered to West Mesa. Provided, however, at no time shall PNM's hourly net schedule be less than zero;

iii. Third party hourly scheduled deliveries to EPE at West Mesa (e.g. Western to Holloman, Plains to EPE, APS to TNP, COF to TNP) and,

iv. Hourly interruptible schedules from Four Corners to EPE at West Mesa over PNM's system.

Section C.3 is amended to read in its entirety as follows:

3. For hourly schedules from Four Corners to West Mesa over PNM's system, PNM shall be compensated for transmission losses calculated as 3% of the hourly schedule.

5.0 Other Provision's

(a) Except for the changes to Sections A1. and C3. reflected herein, all other terms and conditions of Operating Procedure 9 shall remain in full force and effect.

(b) The Signatories hereto represent that they have been appropriately authorized to enter into Amendment 1 on behalf of the Party for whom they sign.

Amendment 1 is hereby executed as of this 18th day of December, 1996.

EL PASO ELECTRIC COMPANY

By: /s/ [ILLEGIBLE]

Its: Assistant Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

By: /s/ [ILLEGIBLE]

Its:
El Paso Electric Company - Public Service Company of New Mexico

Operating Procedure No. 10

El Paso Electric Company ("EPE") and Public Service Company of New Mexico ("PNM") agree that this Operating Procedure No. 10 shall supercede and replace Operating Procedure No. 5 (PNM CAPACITY ENTITLEMENT ASSOCIATED WITH CONTINGENT CAPACITY) and Operating Procedure No. 8 (LEAD TIME REQUIRED AND MINIMUM COMMITMENT TO CALL ON CONTINGENT CAPACITY) and that Operating Procedures No. 5 and 8 shall no longer be in force or effect.

SUBJECT: PNM'S USE AND SCHEDULING OF CONTINGENT CAPACITY

Section 1. Scheduling of Contingent Capacity Energy

A. Public Service Company of New Mexico (PNM) will provide El Paso Electric Company (EPE) its best estimate of pre-schedules for the Contingent Capacity in accordance with the convention for submitting daily data as stated in the Southwest Reserve Sharing Group (SRSG) Operating Procedure No. 2, Section 4.1, as may be amended from time to time. These pre-schedules shall include estimated energy required and points of delivery for each hour. Hourly fluctuations in the pre-schedule shall be limited to the amount of Contingent Capacity allocated from each unit and each Contingent Capacity unit's ramp-rate over 20 minute period.

B. Real-time changes to the pre-schedules will be allowed when such changes are within a 20% bandwidth of the pre-scheduled amount or a two-hour notice is given. Changes that are within a 20% bandwidth are to be communicated to EPE's merchant function 45 minutes prior to the hour in which the requested change is to become effective. Changes to the pre-schedule that fall outside of the 20% bandwidth are to be made at least one hour and 45 minutes prior to the hour in which the change is to be effective. During emergency conditions, PNM can call upon their portion of spinning reserves as described in Section 2 below.

C. If EPE does not require the operation of a Contingent Capacity unit for its own purposes, and PNM requires Contingent capacity from that unit(s), PNM shall schedule at least the minimum operating output of that unit(s), up to its Contingent Capacity allocation of that unit(s), as Contingent Capacity. Necessary time for start up will be allowed and unless otherwise agreed to by EPE's merchant function PNM will schedule at least the minimum amount, up to its Contingent Capacity allocation of the unit(s), for a minimum of 6 hours. Under such conditions, PNM shall be responsible for all start up costs.

The minimum operating output of the Contingent Capacity units shall be as determined from time to time by EPE's merchant function.

Section 2. Contingent Capacity Used For Spinning Reserves

A. PNM may use the unloaded portion of each Contingent Capacity unit as spinning reserves up to the lessor of:

1. EPE shall provide as the sum of Contingent Capacity energy and spinning reserve up to three (3) times the hourly contingent schedule, up to the maximum of the agreed upon Contingent Capacity.
For example, if PNM is scheduling 20 MW of Contingent Capacity in the operating hour, PNM has a total entitlement of 60 MW (3 x 20 MW) in that operating hour. 20 MW of Contingent Capacity energy and 40 MW of spinning reserves, or;

2. PNM's right to spinning reserves will be based on each Contingent Capacity unit's ramp-rate over a 10-minute period, bounded by PNM's allocation from each unit.

For example, if PNM's Contingent Capacity is 70 MW, the allocation will be 18 MW from Rio Grande 7 (25%) and 52 MW Rio Grande 8 (75%). If PNM's schedule is 20 MW (5 MW from RG7; 15 MW from RG8) and the ramp rate for RG7 and RG8 are both 2.0, the total amount of spinning reserve available over a 10 minute period is 40 MW (20 MW from each unit). However, PNM's allocation from RG7 is bound by its entitlement of 18 MW from RG7. Therefore, PNM's spinning reserve under this scenario would be 33 MW. This example can be broken down as follows:

PNM's unscheduled Contingent Capacity from each unit is:

RG7: 18 MW Entitlement - 5 MW Schedule = 13 MW
RG8: 52 MW Entitlement - 15 MW Schedule = 37 MW.

The available amount of Contingent Capacity from each unit based on ramp-rates is:

RG7: 2.0 MW/min x 10 minutes = 20 MW
RG8: 2.0 MW/min x 10 minutes = 20 MW.

Therefore, PNM's spinning reserve under this scenario would be 13 MW from RG7 and 20 MW from RG8, for a total of 33 MW.

Accepted and Agreed to:
El Paso Electric Company

By: ________________________________
Title: ______________________________
Date: ______________________________

Accepted and Agreed to:
Public Service Company of New Mexico

By: ________________________________
Title: ______________________________
Date: ______________________________
EL PASO ELECTRIC COMPANY

SOUTHWEST NEW MEXICO TRANSMISSION PROJECT PARTICIPATION AGREEMENT AND AMENDMENT NOS. 1 THROUGH 6 THERETO AMONG EL PASO ELECTRIC COMPANY, PUBLIC SERVICE COMPANY OF NEW MEXICO AND TEXAS-NEW MEXICO POWER COMPANY

RATE SCHEDULE FERC NO. 78
SOUTHWEST NEW MEXICO TRANSMISSION PROJECT

PARTICIPATION AGREEMENT

April 11, 1977

AMONG

PUBLIC SERVICE COMPANY OF NEW MEXICO,

COMMUNITY PUBLIC SERVICE COMPANY

AND

EL PASO ELECTRIC COMPANY

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: April 29, 1977

Issued on: April 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
# SOUTHWEST NEW MEXICO TRANSMISSION PROJECT
## PARTICIPATION AGREEMENT

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Effective: April 29, 1977
SOUTHWEST NEW MEXICO TRANSMISSION PROJECT
PARTICIPATION AGREEMENT AMONG
PUBLIC SERVICE COMPANY OF NEW MEXICO,
COMMUNITY PUBLIC SERVICE COMPANY and
EL PASO ELECTRIC COMPANY

1.0 PARTIES: The parties to this Agreement are: PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, hereinafter referred to as “PNM”; COMMUNITY PUBLIC SERVICE COMPANY, a Texas corporation, hereinafter referred to as “CPS”; and EL PASO ELECTRIC COMPANY, a Texas corporation, hereinafter referred to as “EPE”. PNM, CPS and EPE are jointly herein referred to as the “Parties” or “Participants”.

2.0 RECITALS:

2.1 Background of this Agreement:

2.1.1 The Parties, on the 16th day of December, 1974, entered into a letter agreement designated Principles of Agreement for the Southwest New Mexico Transmission Project, and which letter is attached hereto as Exhibit A and supersedes hereby.

2.1.2 The transmission system to be constructed shall be known as the Southwest New Mexico Transmission Project, hereinafter designated “SWNMT”. This designation is to distinguish it from the attachments and appurtenances which shall or may be connected to or served from the SWNMT facilities, but which shall be owned or operated by the Participants or others apart from this Agreement.

2.2 Summary Description of SWNMT:

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
2.2.1 Pursuant to this agreement, the SWNMT system to be built consists of two 345 KV transmission lines and related facilities, as described more fully in Section 6.0 hereof.

2.2.2 The first line, designated as Line A, will commence from the “Greenlee” Substation, owned by Tucson Gas & Electric Company and PNM, and located near the Greenlee County Airport north of Duncan, Arizona, then running to a 345 kV station, to be known as “Hidalgo” Switching Station, and located at or near Lordsburg, New Mexico. This Greenlee to Hidalgo line will be known as Line A, Segment 1. The transmission line will continue on in an easterly direction to a 345 kV station, known as “Luna” Switching Station, which will be located at or near Deming, New Mexico. This Hidalgo to Luna line will be known as Line A, Segment 2. Then Line A will pass on to and terminate at the “Newman” Switching Station, which is located north of El Paso, Texas. This line is designated Line A, Segment 3.

2.2.3 The second line, designated Line B, will run along approximately the same corridor as the first except that, after passing through Hidalgo and Luna Switching Stations and continuing easterly to a point at or near Aden Hills, New Mexico, the second line will separate from the first and will run in a southeasterly direction terminating at the “Rio Grande” Switching Station, which station is at or near El Paso, Texas.

2.2.4 SWNMT will be designed and constructed so that upon completion of Phase #5 the Primary Purposes of SWNMT as set forth in Section 7 can be met with any one line segment out of service.
2.2.5 PNM will provide for Line A position at Greenlee Substation through its Agreement with Tucson Gas & Electric Company, and EPE will provide for Line B position at Greenlee Substation through its future agreement with Tucson Gas & Electric Company.

2.2.6 Hidalgo, Luna, Newman and Rio Grande Substations are not SWNMT facilities.

2.2.7 The SWNMT will be built and owned by different combinations of Participants and constructed in Phases as follows:

   Line A – PNM, CPS, and EPE will build Segment 2 of Line A from Greenlee Substation to the Hidalgo Switching Station, as tenants in common with an undivided ownership in the percentages set out hereafter in Section 11, the segment to be constructed and in-service in March 1977. Line A, Segment 1 is a part of Phase #1 of SWNMT construction. PNM, CPS and EPE will build the second segment from Hidalgo to the Luna Switching Station, as tenants in common with an undivided ownership interest in the percentages set out hereafter in Section 11, and which segment will be completed and in-service by May 1978. Line A, Segment 2, is a part of Phase #2 of SWNMT construction. EPE will build the third segment of Line A from Luna to Newman Switching Station, to be completed and in-service by May 1978. Line A, Segment 3, is a part of Phase #3 of SWNMT construction.
Line B - EPE will build Line B from Greenlee Substation through Hidalgo and Luna Switching Stations on to Rio Grande Switching Station. Line B is scheduled to be completed and in-service coincident with the commercial service date of the Arizona Nuclear Power Project Palo Verde Unit No. 2, or such later date as provided in Section 6. Line B is a part of Phase #4 of SWNMT construction.

CPS or PNM may elect to participate in construction of Line B as provided in Section 12.

2.2.8 EPE agrees to construct its portion of Phase #3 of SWNMT to be in-service coincident with Phase #2. In return, PNM agrees to provide five (5) 345 kV breakers at Luna Switching Station and PNM and CPS will provide five (5) 345 kV breakers at Hidalgo Switching Station. Such breakers are to be provided coincident with Phase In-Service Dates as follows:

For Phase #1 - no breakers required at Hidalgo or Luna.

For Phase #2 - no breakers required at Hidalgo or Luna.

For Phase #3 - Three (3) 345 kV breakers at Hidalgo in a ring bus configuration for connecting Line A at Hidalgo Switching Station, and three (3) 345 kV breakers at Luna, also in a ring bus configuration, for connecting Line A at Luna Switching Station.

For Phase #4 - Two (2) 345 kV breakers at Luna, for connecting Line B at Luna Switching Station.
For Phase #5 - Two (2) 345 kV breakers at Hidalgo Switching Station, for connecting Line B, to be in-service coincident with the commercial service date of Palo Verde Unit No. 3, or such other date as provided in Section 6.

2.2.9 This Agreement is entered into to set out and embody the entire understanding and agreement between the Participants to SWNMT and replaces and supercedes the December 16, 1974 letter of Principles of Agreement and all supplemental understandings or amendments thereto. In addition, this agreement supercedes the May 26, 1976 PNM/CPS SWNMT Participation Agreement.

2.3 Factual Recitals:

2.3.1 PNM is an electric utility engaged in the generation, transmission and distribution of electric power and energy in part of the State of New Mexico.

2.3.2 CPS is an electric utility engaged in the generation, transmission and distribution of electric power and energy in a part of the State of New Mexico.

2.3.3 EPE is an electric utility engaged in the generation, transmission and distribution of electric power and energy in a part of the State of New Mexico.

2.3.4 PNM and CPS have, in keeping with the understandings and purposes hereinafore set out, represented to the New Mexico Public Service Commission that they will participate with EPE in the SWNMT system set out above.
3.0 AGREEMENT: The Parties, therefore, in consideration of the mutual covenants to be by them kept and performed, agree as follows:

4.0 EFFECTIVE DATE: This Agreement shall be deemed effective the date it is duly executed by the Parties.

5.0 DEFINITIONS: The following terms, when used herein, whether in singular or in the plural, shall have the meanings specified:

5.1 Accounting Practice: Generally accepted accounting principles in accordance with the FPC accounts as defined in Section 5.14, unless otherwise agreed to by the Auditing Committee.


5.3 Auditing Committee: The Committee established pursuant to Section 21.3 hereof.

5.4 Capital Additions: Any items of tangible property which are added to SWNMT and which do not substitute for any pre-existing structures, facilities or equipment constituting a part of SWNMT and which, in accordance with sound accounting principles, would be capitalized.

5.5 Capacity Entitlements: A Participant’s allocated transmission capacity in Phases #1, #2, #3 or #4, pursuant to Sections 7 and 8.1. Unless otherwise agreed, all capacity entitlements are bi-directional.

5.6 Capital Betterments: Enlargement or improvement of any structures, facilities or equipment constituting a part of SWNMT or the
substitution thereof, of other structures, facilities or equipment, where the substitution constitutes an enlargement or improvement as compared with that for which it is substituted and which, in accordance with sound accounting principles, would be capitalized.

5.7 Capital Replacements: The substitution of any units or property constituting a part of the SWNMT or other units of property where the substitution does not constitute an enlargement or improvement of the item for which it is substituted and which, in accordance with sound accounting principles, would be capitalized.

5.8 Cost Responsibility and Ownership: Each Participant will share in the cost and ownership of each portion of SWNMT in the percentages shown in Section 11.

5.9 Construction Account: Any bank account or accounts selected and established by the Project Manager to receive and disburse construction funds pursuant to Section 16 hereof.

5.10 Coordinating Committee: The Committee established pursuant to this Agreement which shall exercise the functions described in Section 21.1 hereof.

5.11 Engineering and Operating Committee: The Committee established pursuant to this Agreement which shall exercise the functions described in Section 21.2 hereof.

5.12 In-Service Dates: The dates pursuant to this Agreement on which each Phase of the SWNMT is placed into service, as determined by the Engineering and Operating Committee.

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5.13 Final Completion Reports: Complete summary of construction costs incurred up to six (6) months after the In-Service Date of each Phase, description of the complete facilities, summary of the Parties' contributions to construction costs and estimated further expenditures for completion of the Phase construction. Costs incurred after the said six (6) month period shall be included in a supplement to the Final Completion Report.

5.14 FPC Account: The Federal Power Commission’s “Uniform System of Accounts Prescribed for Public Utilities and Licenses (Class A and Class B)” in effect as of the date of this Participation Agreement, and as such system of accounts may be in effect from time to time. References in this Agreement to any specific FPC account number shall mean the FPC account number in effect as of the effective date of this Agreement or any successor FPC account number.

5.15 Operating Agent(s): The Participant(s) responsible for the performance of a specific or ongoing operation and maintenance requirement of SWNMT pursuant to this Agreement.

5.16 Operating and Construction Insurance: Policies of insurance to be secured and maintained in accordance with Section 26 and 27 hereof.

5.17 Operating Memoranda: Written operating procedures determined to be required by the Engineering and Operating Committee for the reliable operation of SWNMT.

5.18 Operating Work: Engineering, contract preparation, purchasing, repair, supervision, recruitment, expediting, inspection,

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accounting, testing, protection, operation, use, management, retirement, reconstruction and maintenance associated with SWNMT, including any work undertaken by Operating Agent pursuant to Section 17 hereof and any work necessitated by an operating emergency, and including all work undertaken to make any capital improvements.

5.19 Participant: Any Party hereto and any successor or assignee of such Party under Section 30 hereof.

5.20 Phase: SWNMT line segments, related Project Compensation, and other Project Facilities that are associated with a particular In-Service Date.

5.21 Project Compensation: Those shunt reactors and series and/or shunt capacitors used to compensate SWNMT lines.

5.22 Project Facilities: Those electrical system components that are SWNMT facilities, though not necessarily owned by more than one Participant.

5.23 Project Manager: The Participant responsible for the construction and completion of any portion of SWNMT in accordance with this Agreement.

5.24 Project Work: Engineering, design, acquisition of rights-of-way, construction, contract preparation, purchasing, accounting, supervision, expediting, inspection, testing, protection and placing in service of SWNMT.

5.25 Rights-of-Way: The rights-of-way and land including fee ownership, easements, licenses and permits which have been or will be

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acquired by the Project Manager(s), to accommodate up to two transmission lines and related facilities from the Greenlee Substations to the Newman and Rio Grande Stations.

5.26 Station: Those locations where equipment for terminating, tapping, transforming, compensating, switching, protecting, metering, and monitoring SWNMT lines is placed.

5.27 Substation: The 345/115 kV transformer, its 345 kV disconnecting switch, the 115 kV equipment and the site of a Station. (Exception: Greenlee Substation has been defined by TG&E as in Section 5.26 above.)

5.28 Switching Station: The 345 kV equipment within Hidalgo, Luna, Rio Grande and Newman Stations, up to but excluding the 345/115 kV transformer and its associated equipment.

6.0 DESCRIPTION OF SWNMT: The SWNMT shall consist of two 345 kV transmission lines and related facilities constructed in five Phases described briefly as follows and shown in detail on Exhibit B:

6.1 Phase #1: A 345 kV transmission line and related facilities to be built from Greenlee Substation to Hidalgo Switching Station, a distance of approximately 60 miles; a reactor and associated equipment at Hidalgo Switching Station; non-project facilities including a substation at Hidalgo and a 345 kV breaker and associated equipment at Greenlee. The planned In-Service Date of Phase #1 is March 1977.

6.2 Phase #2: A 345 kV transmission line and related facilities to be built from Hidalgo Switching Station to the Luna Switching Station, a distance of approximately 50 miles; non-project facilities

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including a Substation at Luna. The planned In-Service Date of Phase #2 is May 1, 1976.

6.3 Phase #3: A 345 kV transmission line and related facilities to be built from the Luna Switching Station to the Newman Switching Station, a distance of approximately 90 miles; three 345 kV breakers and associated equipment at each of Hidalgo and Luna Switching Stations; and a 345 kV breaker and associated equipment at Newman Switching Station and reactors and associated equipment located where required. The planned In-Service Date of Phase #3 is May 1, 1978.

6.4 Phase #4: A 345 kV transmission line and related facilities to be built from the Greenlee Substation through the Hidalgo Switching Station, on to and terminating at the Luna Switching Station and then onto and terminating at Rio Grande Switching Station, a distance of approximately 200 miles; two 345 kV breakers and associated equipment to be installed at Luna Switching Station; one 345 kV breaker and associated equipment at Rio Grande Switching Station; reactor(s) located where required; non-project facilities including a 345 kV breaker and associated equipment to be installed at Greenlee. The planned In-Service Date of Phase #4 is to coincide with the commercial service date of Arizona Nuclear Power Project, Palo Verde Unit #2 unless such date is changed by the Coordinating Committee.

6.5 Phase #5: Those facilities necessary for terminating Line B at Hidalgo Switching Station, including two 345 kV circuit breakers and associated equipment, to be in-service coincident with the commercial service date of Palo Verde Unit #3, unless otherwise agreed.
by the Coordinating Committee. CPS, at its sole option, may accelerate Phase #5 by reimbursing under a separate agreement the other Parties for their fixed charges on Phase #5 for the period from CPS’ desired in-service date until June, 1986.

6.6 Each SWNMT line segment shall include those facilities generally necessary for operation of a 345 kV transmission line, including, but not limited to, right-of-way, transmission structures, conductors and associated equipment. Each SWNMT Switching Station shall include those facilities generally necessary for terminating the transmission lines at a ring bus, including necessary common facilities, 345 kV breakers, protective relaying, communications equipment, lightning arrestors and line disconnect switches.

6.7 Series and/or shunt capacitors and related equipment used to compensate SWNMT.

6.8 Substation: Shall include those facilities defined by Section 5.27. The Participant owning a Substation shall grant an easement by separate instrument to the SWNMT Participants for the Project Facilities to be placed within a Station site.

7.0 PRIMARY PURPOSES OF SWNMT: Upon completion of all Phases of SWNMT construction, the following Primary Purposes of SWNMT shall be attainable even with any one SWNMT line segment out of service.

7.1 For CPS to deliver 150 MW from Greenlee Substation to Hidalgo Switching Station.

7.2 For PNM to deliver 150 MW from Greenlee Substation to Luna Switching Station.

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7.3 For EPE to deliver 600 MW from Greenlee Substation to Luna Switching Station and on to Newman and Rio Grande Switching Stations.

8.0 SECONDARY PURPOSES OF SWNMT: The Secondary Purposes of SWNMT are as follows:

8.1 To enable the Participants to utilize the remaining portion of their respective Capacity Entitlements.

8.2 To enable the Participants, pursuant to Section 15, to utilize any additional capacity resulting from Capital Betterments or Improvements, on a permanent basis.

9.0 SWNMT DESIGN CRITERIA:

9.1 The design of SWNMT shall be such that, with the completion of Phase #5, SWNMT shall be capable of being operated to allow for the transmission of all power and energy pursuant to the Primary Purposes of SWNMT as set forth in Section 7, with any one segment of SWNMT out of service.

10.0 INTERCONNECTIONS AND ADDITIONS TO SWNMT:

10.1 The Participants may interconnect with SWNMT through their own Hidalgo, Luna, Newman or Rio Grande Substations with their own or other systems, provided that SWNMT shall not be terminated, except as shown in Exhibit B, without prior approval of the Coordinating Committee.

10.2 No Participant shall construct or operate any portion of its separate transmission system, including interconnections with others, in such a manner as to unduly interfere with the Primary Purposes of SWNMT.

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11.0 CAPACITY ENTITLEMENTS, OWNERSHIP AND COST RESPONSIBILITY FOR SWNMT:

11.1 Unless otherwise provided herein, the SWNMT will be constructed and owned by the Participants as tenants in common with each Participant having an undivided interest in each Phase as set forth below; however, upon start of construction of Line B of Phase #4, certain rights to participate, more fully as set forth in Section 12, may be exercised, thereby changing the ownership interest of the Participants therein.

11.2 The transmission lines will be initially constructed, owned and expenses paid as follows:

11.2.1 Line A of Phase #1: Constructed jointly by PNM, CPS and EPE with Capacity Entitlements of CPS - 150 MW (30%), PNM - 150 MW (30%), EPE - 200 MW (40%).

11.2.2 Line A of Phase #2: Constructed jointly by PNM, CPS and EPE with Capacity Entitlements of CPS - 25 MW (5.00%), PNM - 189 MW (37.80%), EPE - 286 MW (57.20%).

11.2.3 Line A of Phase #3: Constructed solely by EPE, with Capacity Entitlement of EPE - 500 MW (100%) and with ownership and cost responsibility solely in EPE, except that PNM shall have a unidirectional Capacity-Entitlement from Newman to Luna of 130 MW until December 1, 1981.

11.2.4 Line B of Phase #4: Constructed solely by EPE, with Capacity Entitlement of EPE - 500 MW (100%) and with ownership and cost responsibility solely in EPE unless CPS and/or PNM exercise their option pursuant to Section 12.0.

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11.3 The Project Compensation required for SWNMT will be constructed and owned on the basis of Weighted Line Ownership, calculated pursuant to Exhibit C.

11.4 The various Switching Stations of SWNMT include, but are not limited to, those Project Facilities defined in Exhibit B, and will be owned pursuant to Exhibit B. The SWNMT Switching Stations are described as follows:

11.4.1 Hidalgo 345 KV Switching Station: Constructed jointly by PNM, CPS, and EPE; each Participant is entitled to transmit, under normal and emergency conditions, its total Capacity Entitlement through Hidalgo without any payment to any other Participant.

11.4.2 Luna 345 KV Switching Station: Constructed jointly by PNM, CPS and EPE; each Participant is entitled to transmit, under normal and emergency conditions, its total Capacity Entitlement through Luna without any payment to any other Participant.

11.4.3 Newman 345 KV Switching Station: Constructed solely by EPE and operated and maintained solely by EPE, with ownership and cost responsibility solely in EPE; each Participant is entitled to transmit, under emergency conditions, its total Capacity Entitlement through Newman without any payment to any other Participant.

11.4.4 Rio Grande 345 KV Switching Station: Constructed solely by EPE and operated and maintained solely by EPE, with ownership and cost responsibility solely in EPE; each Participant is entitled to transmit, under emergency conditions, its total Capacity Entitlement through Rio Grande without any payment to any other Participant.

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12.0 **ADDITIONAL SWNMT PARTICIPATION RIGHTS** : CPS may, at its sole option, no later than start of construction of Line B of Phase #4, participate with EPE in construction of all or part of 100 MW Capacity of Line B of Phase #4, between Greenlee Substation and Hidalgo Switching Station. If CPS elects not to participate in Line B, or if CPS participates less than the full 100 MW, PNM may, at its sole option, participate with EPE in construction of all or part of the remaining part of the 100 MW of Line B, from the Greenlee Substation to the Hidalgo Switching Station. Further, PNM may, at its sole option, elect to participate with EPE in construction of Line B from the Hidalgo Switching Station to the Luna Switching Station in an amount equal to or less than the total of PNM’s and CPS’ combined participation in Line B from Greenlee to Hidalgo. The Greenlee to Hidalgo and/or Luna line allocation of cost to CPS and/or PNM for this capacity shall be determined by the same procedure that was applied to Line A.

13.0 **COST COMPONENTS** :

13.1 The Parties shall be responsible for the construction cost of SWNMT Phases #1, #2, #3, #4 and #5 facilities in accordance with the percentages shown in Section 11. The Parties shall be responsible for the construction cost of Hidalgo, Luna, Newman and Rio Grande Stations according to their ownership therein, as set out in Exhibit B. Such cost shall include, but not be limited to, the following components:

13.2 Right-of-way costs and site acquisition costs for roadways, towers, and equipment location.
13.3 Cost of environmental studies, analyses and reports.

13.4 Engineering, consulting, legal and accounting fees.

13.5 Costs of all materials, supplies and equipment, including related storage and transportation costs.

13.6 Cost of line contractors and substation contractors where appropriate.

13.7 Right-of-way clearing costs.

13.8 All special costs incurred by compliance with environmental requirements or regulations.

13.9 Costs incurred to expedite construction.

13.10 Expenses of any Participant incurred in the performance of Project Work which do not involve direct engineering and supervision, if authorized and approved by the Project Manager. Included in this category are expenses incurred during the engineering design period and the construction period. Such authorized expenses shall include customary loading charges applicable thereto, such as Material Handling Expense, Pension and Insurance, and Illness, Injuries and Vacations. Such authorized expenses shall not include loading charges for engineering and supervision.

13.11 Expenses of any Participant incurred in the performance of Project Work which do involve direct engineering and supervision, if authorized and approved by the Project Manager. In all such work, customary and normal loadings shall apply as in Section 13.10, plus loading charges for engineering and supervision. Such engineering and supervision loading shall be 7.0%, and may be changed by the Auditing

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Committee from time to time during the performance of the Project Work. These loadings shall be applied only by the Participant performing the direct engineering and supervision for the Project Work.

13.12 All taxes associated with construction of the line and associated facilities.

13.13 In addition to the above, the Project Manager(s) shall be entitled to an A&G expense allowance for its performance of Project Work and excluding work performed by the other Participants. These expenses shall be allocated monthly at the rate of one percent (1%) of the total cost incurred in Sections 13.1 - 13.12 during the preceding month, excluding from such costs:

(a) All engineering and supervision overhead charges referred to in Section 13.11.

(b) Any allowance for A&G expenses provided for in this Section 13.13.

The Project Manager shall not be entitled to a fee, price, percentage or any other compensation over and above the costs of services rendered by him in the performance of Project Work.

14.0 COST RESPONSIBILITY FOR OPERATION AND MAINTENANCE EXPENSE:

14.1 The Operation and Maintenance (O&M) expense for each SWNMT line shall be borne by the Participants according to their respective ownership interest in each line of SWNMT as set out in Section 11. The O&M expense shall be adjusted accordingly in each line should ownership change pursuant to Section 12 or Section 15.
14.2 O&M expenses for the Hidalgo, Luna, Newman and Rio Grande Substations will be borne solely by those Stations’ respective owners; O&M expenses of any Project Facilities within any Switching Station will be borne by the Participants according to their ownership in those Project Facilities. Participants’ ownership in Project Facilities are set out in Exhibit B.

14.3 CPS shall provide at no charge to other Participants all power and energy required for operation of Project Facilities within Hidalgo Station. PNM shall provide at no charge to other Participants all power and energy required for operation of Project Facilities within Luna Station. EPE shall provide at no charge to other Participants all power and energy required for operation of Project Facilities within Newman Switching Station and Rio Grande Switching Station. PNM and EPE, pursuant to their respective agreements with TG&Z, shall provide for all power and energy required for operation of Project Facilities within Greenlee Substation.

14.4 The O&M expenses are those incurred by any Participant as follows:

14.4.1 SWNMT O&M expenses chargeable to FPC Accounts 560, 561, 562, 563, 566, 567, 568, 569, 570, 571, 573.

14.4.2 Payroll taxes chargeable to FPC Account 408 and expenses chargeable to FPC Account 926 shall be added to the monthly billing in proportion to the dollar amount of direct labor billed.

14.4.3 The expenses chargeable to FPC Account 925 incurred in complying with workmen’s compensation laws, except uninsured workmen’s
compensation claims or portions thereof, shall be allocated each month to the Participants in proportion to the dollar amount of direct labor billed in that month.

14.4.4 Expenses incurred in connection with uninsured workmen’s compensation claims arising out of SWNMT O&M.

14.4.5 The expenses chargeable to FPC Account 924 and 925 in connection with Operating Agent’s performance of the provisions of Section 27 hereof (excluding salaries of administrative employees whose services are compensated for under Section 14.4.6.)

14.4.6 Administrative and general expenses included in FPC Accounts 920, 921, 923 and 932 which have been incurred by any Participant in the performance of SWNMT O&M shall be applied as approved by the Auditing Committee.

14.5 Cost of facilities external to SWNMT: the Participants shall be responsible for all costs incurred by them to supply power and energy to SWNMT or to receive power and energy from SWNMT.

15.0 CAPITAL BETTERMENTS OR IMPROVEMENTS: Capital betterments or improvements requested by a Participant are subject to mutual agreement of all Participants.

16.0 CONSTRUCTION OF SWNMT: PNM shall be the Project Manager for Line-A from Greenlee to Luna and for Hidalgo and Luna Switching Stations. EPE shall be Project Manager for Line A from Luna to Newman, for Line B from Greenlee to Rio Grande, and for Newman and Rio Grande Switching Stations. CPS and EPE do hereby appoint PNM as their agent, and PNM shall undertake as CPS’ and EPE’s agent and as principal on its
own behalf the responsibilities for the performance of all activities of the Project Manager for the above portions of SWNMT. CPS and PNM do hereby appoint EPE as their agent, and EPE shall undertake as CPS’ and PNM’s agent and as principal on its own behalf, the responsibilities for the performance of all activities of the Project Manager for the above portions of SWNMT.

16.1 Subject to the provisions, conditions, limitations and restrictions of this Agreement, including those specifically set out in Section 21.2.2 through 21.2.6, PNM and EPE, each as Project Manager for its respective portions of SWNMT, shall:

16.1.1 Perform Project Work in accordance with generally accepted practices in the electric utility industry, as such practices may be affected by special operational design characteristics of the SWNMT.

16.1.2 Contract for furnishing and obtaining from any sources it may select, including Participants, engineering services and studies necessary for the performance of Project Work.

16.1.3 Arrange for the placement and maintenance of Construction Insurance in accordance with the provision of Section 26.

16.1.4 Execute all contracts for construction in connection with the performance of Project Work.

16.1.5 Provide for all necessary personnel for the performance of Project Work.

16.1.6 Enforce and comply with all contracts entered into for the performance of Project Work.
16.1.7 Comply with any and all laws and regulations applicable to the performance of Project work.

16.1.8 Expand the monies required to build the facilities in accordance with this Agreement.

16.1.9 Keep and maintain records of monies expended and received, obligations incurred, credits accrued and contracts entered into in the performance of this Agreement, and make such records available at reasonable times and places for inspection by the Auditing Committee.

16.1.10 Not suffer any liens, other than liens permitted by Section 30 hereof, to remain in effect unsatisfied against the SWNMT provided that the Project Manager shall not be required to pay or discharge any such lien as long as a proceeding shall be pending in which the lawfulness or validity of such liens shall be contested in good faith.

16.1.11 Keep the Participants fully and promptly advised of material changes and conditions or other material developments affecting the performance of Project Work pursuant to this Agreement.

16.1.12 Investigate, settle or defend and pay any judgments pertaining to uninsured third-party claims arising out of the construction of SWNMT. Said claims will be reported as soon as possible to the Coordinating Committee when any one or a combination exceeds $20,000 per occurrence.

16.1.13 Purchase and procure, through and from any sources it may select, the equipment, apparatus, machinery, materials, tools and
supplies necessary for the performance of project Work, pursuant to the guidelines established by the Engineering and Operating Committee.

16.1.14 Obtain or cause to be obtained necessary construction permits, operating permits, temporary access rights and other licenses and approvals requisite to the performance of the Project Work.

16.1.15 After completion of the construction of each Phase of the SWNMT, provide the other Participants with a Final Completion Report and supplemental report in a form agreed to by the Auditing Committee and which will allow the Participants to classify the construction costs in accordance with the appropriate FPC Accounts.

16.1.16 Furnish the other Participants any information reasonably available pertaining to the construction of the SWNMT that will assist that Participant in responding to a request for such information by any Federal, State or Local Regulatory or Taxing Authority.

16.1.17 Enforce any and all warranties on equipment, facilities, materials sold or furnished for the SWNMT project.

16.1.18 Each Participant shall provide to the extent possible all assistance required by the Project Manager in its performance of its obligations as Project Manager, and in so doing shall comply with all applicable laws and regulations. Each Participant shall, as soon as possible after execution of this Agreement, submit to the Auditing Committee any special requirements that it may have regarding accounting, records, or information in order that all required records may be maintained in the same manner throughout the construction of SWNMT.

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17.0 **OPERATION AND MAINTENANCE**: PNM shall be the Operating Agent for all SWNMT Project Facilities starting with the line dead end structures at the Greenlee Substation and extending eastward through the Luna Switching Station to the line dead end structures at Luna related to EPE’s line connections from Newman and Rio Grande, and all the 345 kV circuit breakers, 345 kV lines, relaying and communications equipment and related facilities therein.

17.1 CPS and EPE do hereby appoint [PNM as the Operating Agent](#) for the Project Facilities between Greenlee and Luna as described in 17.0 above.

17.2 PNM and CPS do hereby appoint [EPE as the Operating Agent](#) for the Project Facilities between Luna and Newman for Line A, and between Luna and Rio Grande for Line B.

17.3 PNM and EPE each hereby accept the responsibility for the performance of all activities of Operating Agent for their respective areas as described in 17.1 and 17.2 above.

17.4 Subject to the provisions and conditions of this Agreement, PNM and EPE each as an Operating Agent of SWNMT facilities will:

17.4.1 Operate the respective portions of the SWNMT project and maintain Project Facilities in accordance with good utility practice.

17.4.2 Perform or contract for the performance of necessary maintenance or engineering service as necessary to assure project integrity and reliability.

17.4.3 Arrange for Operating Insurance in accordance with the provisions of Section 27.
17.4.4 Execute all contracts as necessary, coincident with the performance of sound operating practice.

17.4.5 Provide for all necessary personnel for the performance of all Operating Work.

17.4.6 Enforce and comply with all contracts entered into for the performance of Operating Work.

17.4.7 Comply with any and all laws and regulations applicable to the performance of SWNMT operations.

17.4.8 Expend the monies required to operate and maintain the SWNMT. PNM expenditures as Operating Agent shall be made pursuant to Sections 17.7 and 17.8.

17.4.9 Keep the Participants informed whenever SWNMT maintenance is required and whenever non-project work will affect project operations. Assure proper coordination of non-project facilities, which have some bearing on the SWNMT Project Facilities so as not to impair SWNMT Project Facilities.

17.5 Maintenance costs shall be shared by the Parties in accordance with their ownership percentages established in Section 14. These costs will be billed as incurred.

17.6 Operation cost shall be reimbursed in accordance with Section 14 guidelines.

17.7 PNM, in its capacity as Operating Agent, will submit a proposed annual Operation and Maintenance Budget to the Engineering and Operating Committee no later than October 1 of each year for the subsequent calendar year. The Engineering and Operating Committee will approve or modify the proposed budgets within 60 days after submission.
to the Committee. Failure by the Engineering and Operating Committee to act on the proposed budget shall be deemed to be approval.

17.8 PNM, in its capacity as Operating Agent, is authorized to contract for or to make unbudgeted expenditures of less than $10,000.00, which are deemed by the Operating Agent to be for emergencies, without prior Engineering and Operating Committee approval. PNM shall obtain the consent of the members of the members of the Engineering and Operating Committee prior to contracting for unbudgeted expenditure sums of $10,000.00 or more.

18.0 CURTAILMENT OF DELIVERIES:

18.1 The Engineering and Operating Committee shall establish rules and procedures to be applicable in the event scheduled or actual deliveries of energy over any portion of the SWNMT must be curtailed for any reason.

18.2 To the extent excess emergency transmission capacity exists in the system of any Party, such Party agrees that such excess capacity may be used as emergency backup by the other Parties for a reasonable period at no charge.

19.0 POWER FLOWS EXCEEDING ENTITLEMENT RIGHTS: In the event that scheduled flows of a Participant exceed its Capacity Entitlement, each other Participant may require payment for the use of its facilities at a rate determined by it, subject to any requisite regulatory action.

20.0 PAYMENT OF CONSTRUCTION EXPENSES BY THE PARTICIPANTS:

20.1 Each Project Manager shall be responsible for the collection of funds from the Participants for its respective Construction Account, the depositing of such funds in the Construction Account and

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the making of payments to carry out the general provisions of this Agreement.

20.2 The Coordinating Committee shall establish and adopt rules and procedures for each Construction Account relating to the following:

20.2.1 The date of the month by which payment is to be made.
20.2.2 The rate of interest to be paid on delinquent payments.
20.2.3 The place payment is to be made.
20.2.4 The method in which disputed bills will be handled.

21.0 COMMITTEES: As a means of securing effective cooperation and of dealing on a prompt and orderly basis for the various technical, accounting, and operating problems which may arise in connection with the SWNMT construction or operation, the Participants will establish a “Coordinating Committee”, “Engineering and Operating Committee” and “Auditing Committee”, each charged with certain responsibilities. The responsibility and authority of each said committee shall be limited to matters in connection with the carrying out of the provisions of this Agreement.

21.1 Coordinating Committee: The Coordinating Committee shall be established and will be composed of an officer of each Participant. All actions taken by such committee shall require unanimous approval. Each Party shall notify the other Parties promptly of the designation of its representative on the Coordinating Committee and of any subsequent changes in such designations.

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Filed to comply with order of the Federal Energy Regulatory Commission, Docket No ER05-427-000, issued March 4, 2005.
21.1.1 The functions and responsibilities of the Coordinating Committee shall be as follows:

21.1.2 To establish and determine the policies to be followed and have authority to require action by the Engineering and Operating Committee and the Auditing Committee.

21.1.3 To review periodically the prospective transmission capacity of the transmission systems of the Participants, as affected by their joint ownership in the SWNMT, and to present recommendations to the Participants. To consider and act upon matters referred to the Coordinating Committee by the other committees.

21.1.4 To do such other things as are specified herein; provided that the Coordinating Committee shall have no authority to modify any of the provisions of this Agreement, except as to items where modification is specified herein to be within the scope of the Coordinating Committee’s responsibilities.

21.2 Engineering and Operating Committee:

21.2.1 An Engineering and Operating Committee, reporting and responsible to the Coordinating Committee, shall be established and consist of two representatives from each Participant. All actions taken by such Committee shall require unanimous approval of all members. Each Participant will notify the others promptly of the designation of its representatives and of any subsequent changes in such designations. The functions and responsibilities of the Engineering and Operating Committee shall be:

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Effective: April 29, 1977
21.2.2 To review and approve SWNMT project design prior to final engineering and procurement except that Engineering and Operating approval shall not be required on design of facilities where EPE is Project Manager and sole owner.

21.2.3 To establish rules and standard practices consistent with the provisions hereof for the guidance of system operators and other operating employees as to matters affecting interconnection operation, determination and allocation of losses, utilization of available transmission capacity, reciprocal assistance and other similar operating matters.

21.2.4 To recommend to the Coordinating Committee installation of additional facilities or procedures to effect an improved coordinated system operation.

21.2.5 To bring to the attention of the Coordinating Committee matters requiring its attention.

21.2.6 To do such other things as are specified herein; provided that the Engineering and Operating Committee shall have no authority to modify any of the provisions listed herein, except as to items where modification is specified herein to be within the scope of the Engineering and Operating Committee’s responsibility.

21.3 Auditing Committee: The Auditing Committee shall consist of two representatives from each Participant. All actions taken by such Committee shall require unanimous approval of all members. The Auditing Committee shall report to and be responsible to the Coordinating Committee. Each Participant will notify the other Participants.
promptly of the designation of its representatives on the Auditing Committee and of any subsequent changes in such designation.

21.3.1 The functions and responsibilities of the Auditing Committee shall be as follows:

21.3.2 To review internal control and make periodic audits of the records maintained by the Project Manager and/or the Operating Agent in the performance of Project Work and/or Operating Work and any other company records maintained by the Project Manager and/or the Operating Agent in support of its billings to the Participants.

21.3.3 Review and approve the format and contents of the Project Manager and/or Operating Agent’s accounting records and reports for Project Work and/or Operating work.

21.3.4 Certify to the Participants that the Project Manager’s and/or Operating Agent’s billings to Participants resulting from construction, operation and maintenance of SWNMT, including any allocations for Project Work and Operating Work, are in accordance with this Agreement and with sound accounting practices.

21.3.5 Review and approve the Participant’s administrative and general expense allowance and other normal loadings when such Participant acts as construction agent for Capital Additions, Capital Betterments, or Capital Replacements.

21.3.6 Perform such functions and responsibilities as may be assigned to it from time to time by the Coordinating Committee.

21.3.7 The Auditing Committee shall have no authority to modify any of the provisions of this Agreement.
21.4 The Coordinating Committee, Engineering and Operating Committee and the Auditing Committee shall keep written minutes and records of all meetings, and any action or determination by such committees shall be reduced to writing and shall become effective when signed by all representatives of each Participant on that committee.

22.0 **DISAGREEMENTS** : In case either the Engineering and Operating Committee or Auditing Committee should disagree as to any actions to be taken or decision to be made, or as to the need for taking any action, or as to whether any matter is within the scope of their responsibilities hereunder, the question or questions at issue shall be referred to the Coordinating Committee for action or instructions.

22.1 When a disputed matter cannot be resolved by the Coordinating Committee, the Chief Executive Officers of the Participants shall endeavor to agree to a resolution.

23.0 **OPERATING SWNMT** : It shall be the responsibility of the Operating Agent as assigned in Section 17 to coordinate all load dispatching and provide tie line load control at interchange points with other systems. When SWNMT project operations or non-project operations of the Participant(s) can be determined to cause detrimental effects in other systems, the Operating Agent shall have the authority to request corrective action from the Participant(s). This may include the startup of off-line generation facilities or increase in generation output.

23.1 Communication and Control Facilities: Facilities required to perform area regulation and control shall include the establishment of communication facilities between all project Switching Stations and
the respective Operating Agent’s dispatching office. Additionally, supervisory control, telemetry and metering necessary for the performance of system regulation and load dispatching shall be installed as a part of Project Facilities. Where desired other Participants may install passive supervisory monitor and telemetry equipment and request the Operating Agent to accommodate the installation thereof. In no event shall dual supervisory control of equipment be installed. The Operating Agent shall maintain control of all equipment. Costs associated with installation of secondary monitor and telemetry equipment shall be borne by the requesting Participant and maintenance of the equipment may be assigned to the Operating Agent on a reimbursable basis.

23.2 Voltage Control: It shall be the responsibility of the Operating Agent to regulate voltage levels and VAR flows in project lines and equipment. It shall be the responsibility of all Parties connecting to Project Facilities to insure zero non-beneficial reactive VAR interchange at interconnection points.

23.3 Control Area Definition: Coincident with the completion of Phase #3 of SWNMT wherein the Newman to Luna line is constructed, the present New Mexico-El Paso control area shall be separated into two separate and distinct control areas. The control area separation points shall be at Luna Switching Station and as otherwise agreed upon. Additionally, it is agreed that all Participants shall modify scheduling and interchange methods to conform with area redefinition. The operation of Participants' systems remaining within the New Mexico Control

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Area may be similarly separated from the Operating Agent’s control area by request of either Party. All Parties recognize the need for load and tie regulation and assume responsibility for regulation and scheduling their system requirements or arranging for others to insure that regulation obligations are met.

23.4 Outage Schedules: The Participants will cooperate in scheduling the times and durations of removal from service of SWNMT lines, or circuits which affect them, for inspection, maintenance or repair. The coordination of schedules shall be the responsibility of the Operating Agent(s).

23.5 Electrical Disturbances: Each Participant will, insofar as practical, construct, operate and maintain its system and facilities so as to avoid the likelihood of a disturbance originating from its system which might cause an impairment of service in the system of another Participant or in any other interconnected system.

23.6 Metering Information: All meter reading information required to adequately account for end-of-month transactions to and among Participants and others shall be submitted in a timely manner by the responsible Parties to the Operating Agent. This Information should be submitted no later than the end of the third working day after month’s end.

23.7 Operating Data: Each Participant will make available to each other Participant operating data to the extent that such data is
needed by the Coordinating Committee, Auditing Committee or the Engineering and Operating Committee, in the discharge of their respective responsibilities hereunder or as needed in connection with load dispatching and energy accounting.

24.0 METERING

24.1 Metering Facilities: Arrangements with the respect to location and type of metering facilities required for purposes of control and determining losses shall be the responsibility of the Engineering and Operating Committee. Ownership of metering shall be pursuant to Exhibit B. Upon the request of a Participant, the other Participants will make available suitable space and facilities for installation of check metering.

24.2 Testing and Reading of Meters: Metering equipment shall be inspected and tested by the owner at annual intervals or at such shorter intervals as may be directed by the Engineering and Operating Committee, and any inaccuracy disclosed by such tests shall be promptly corrected by the owner. Additional inspections and tests at particular installations shall be made by the owner upon request of a Participant. Representatives of the other Participants shall be afforded opportunity to be present at all such inspections and tests. If, at any test, a meter shall be found to be inaccurate by more than one percent (1%), fast or slow, an adjustment shall be made and settlements hereunder among the Participants, to compensate for the effect of such inaccuracy in excess of one percent (1%) over a preceding period extending to the second preceding meter reading, or over such shorter periods as the inaccuracy may be determined to have existed.
24.3 Adjusting Metering Accuracy: The percentage registration of meters, including instrument transformers, shall be adjusted as closely as practicable to the condition of zero error in accordance with the American National Standard Code for electricity metering (C-12).

25.0 RELATIONSHIP OF PARTIES: Nothing herein contained shall be construed as to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any of the Participants. Each Participant shall be individually responsible for its own covenants, obligations and liabilities as herein provided.

26.0 CONSTRUCTION INSURANCE: Unless otherwise specified by the Coordinating Committee, the Project Manager shall procure and maintain in force, or cause to be procured and maintained in force, policies of insurance as specified herein.

26.1 The Project Manager shall be required of itself or from the General Contractor(s), if any, to procure and maintain Comprehensive General and Automobile Liability Insurance for Bodily Injury and Property Damage covering all their operations, including Completed Operations Coverage and use of any automobile in connection with the Project Work. All Parties shall be named as Additional Named Insureds and such policy shall be primary as to any similar insurance carried by any Party and such policy shall contain a cross liability clause.

26.2 The Project Manager may purchase or require the General Contractor(s), if any, to purchase other insurance as it may deem necessary or desirable.
26.3 The General Contractor, if any, shall provide Certificates of Insurance to the Project Manager. Such certificates shall provide for not less than thirty (30) days notice of cancellation, material change or non-renewal.

26.4 The Project Manager shall have the authority to make such changes in the insurance program as it may deem to be in the best interests of all Parties upon thirty (30) days’ notice to the other Participants. Such changes may be subject to the review of the Coordinating Committee.

26.5 Subject to approval of the Coordinating Committee, the Project Manager shall establish the insurable values, limits, deductibles, retentions and other special terms and conditions with respect to the insurance during construction and operation.

26.6 Such insurance as is called for “During Operation” in Section 27 shall be maintained by each Party in connection with construction operations, if applicable.

27.0 OPERATING INSURANCE: Unless otherwise specified by the Coordinating Committee, PNM, EPE, and CPS shall procure and maintain in force, or cause to be procured and maintained in force, policies of insurance as specified herein for each Party.

27.1 The Participants shall maintain Comprehensive General Liability for Bodily Injury and Property Damage, covering their ownership in and/or existence of the SWNMT, and also covering liability arising out of either their performance or non-performance of Operation or Maintenance Work as required or called for in this Agreement. All
Participants shall be an Additional Named Insured on all other Participant’s policies with respect to liability in connection with the SWNMT and the respective policies shall each contain a cross liability clause. Policies providing coverage for ownership and/or existence of the SWNMT shall be primary for all Insureds or Additional Named Insureds with respect to that portion of the SWNMT for which the Party insured has been designated responsible under this Agreement. Operational liability for any Party shall also be primary for all Insureds or Additional Named Insureds with respect to operations of the Party responsible for that portion of the SWNMT out of which the claim arises.

27.2 Each Party shall maintain Comprehensive Automobile Liability Insurance for Bodily Injury and Property Damage, covering all automotive equipment used by it in connection with the SWNMT.

27.3 If applicable, each Party shall maintain Aircraft Liability Insurance for Bodily Injury and Property Damage, covering all aircraft, whether fixed or rotary wing type, used by it in connection with the SWNMT.

27.4 Each Party shall maintain Workmen’s Compensation and Employers’ Liability Insurance covering its employees engaged in any work in connection with the SWNMT. Such insurance shall comply with all statutory provisions of the States of Arizona and/or New Mexico and/or Texas.

27.5 In the event that any Party shall be or elect to become self-insured for any or all of the insurance coverages required of a Party, then it shall notify the others of such self-insurance and such self-insurance shall be deemed in compliance with this Section 27.
27.6 At the request of any Party, Certificates of Insurance or other sufficient evidence of insurance or self-insurance shall be provided. Such evidence of insurance shall provide for no less than thirty (30) days’ notice of any cancellation or material change.

28.0 INDEMNITY:

28.1 The Participants mutually agree that liabilities, if any, to third parties shall be borne by the Participants in accordance with their respective ownership interests in SWNMT, and each Participant agrees to indemnify and hold harmless the other Participants from and against liability for such Participant’s proportionate share of such liabilities.

28.2 No Participant shall be liable to any of the other Participants for any damage to SWNMT from whatever cause, except willful action of such Participant, and the Participants mutually agree to look solely to the insurance coverage carried on SWNMT, if any, for recovery of such damages. The cost of any non-insured damage shall be shared by the Participants in accordance with their respective ownership interests in SWNMT.

28.3 Notwithstanding Section 28.1, it is mutually agreed as follows:

(a) PNM shall indemnify and hold harmless CPS and EPE from and against any liability for death, injury, loss or damage to PNM’s customers arising out of electric service to such customers caused by the operation or failure of operation of SWNMT.
(b) CPS shall indemnify and hold harmless PNM and EPE from and against any liability for death, injury, loss or damage to CPS’s customers arising out of electric service to such customer caused by the operation or failure of operation of SWNMT.

(c) EPE shall indemnify and hold harmless PNM and CPS from and against any liability for death, injury, loss or damage to EPE’s customers arising out of electric service to such customer caused by the operation or failure of operation of SWNMT.

(d) Provided, however, that the agreement to indemnify shall not extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of:

A. the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications by the indemnitee, or the agents or employees of the indemnitee; or

B. the giving of or the failure to give directions or instructions by the indemnitee, or the agents or employees of the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

The word “indemnify” as used in this section includes, without limitation, as agreement to remedy damage or loss caused in whole or in part by the negligence,
act, or omission of the indemnitee, the agents or employees of the indemnitee, or any legal entity for whose negligence, acts or omissions any of
the foregoing may be liable.

26.4 No Participant shall be liable to any of the other Participants for damage or injury to any property owned by such Participants not the subject of this
Agreement resulting from the operation or failure of operation of SWMNT, regardless of which of the Participants may have caused such injury or damage.

26.5 The provisions of this Section 28 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with
the terms and conditions of the applicable insurance policies.

29.0 WAIVER OF RIGHT TO PARTITION: Upon completion of each Phase of SWNMT the Participants will accept title thereto as tenants in common,
with each Participant having an undivided interest in the percentage which is set out. The Participants agree that their interests shall be held in such tenancy in
common for the duration of this Agreement, including any extensions thereof. For the term of this Agreement, the Participants hereby waive the right to partition
the SWNMT (whether by partition in kind or by sale and division of the proceeds thereof), agree that no Participant will resort to any action at law or at equity to
partition the SWNMT, and waive the benefits of all laws that may now or hereafter authorize such partition.

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Effective: April 29, 1977
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

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30.0 MORTGAGE AND TRANSFER OF PARTICIPANTS INTERESTS:

30.1 The Participants shall have the right at any time and from time to time to mortgage, create or provide for a security interest in, or convey in trust their respective rights, titles and interest in the SWNMT to a trustee or trustees under Deeds of Trust, Mortgages or Indentures, or to secure parties under a Security Agreement, as security for their present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior written consent of the other Parties, and without such mortgages, trustee or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Participant.

30.2 Any mortgagee, trustee, or secured party under present or future Deeds of Trust, Mortgages, or Indentures, or security agreements of any of the Participants and any successor or assign thereof, and any receiver referee or trustee in bankruptcy or reorganization of any of the Participants, and any successor by action of law or otherwise, and any purchaser, transferee or assignee of any thereof may, without need for prior written consent of the Participants, succeed to and acquire all the rights, title and interests of such Participant in the SWMNT and may take over possession of or foreclose upon said property rights, title and interests of such Participant.

30.3 Any Participant shall have the right to transfer or assign its respective rights, titles and interests in the SWMNT without the need for prior written consent of the other Participants at any time to any corporation or to other entity acquiring all or substantially all

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30.4 In case a Participant shall wish to transfer or otherwise relinquish all or part of its ownership in the SWNMT, the right to purchase such ownership and associated cost responsibility and obligation shall be first offered to the other Participants, according to their existing interest except as provided elsewhere in Section 30. If both of those Participants elect not to purchase the offering Participant’s interest, thereafter the offering Participant may enter into an agreement with any other party to transfer, relinquish or otherwise reduce all or part of its ownership and capacity entitlement in the SWNMT. However, notwithstanding anything to the contrary contained herein, the third-party must assume all the obligations prorata of the selling Participant. Provided, that if any Participant should transfer or otherwise relinquish an operating district or division of its company which includes or is dependent in whole or in part upon that Participant’s interest in the SWNMT for its energy supply, such right of refusal shall not apply.

31.0 REGULATORY AUTHORITIES:

31.1 This Agreement is not a rate schedule as defined pursuant to 18 C.F.R. 35.2(b) of the F.P.C. regulations and is not to be so construed.

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31.2 This Agreement is subject to all valid and applicable laws, and to all valid and applicable orders, rules and regulations of duly constituted regulatory authorities having jurisdiction, and its becoming effective is subject to any requisite regulatory approvals or other requisite action by any regulatory agency having jurisdiction. It is, however, not the intent of the Agreement that by virtue of its execution any jurisdiction or control in any form over a Party hereto will be extended to any local, state or federal agency not otherwise having jurisdiction or control over such Party.

31.3 During the course of the proceedings in Cases 1176 and 1177, before the New Mexico Public Service Commission, PNM and CPS represented to that Commission that an agreement with EPE, for the SWNMT, would be entered into to provide for EPE’s requirements. It is the intention of the Participants that this Agreement shall constitute a full and complete expression of the Participants of the arrangements governing the capacity to be made available to EPE and that it represents the fulfillment of all commitments made by PNM and CPS.

32.0 TERM: This Agreement shall continue in full force and effect for a period of thirty (30) years from the date of execution of this Agreement, or for so long as the SWNMT remains in commercial operation, whichever is longer.

33.0 MISCELLANEOUS PROVISIONS:

33.1 This Agreement is therefore entered into to set out and embody the entire understanding and agreement between the Participants to SWNMT and replaces and supersedes the December 16, 1974 letter of

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Effective: April 29, 1977
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Filed to comply with order of the Federal Energy Regulatory Commission,
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33.2 All Participants agree, upon request of another Participant, to make, execute and deliver any and all documents reasonably required to implement this Agreement.

33.3 The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation hereof.

33.4 This Agreement is executed in and shall be governed by the laws of the State of New Mexico.

33.5 Each term, covenant and condition of this Agreement is deemed to be an independent term, covenant and condition and the obligation of any Participant to perform all of the terms, covenants and conditions, to be kept and performed by it, is not dependent on the performance by the other Participant of any term, covenant or condition.

33.6 Subject to this Agreement becoming effective pursuant to Section 31.2, thereafter in the event any of the provisions, terms, covenants or conditions of this Agreement, or the application of any such provisions shall be held invalid to any person or circumstance by any court or agency having jurisdiction in the premises, the remainder of this Agreement, and the application of its terms, covenants or conditions to such person or circumstance shall not be affected thereby.

33.7 All costs or expenses, including all taxes or fees that the Project Manager is required to pay which are incurred by the Project.
Manger in connection with the performance of its obligations as Project Manager under this Agreement, and which are not specifically allocated to the Participants in accordance herewith, shall be equitably allocated between the Participants in a manner to be mutually agreed upon by the Coordinating Committee.

34.0 NOTICES:

34.1 Any formal notice, demand or request provided for in this Agreement or given or made in connection with this Agreement, shall be deemed to be properly given or made if delivered or sent by registered or certified mail or telegram to the persons specified below:

To or upon PNM Secretary
Public Service Company of New Mexico
P. O. Box 2267
Albuquerque, New Mexico 87103

To or upon CPS Secretary
Community Public Service Company
501 West Sixth Street
Fort Worth, Texas 76102

To or upon EPE Secretary
El Paso Electric Electric Company
P. O. Box 982
El Paso, Texas 79999

34.2 A Party may at any time by written notice change the designation or address of the person so specified.

34.3 Notices and requests of a routine character in connection with the delivery or receipt of power or energy to or from SWNMT or in connection with the operation of facilities of SWNMT shall be given in such manner as the Project Manager from time to time shall arrange.

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Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
IN WITNESS WHEREOF, the Parties have hereto caused this Agreement to be executed in Albuquerque, New Mexico this 29th day of April, 1977.

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

COMMUNITY PUBLIC SERVICE COMPANY

By

EL PASO ELECTRIC COMPANY

By

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
SWNMT EXHIBIT A

12/16/74 LETTER OF AGREEMENT

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
Mr. C. L. Cooke, President
Community Public Service Company
501 West Sixth Street
Fort Worth, Texas 76102

Mr. D. H. Lane, President
El Paso Electric Company
P. O. Box 982
El Paso, Texas 79999

Gentlemen:

Subject: Principles of Agreement for the Southwest New Mexico Transmission Project.

This letter of Principles of Agreement between El Paso Electric Company (EPE), Community Public Service Company (CPS), and Public Service Company of New Mexico (PNM) is entered into and incorporates the agreement between the parties to date relating to the participation in the two 345 KV transmission lines and related facilities known as the Southwest New Mexico Transmission Project (SWNMT).

The parties will proceed with due diligence to have completed, not later than six months from the date hereof, the final Participation Agreement and such other necessary agreements between the parties as required hereby.

The execution of this letter will enable El Paso Electric Company to withdraw its intervention in cases 1176 and 1177 before the New Mexico Public Service Commission and further will eliminate any cross examination by any party of another party’s witnesses in said

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Effective: April 29, 1977

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action. Further, PNM and CPS will proceed before the New Mexico Public Service Commission to obtain their Certificates of Public Convenience and Necessity and Location Permits as filed so that the future planning of SWNMT and purchases of right-of-way may proceed as soon as possible hereafter.

The Principles of Agreement are as follows:

**GENERAL**

1. The proposed lines Greenlee-Hidalgo-Luna-Blythe (Line A) and Greenlee-Hidalgo-Luna-Rio Grande (Line B) will each be built for 400 MW minimum nominal capacity suitable for emergency thermal loading of 1000 MVA.

2. CPS will own Hidalgo Substation, PNM will own Luna Substation, EPE will own Blythe Substation. PNM will provide for Line A position at Greenlee by agreement with Tucson Gas & Electric as will EPE for Line B.

   a. The parties stipulate there will be no substations added to the system without mutual agreement.

3. Should the parties not agree on a just and reasonable selling price of capacity in various segments mentioned below, they shall submit the case to arbitration for decision with PNM and CPS selecting one arbitrator and EPE selecting one arbitrator and the two arbitrators so selected shall select the third; any party aggrieved by the arbitrators’ award shall have the right to litigate the matter de novo in the Santa Fe District Court.

4. To the extent excess emergency transmission capacity exists in the system of any party, such party agrees that such excess
capacity may be used as emergency backup by the other parties at no charge for a reasonable period.

FOR LINE A:

6. PNM-CPS will build Hidalgo-Luna by May 1976 unless a later date is agreed to by PNM and CPS.
7. EPE will build Luna-Blythe by May 1978 unless a later date is agreed to by CPS and PNM. EPE will not be obligated to an earlier in-service date for this section than the in-service date of the Hidalgo-Luna section set forth in #6 above.
8. PNM – CPS will pay EPE, until December 1980, just and reasonable carrying charges for 60 miles of the 85 mile Luna-Blythe Line.
9. EPE will purchase, in 1980, 200 MW (nominal) In Line A from Greenlee through Luna. 200 MW is not necessarily intended to be one-half of Line A’s capacity.
10. EPE will sell, in 1980, 20 miles from Luna to Luna–Dona Ana County line, retaining 200MW through capacity (nominal) in this segment, should PNM – CPS desire.

FOR LINE B:

11. EPE will build Line B for completion to coincide with commercial service data of Palo Verde #2.
12. EPE will sell CPS 100 MW (nominal) in Line B from Greenlee to Hidalgo if CPS desires.
Public Service Company of New Mexico

Mr. C. L. Cooke, President
Mr. D. H. Lane, President

December 16, 1974

If this letter properly reflects your understanding of the Principles of Agreement, please sign the acceptance and have available for signing by the other participants by Thursday December 19, 1974.

Very truly yours,

PUBLIC SERVICE COMPANY OF NEW MEXICO

By ____________________________

C. D. Bedford, Vice President

ACCEPTED:

COMMUNITY PUBLIC SERVICE COMPANY

By ____________________________

Date: 12-10-74

EL PASO ELECTRIC COMPANY

By ____________________________

Date: 12-18-74

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
El Paso Electric Company
Rate Schedule FERC No. 78

SWNMT EXHIBIT B
Cost Responsibility and Ownership
of Facilities at Stations

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
SWNMT Construction Phases:

The SWNMT is to be constructed in five Phases. The SWNMT Phases are as outlined pursuant to the following tables and drawings.

Legend:

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<th>Symbol</th>
<th>Description</th>
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<tr>
<td><img src="image1" alt="Symbol 1" /></td>
<td>345 KV shunt reactor</td>
</tr>
<tr>
<td><img src="image2" alt="Symbol 2" /></td>
<td>345 KV line or transformer disconnect switch</td>
</tr>
<tr>
<td><img src="image3" alt="Symbol 3" /></td>
<td>345 KV circuit breaker</td>
</tr>
<tr>
<td><img src="image4" alt="Symbol 4" /></td>
<td>transformer with LTC</td>
</tr>
<tr>
<td><img src="image5" alt="Symbol 5" /></td>
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<tr>
<td><img src="image6" alt="Symbol 6" /></td>
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<tr>
<td><img src="image8" alt="Symbol 8" /></td>
<td>345 KV line trap</td>
</tr>
<tr>
<td><img src="image9" alt="Symbol 9" /></td>
<td>345 KV lightning arrestor</td>
</tr>
</tbody>
</table>

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## SWNMT FACILITIES

### I. PHASE #1

#### A. Greenlee Substation

**Project Facilities:**

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description</th>
<th>Ownership</th>
<th>Owner 1</th>
<th>Owner 2</th>
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<tbody>
<tr>
<td>Lot</td>
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<td>11.2.1</td>
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<tr>
<td>3</td>
<td>345 kV PCM’s w/stands, one w/CXR</td>
<td>&quot;</td>
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</tr>
<tr>
<td>1</td>
<td>345 kV Line Trap</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>Lot</td>
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**Non-Project:**

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<tr>
<td>1</td>
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<td>Agreement</td>
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<td>1</td>
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<td>&quot;</td>
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<td>3</td>
<td>345 kV Lightning Arrestor</td>
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<tr>
<td>1</td>
<td>Line Disconnect Switch</td>
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<tr>
<td>Lot</td>
<td>Supervisory, Telemetry, Microwave</td>
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<td>&quot;</td>
<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Breaker Failure Relaying</td>
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#### B. Hidalgo Station

**Project Facilities:**

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<tr>
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<td>Per Section</td>
<td>11.2.1</td>
<td></td>
</tr>
<tr>
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<td>345 kV Lightning Arrestor</td>
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<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>3</td>
<td>345 kV PCM’s w/stands, one w/CXR</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
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<tr>
<td>1</td>
<td>345 kV Line Trap</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
</tr>
<tr>
<td>Lot</td>
<td>Line Relaying, Carrier (to Greenlee)</td>
<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Metering</td>
<td>&quot;</td>
<td>&quot;</td>
<td>&quot;</td>
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<tr>
<td>1</td>
<td>65 MVAR Reactor w/Relaying</td>
<td>Per Section</td>
<td>11.3</td>
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<td>1</td>
<td>Reactor Motor Operated Circuit Switcher w/stand</td>
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<tr>
<td>Lot</td>
<td>Batteries &amp; Charger</td>
<td>&quot;</td>
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<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Bus and Fittings</td>
<td>100% CPS</td>
<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Bus Support Structures</td>
<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Cable Troughs, Equipment Controls</td>
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<td>&quot;</td>
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<tr>
<td>Lot</td>
<td>Supervisory, Telemetry</td>
<td>100% PNM</td>
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Non-Project:

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<tr>
<td>1</td>
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<td>“” ”</td>
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<tr>
<td>Lot</td>
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<tr>
<td>1*</td>
<td>345 kV PCM</td>
<td>“” ”</td>
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II. PHASES #2 & #3

A. Hidalgo Station (See Dwg. B-II-A)

Project Facilities:

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<th>Description</th>
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<tbody>
<tr>
<td>1</td>
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<td>Per</td>
</tr>
<tr>
<td>3</td>
<td>345 kV lightning Arrestors</td>
<td>“” ”</td>
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<tr>
<td>3</td>
<td>345 kV PCM’ s w/stands, one w/CXR</td>
<td>“” ”</td>
</tr>
<tr>
<td>1*</td>
<td>345 kV Line Trap</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Line Relaying, Communications (to Luna)</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Breaker Failure Relaying</td>
<td>100% CPS</td>
</tr>
<tr>
<td>3</td>
<td>345 kV Circuit Breakers</td>
<td>“” ”</td>
</tr>
<tr>
<td>6</td>
<td>345 kV Disconnect Switches</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Bus Support Structures</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Bus and Fittings</td>
<td>“” ”</td>
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<tr>
<td>Lot</td>
<td>Equipment Controls</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Supervisory, Telemetry, Communications</td>
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B. Luna Station (See Dwg. B-II-B)

Project Facilities:

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<tbody>
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</tr>
<tr>
<td>3</td>
<td>345 kV PCM’ s w/stands, one w/CXR</td>
<td>“” ”</td>
</tr>
<tr>
<td>3</td>
<td>345 kV Lighting Arrestors</td>
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<tr>
<td>1*</td>
<td>345 kV Line Trap</td>
<td>“” ”</td>
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<tr>
<td>Lot</td>
<td>Line Relaying, Communications (to Hidalgo )</td>
<td>“” ”</td>
</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td>“” ”</td>
</tr>
<tr>
<td>Quantity</td>
<td>Description</td>
<td>Per</td>
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<tr>
<td>----------</td>
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<tr>
<td>1</td>
<td>Line Deadend Tower</td>
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<tr>
<td>3</td>
<td>345 kv PCM’s w/stands, one w/CXR</td>
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</tr>
<tr>
<td>3</td>
<td>345 kv Lightning Arresters</td>
<td></td>
</tr>
<tr>
<td>1*</td>
<td>345 kv Line Trap</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Line Relaying, Communications (to Newman)</td>
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</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td></td>
</tr>
<tr>
<td>Lot*</td>
<td>Reactor w/circuit Switcher and Relaying</td>
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</tr>
<tr>
<td>Lot</td>
<td>Switching Station Grading, Fencing, Grounding</td>
<td>100%</td>
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<tr>
<td>1</td>
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<tr>
<td>Lot</td>
<td>Batteries and Charger</td>
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</tr>
<tr>
<td>Lot</td>
<td>Bus Fittings</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Bus Support Structures</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Cable Troughs, Equipment Controls</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Supervisory, Telemetry, Communications</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>345 kV Circuit Breakers</td>
<td></td>
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<tr>
<td>6</td>
<td>345 kV Disconnect Switches</td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Breaker Failure Relaying</td>
<td></td>
</tr>
</tbody>
</table>

Non-Project:

| 1        | 345-115 kV Autotransformer w/LTC                             | 100%| PNM     |           |
| Lot      | Station Service Equipment                                    |     |         |           |
| 1*       | 345 kV PCM                                                   |     |         |           |

C. Newman Station

Project Facilities:

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description</th>
<th>Per</th>
<th>Section</th>
<th>Ownership</th>
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<tr>
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<td></td>
</tr>
<tr>
<td>3</td>
<td>345 kv PCM’s w/stands</td>
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<tr>
<td>3</td>
<td>345 kv Lightning Arresters</td>
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<td></td>
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<tr>
<td>1*</td>
<td>345 kv Line Trap</td>
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<tr>
<td>Lot</td>
<td>Line Relaying, Communication (to Luna)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot*</td>
<td>Reactor w/Circuit Switcher and Relaying</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot</td>
<td>Switching Station Grading, Fencing, Grounding</td>
<td>100%</td>
<td>EPE</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Control House</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Lot</td>
<td>Batteries and Charger</td>
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El Paso Electric Company
Rate Schedule FERC No. 78

Lot Bus Support Structures 100% EPE
Lot Bus and Fittings “ “
Lot Cable Troughs, Equipment Controls “ “
Lot Supervisory, Telemetry, Communications “ “
1 345 kV Circuit Breaker “ “
2 345 kV Disconnect Switches “ “
1 345 kV line Disconnect Switch w/stand “ “
Lot Breaker Failure Relaying “ “

Non-Project:

Lot Station Service Equipment 100% EPE

III. PHASE 4 – no DONE

A. Greenlee Substation

Project Facilities:

<table>
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<tr>
<th>Quantity</th>
<th>Description</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Lot</td>
<td>Line Relaying, Communications</td>
<td>Per</td>
</tr>
<tr>
<td>3</td>
<td>345 kV PCM’s w/stands, one w/CXR</td>
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<tr>
<td>1*</td>
<td>345 kV Line Trap</td>
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<tr>
<td>Lot*</td>
<td>Metering</td>
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<tr>
<td></td>
<td>Reactor w/Circuit Switches and Relaying</td>
<td>Per</td>
</tr>
</tbody>
</table>

Non-Project:

|          | Line Deadend Tower                  | EPE/TGLE  | Future | Agreement |
| 1        | Line Disconnect Switch              | “         | “      | “         |
| Lot*     | Supervisory, Telemetry, Communications | “         | “      | “         |
| 3        | 345 kV Lightning Arrestors          | “         | “      | “         |
| Lot      | Breaker Failure Relaying            | “         | “      | “         |
| 2        | 345 kV Circuit Breaker              | “         | “      | “         |

B. Hidalgo Station - No equipment at Hidalgo required coincident with Phase #4

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Project Facilities:

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</thead>
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<td>Section 11.2.4</td>
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<td>345 kV Lightning Arrestors</td>
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<tr>
<td>2*</td>
<td>345 kV Line Traps</td>
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<tr>
<td>Lot</td>
<td>Line Relaying Communications</td>
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<td>Metering</td>
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<td>PNM</td>
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<td>345 kV Circuit Breakers</td>
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<tr>
<td>Lot</td>
<td>Bus Support Structures</td>
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<tr>
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<td>Bus Fittings</td>
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<td>Equipment controls</td>
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<tr>
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<td>Supervisory, Telemetry</td>
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Non-Project:

1 345 kV Motor Operated Transformer Disconnect 100% PNM

D. Rio Grande station

Project Facilities:

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<th>Description</th>
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<tr>
<td>3</td>
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<tr>
<td>1*</td>
<td>345 kV Line Trap</td>
<td>“</td>
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</tr>
<tr>
<td>Lot</td>
<td>Line Relaying, Communications (to Luna)</td>
<td>“</td>
<td>“</td>
</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td>“</td>
<td>“</td>
</tr>
<tr>
<td>Lot</td>
<td>Reactor w/Circuit Switcher and Relaying</td>
<td>Per</td>
<td>Section 11.3</td>
</tr>
<tr>
<td>Lot</td>
<td>Switching Station Grading, Fencing, Grounding</td>
<td>100%</td>
<td>EPE</td>
</tr>
<tr>
<td>1</td>
<td>Control House</td>
<td>“</td>
<td>“</td>
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Lot Batteries and Charger
Lot Bus and Fittings
Lot Bus Support Structures
Lot Cable Troughs, Equipment Controls
Lot Supervisory, Telemetry, Communications
1 345 kV Circuit Breaker
2 345 kV Disconnect Switches
1* 345 kV Line Disconnect Switch
Lot Breaker Failure Relaying

Non-Project:
Lot Station Service Equipment 100% EPE

IV. PHASE #5
A. Hidalgo Station (See Dwg. B-IV-A)

Project Facilities:

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<tr>
<td>6</td>
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</tr>
<tr>
<td>6</td>
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</tr>
<tr>
<td>2*</td>
<td>345 kV Line Traps</td>
<td>“</td>
</tr>
<tr>
<td>Lot</td>
<td>Line Relaying, Communications</td>
<td>“</td>
</tr>
<tr>
<td>Lot</td>
<td>Metering</td>
<td>“</td>
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<tr>
<td>4</td>
<td>345 kV Line Motor Operated Disconnects w/stands</td>
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</tr>
<tr>
<td>Lot*</td>
<td>345 kV Reactor w/Circuit Switcher and Relaying</td>
<td>Per</td>
</tr>
<tr>
<td>Lot</td>
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<td>100%</td>
</tr>
<tr>
<td>2</td>
<td>345 kV Circuit Breaker</td>
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</tr>
<tr>
<td>4</td>
<td>345 kV Disconnect Switches</td>
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</tr>
<tr>
<td>Lot</td>
<td>Bus Support Structures</td>
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</tr>
<tr>
<td>Lot</td>
<td>Bus and Fittings</td>
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<tr>
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<td>Equipment Controls</td>
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</tr>
</tbody>
</table>

B. Luna Station - No additional Project Facilities added at Luna.

C. Newman Station - No additional Project Facilities added at Newman.

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D. Rio Grande Station - No additional Project Facilities added at Rio Grande.

NOTES:

1. *As required
2. All facilities include any associated equipment necessary for operation of SWNMT.

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Issued by: John A. Whitacre, Vice President, Transmission and Distribution

Issued on: April 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
El Paso Electric Company
Rate Schedule FERC No. 78

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
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Effective: April 29, 1977

B-11
Issued by: John A. Whitacre, Vice President, Transmission and Distribution
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Effective: April 29, 1977
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Effective: April 29, 1977
I. The shunt reactors are allocated pursuant to the entire line length from Greenlee Station to Newman Station for Line A and from Greenlee to Rio Grande Station for Line B.

For Line A:

Level of shunt reactive compensation needed is \( X \) %.
Level of shunt capacitive reactance of the 345 kV line is Y [ILLEGIBLE].
\[ X \% \times \text{Y [ILLEGIBLE]} / 100\% = Z \text{ [ILLEGIBLE]} = G + J + K \text{ [ILLEGIBLE]} \]
Cost responsibility for Z [ILLEGIBLE] is allocated based on Weighted Average Line Ownership (WALO). For Line A WALO is calculated as follows:

PNM Weighted Average Line Ownership:
\[ (60/200 \times 30\%) + (50/200 \times 37.80\%) + (90/200 \times 0\%) = 18.45\% \]

CPS Weighted Average Line Ownership:
\[ (60/200 \times 30\%) + (50/200 \times 5.00\%) + (90/200 \times 0\%) = 10.25\% \]
EPE Weighted Average Line Ownership:
(60/200 X 40%) + (50/200 x 57.20%) + (90/200 x 100%) = 71.30%

[ILLEGIBLE] responsibility for SWNMT Line A is allocated as follows:

PNM [ILLEGIBLE] Responsibility (18.45%/100%) x [ILLEGIBLE] [ILLEGIBLE] = P [ILLEGIBLE]
CPS [ILLEGIBLE] Responsibility (10.25%/100%) x [ILLEGIBLE] [ILLEGIBLE] = C [ILLEGIBLE]
EPE [ILLEGIBLE] Responsibility = (71.30%/100%) x [ILLEGIBLE] [ILLEGIBLE] = E [ILLEGIBLE]

For Line B:

Level of shunt inductive compensation is U%.
Level of shunt capacitive reactance of line is V [ILLEGIBLE].
Total shunt inductive [ILLEGIBLE] = W, calculated as follows:
(U% x V [ILLEGIBLE])/100% = W [ILLEGIBLE]

Cost responsibility for W [ILLEGIBLE] is calculated based on Weighted Average Line Ownership. For Line B EPE owns 100% initially:

PNM WALO (Line B) = 0%
CPS WALO (Line B) = 0%
EPE WALO (Line B) = 100%

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Effective: April 29, 1977
Therefore EPE is responsible for 100% of \( W \) [ILLEGIBLE]. If PNM and/or CPS exercise their option to participate in either Line B Greenlee to Hidalgo or Greenlee to Luna, a portion of \( W \) [ILLEGIBLE] will be allocated according to ownership therein.

### Example of Reactor Ownership and Allocation Method:

Assume level of shunt inductive compensation desired is 100%; the level shunt capacitive reactance of Line A is approximately 170 Mvar.

\[
100\% \times \frac{170}{100\%} = 170 \text{ Mvar} = \text{total inductive (reactor) Mvar} = G + J + K \text{ Mvar}, \text{ where } G \text{ is Hidalgo reactor.}
\]

Weighted Average Line Ownership for Line A is:

<table>
<thead>
<tr>
<th>Line</th>
<th>PNM WALO</th>
<th>CPS WALO</th>
<th>EPE WALO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Line A</td>
<td>18.45%</td>
<td>10.25%</td>
<td>71.30%</td>
</tr>
</tbody>
</table>

Line A PNM Mvar Responsibility = \( 0.1845 \times 170 \) Mvar = 31.4 Mvar

Line A CPS Mvar Responsibility = \( 0.1025 \times 170 \) Mvar = 17.4 Mvar

Line A EPE Mvar Responsibility = \( 0.7130 \times 170 \) Mvar = 121.2 Mvar

Assuming PNM and CPS with their Mvar responsibility to be solely in Reactor G and \( G = 65 \) Mvar (@ 362 kV), then

- PNM owns 31.4/65 or 48.31% of Reactor G
- CPS owns 17.4/65 or 26.77% of Reactor G
- EPE owns 16.2/65 or 24.92% of Reactor G
- EPE owns 100% of Reactors \( J + K = 110 \) Mvar

Issued by: John A. Whitacre, Vice President, Transmission and Distribution

Issued on: April 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977

C-3
II. The series and/or shunt capacitors of SWNMT are allocated based on the percent ownership of Participants in the SWNMT lines.

Example of Series Capacitor Ownership and Allocation Method

Assume level of series capacitive compensation desired is equivalent to 200 Mvar's.

Weighted Average Line Ownership of the SWNMT System in percent is:

\[
\text{WALO (Line A) + WALO (Line B)}
\]
\[
\frac{2}{2}
\]

For PNM:

\[
\text{WALO} = \frac{18.45\% + 0\%}{2} = 9.23\%
\]

For CPS:

\[
\text{WALO} = \frac{10.25\% + 0\%}{2} = 5.12\%
\]

For EPE:

\[
\text{WALO} = \frac{71.30\% + 100\%}{2} = 85.65\%
\]

Therefore, series capacitor ownership and cost responsibility would be, for 200 Mvar of series capacitors, would be as follows:

PNM Mvar Responsibility = 200 x .0923 = 18.46 Mvar's
CPS Mvar Responsibility = 200 x .0512 = 10.24 Mvar's
EPE Mvar Responsibility = 200 x .8565 = 171.30 Mvar's

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1977
Mr. D. G. Isbell
Vice President
El Paso Electric Company
P. O. Box 982
El Paso, TX 79960

Mr. Owen Ringness
Vice President
Texas-New Mexico Power Company
501 West Sixth Street
Fort Worth, TX 76102

Gentlemen:

Subject: SWNMT LETTER AGREEMENT

The purpose of this SWNMT Letter Agreement is to outline the terms and conditions under which Public Service Company of New Mexico (PNM), Texas-New Mexico Power Company ([ILLEGIBLE]), formerly Community Public Service Company, and El Paso Electric Company (EPE) agree to amend and supplement the Southwest New Mexico Transmission Project (SWNMT) Participation Agreement.

The SWNMT Participation Agreement anticipates that Line B, Phase 4 would be in-service coincident with the commercial service date of the Arizona Nuclear Power Project (ANPP) Unit 2, and that Phase 5 would be in-service coincident with the ANPP Unit 3.

EPE has entered into an agreement with Tucson Electric Power Company (TEP) that, among other things, obligates EPE to construct a 345 kV transmission line from TEP’s Springerville 345 kV Switching Station (Springerville) to Luna 345 kV Switching Station (Luna), to be in service by June 1, 1987. In conjunction with the Springerville to Luna transmission line, EPE is planning to build a 345 kV transmission line from Luna into the El Paso area. These two line segments plus associated facilities comprise the Springerville-Luna-El Paso Transmission Project.

Now, therefore, in consideration of the promises and mutual covenants herein set forth, the Parties agree that the SWNMT Participation Agreement is hereby amended and supplemented as follows:

1. This SWNMT Letter Agreement shall become effective on the date it is executed by all the Parties hereto and shall remain in effect concurrently with the SWNMT Participation Agreement; provided that upon the in-service date of Line B (Phases 4 and 5), Items 4 and 5 herein shall no longer be in effect.

2. EPE agrees to construct the Springerville-Luna-El Paso Transmission Project to be in service no later than June 1, 1987.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: July 22, 1984
3. From the commercial operation date of ANPP Unit 2 to the in-service date of EPE’s Springerville-Luna-El Paso Transmission Project, EPE shall provide emergency backup transmission service to PNM’s and TNP’s southwest New Mexico loads under a Greenlee Substation (Greenlee) to Hidalgo 345 kV Switching Station (Hidalgo) or Hidalgo to Luna transmission line outage pursuant to the provisions of Section 18.2 of the SWNMT Participation Agreement and the provisions of EPE’s respective Interconnection Agreements with PNM and TNP.

4. For the period after EPE’s Springerville-Luna-El Paso Transmission Project is in service but prior to Line B, Phase 4 and Phase 5, in-service dates, EPE shall provide firming transmission service, without charge to PNM or TNP, via EPE’s transmission system, including the Springerville-Luna-El Paso Transmission Project, and EPE’s agreement with TEP dated April 19, 1982, such that, with any one SWNMT line segment out of service, EPE shall provides: (a) for TNP, such service as may be agreed to between TNP and EPE, if any; provided that any such agreement shall be incorporated as a supplement hereto; and (b) for PNM, firming transmission service between Greenlee, Hidalgo, and Luna in an aggregate amount not to exceed the lesser of 150 MW or the sum of PNM’s actual transmission requirements between Greenlee, Hidalgo, and Luna to transfer (1) power PNM is delivering to SWNMT via transmission owned by PNM and (2) power PNM is receiving into SWNMT from EPE, TNP or third parties via purchases or wheeling. In the event EPE’s firming transmission service for PNM and TNP hereunder requires it, PNM and TNP agree to first use their respective transmission rights in the Springerville to Greenlee or SWNMT transmission lines. The Emergency Transmission Service provisions of EPE’s contract with TEP shall not be changed or eliminated without PNM’s consent.

5. The in-service dates for Line B, Phase 4 and Phase 5, shall be deferred until such date as may be later agreed upon by the SWNMT Coordinating Committee.

6. Approval is hereby granted for EPE to interconnect the Springerville-Luna-El Paso Transmission Project into Luna. EPE shall submit its interconnection design plans for facilities to be constructed within Luna to the SWNMT Engineering and Operating (E&O) Committee for review and approval prior to initiation of any interconnection construction at Luna, and such approval shall not be unreasonably withheld.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: July 22, 1984
7. EPE shall be responsible for all costs of interconnecting the Springerville-Luna-El Paso Transmission project into Luna with the exception that PNM shall purchase one (1) 345 kV circuit breaker and any equipment related directly to said 345 kV circuit breaker. When Line B is constructed, EPE shall purchase one (1) 345 kV circuit breaker and any equipment related directly to said 345 kV circuit breaker at that time for installation at Luna. The purchase by EPE shall correspondingly reduce PNM's obligation to purchase such equipment for Line B at Luna.

8. EPE shall replace PNM as Operating Agent for all SWNMT Project Facilities for which PNM is currently Operating Agent, beginning with the in-service date of the Springerville-Luna-El Paso Transmission Project, unless the SWNMT Coordinating Committee agrees to an earlier date for such change of Operating Agent. Cost responsibilities for the operation and maintenance of SWNMT shall not be affected by the change in Operating Agent described hereunder. To the extent PNM has no use for such equipment, EPE shall have the right to use communication and control equipment that is in place as a result of PNM’s tenure as Operating Agent. EPE shall notify TEP that EPE is replacing PNM as SWNMT Operating Agent, and as such EPE will assume control of the SWNMT interconnection with TEP at Greenlee Substation. EPE, as Operating Agent, shall comply with all the duties and responsibilities applicable to the Operating Agent as set forth in the SWNMT Participation Agreement.

9. Prior to the in-service date of the Springerville-Luna-El Paso Transmission Project, the SWNMT E&O Committee shall establish rules and procedures required by Section 18.1 of the SWNMT Participation Agreement. Additionally, the SWNMT E&O Committee shall determine any changes that will be required pursuant to Section 23 of the SWNMT Participation Agreement as a result of the Operating Agent change.

10. No Party shall be considered to be in default in respect of any obligation under this Letter Agreement if prevented from fulfilling such obligation by reason of “uncontrollable forces.” The term “uncontrollable forces” shall be deemed to mean any cause which is beyond the control of the Party affected, including, but not limited to, injunction, fire, strike, riot, explosion, flood, accident, breakdown, Acts of God or a public enemy, or other acts or conditions beyond a Party’s control, or as a result of the voluntary cooperation by the Party in any method of operating, or in any program recommended or requested by civil or military authorities during a national, state or...
local emergency, the Party shall not be liable to the other Party hereunder. Furthermore, each Party shall not be liable for damage occasioned by interruption of service when such interruptions are necessary to make repairs or changes in the Party’s equipment and facilities. Each party hereby expressly waives its right to assert claims against the other Party for damages caused by any interruption, irregularity, defect or failure described in this paragraph. Nothing contained herein shall be construed to obligate a Party to forestall or settle a strike against its will.

If the foregoing terms and conditions are acceptable to you, please so indicate by signing and dating all three originals of this Letter Agreement and returning all originals to PNM. I will return one original to each of you after they have been executed by all Parties.

Sincerely,

/s/ C. D. Bedford
C. D. Bedford
Sector Vice President

Accepted and agreed to this 22\textsuperscript{nd} day of July, 1984.

TEXAS-NEW MEXICO POWER COMPANY

By

\begin{center}
\textit{James W. Tarpley}
\end{center}

Its Vice President

Accepted and agreed to this 18\textsuperscript{th} day of March, 1983.

EL PASO ELECTRIC COMPANY

By

\begin{center}
\textit{Alfred C. Isbell}
\end{center}

Its Vice President

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.
Gentlemen:

SWNMT LETTER AGREEMENT—SUPPLEMENT

The purpose of this SWNMT Letter Agreement—Supplement is to outline the terms and conditions under which Public Service Company of New Mexico (PNM), Texas-New Mexico Power Company (TNP), formerly Community Public Service Company, and El Paso Electric Company agree to amend and supplement the SWNMT Letter Agreement dated March 18, 1983, as requested by TNP.

Now, therefore, in consideration of the premises and mutual covenants herein set forth and in the SWNMT Letter Agreement, the Parties agree that the SWNMT Letter Agreement is hereby amended and supplemented as follows:

1. Paragraph 4 of the SWNMT Letter Agreement is deleted in its entirety and a new Paragraph 4 is added to read as follows:

“For the period after EPE’s Springerville-Luna-El Paso Transmission Project is in service but prior to Line B, Phase 4 and Phase 5, in-service dates, EPE shall provide firming transmission service without charge to PNM or TNP via EPE’s transmission system, including the Springerville-Luna-El Paso Transmission Project and EPE’s agreement with TEP dated April 19, 1982, such that, with any one SWNMT line segment out of service, EPE shall provide: (a) for TNP, firming transmission service between Greenlee, Hidalgo and Luna in an aggregate amount not to exceed the lesser of TNP’s respective SWNMT rights between Greenlee and Hidalgo and between Hidalgo and Luna or the sum of TNP’s actual transmission requirements between Greenlee and Hidalgo and between Hidalgo and Luna or the sum of TNP’s respective actual transmission requirements between Greenlee and Hidalgo and between Hidalgo and Luna or the sum of TNP’s respective actual transmission requirements between Greenlee and Hidalgo and between Hidalgo and Luna or the sum of TNP’s respective actual transmission requirements between Greenlee and Hidalgo, and

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: July 5, 1984
Luna to transfer (1) power PNM is delivering to SWNMT via transmission owned by PNM and (2) power PNM is receiving into SWNMT from EPE, TNP or third parties via purchases or wheeling. In the event EPE’s firming transmission service for PNM and TNP hereunder requires it, PNM and TNP agree to first use their respective transmission rights in the Springerville to Greenlee, SWNMT and Luna to Central to Hidalgo transmission lines as well as other applicable transmission facilities. The Emergency Transmission Service provisions of EPE’s contract with TEP shall not be changed or eliminated without PNM’s consent.”

2. Paragraph 8 of the SWNMT Letter Agreement shall be supplemented by the addition of the following sentence:

“Any direct one-time cost to be incurred as a result of EPE’s replacement of PNM as Operating Agent for all SWNMT Project Facilities which would not have occurred had PNM continued as Operating Agent shall be the sole responsibility of EPE.”

3. Paragraph 10 of the SWNMT Letter of Agreement is deleted in its entirety and a new Paragraph 10 is added to read as follows:

“No Party shall be considered to be in default, and as such shall not be liable to any other Party, with respect to any obligation under this Letter Agreement if prevented from fulfilling such obligation by reason of “uncontrollable forces.” The term “uncontrollable forces” shall be deemed to mean any cause which is beyond the control of the Party affected, including, but not limited to, injunction, fire, strike, riot, explosion, flood, accident, breakdown, acts of God or a public enemy restraint by court order, or other acts or conditions beyond a Party’s control. Furthermore, a Party shall not be liable for damage occasioned by interruption of service when such interruptions are necessary to make repairs or changes in the Party’s equipment and facilities. Each Party hereby expressly waives its right to assert claims against the other Party for damages caused by any interruption, irregularity, defect or failure described in this paragraph. Nothing contained herein shall be construed to obligate a Party to forestall or settle a strike against its will.”

4. The SWNMT Letter Agreement shall be supplemented by the addition of Paragraph 11 which shall read as follows:

“In the event EPE becomes unable to furnish TNP the firming transmission service described in Paragraph 4 of this SWNMT Letter Agreement when all portions of the interconnected transmission system (with the exception of the one SWNMT line segment which is out of service) are...
operational, EPE shall construct and pay for a 115 KV transmission line from Luna to Hidalgo having sufficient capacity to provide TNP the firming service or such other alternative arrangement agreeable to both TNP and EPE. Nothing in this SWNMT Letter Agreement—Supplement shall preclude EPE from including, as a part of EPE’s transmission account booked expense and investment, that expenses and investment associated with the 115 KV transmission line referenced herein for ratemaking purposes. Upon completion of the 115 KV transmission line (or the alternative arrangement, as appropriate), EPE’s firming transmission service obligations to TNP under Paragraph 4 of this SWNMT Letter Agreement shall be terminated.

The SWNMT Letter Agreement as amended and supplemented by this SWNMT Letter Agreement Supplement shall remain in full force and effect.

If the foregoing terms and conditions are acceptable to you, please so indicate by signing and dating all three originals of this SWNMT Letter Agreement—Supplement and returning all originals to EPE. I will return one original to each of you after they have been executed by all Parties.

Sincerely,

/s/ R. E. York
R. E. York
Senior Vice President

Accepted and agreed to this 5th day of July, 1984.

PUBLIC SERVICE COMPANY OF NEW MEXICO
By

Its Senior Vice President

Accepted and agreed to this 11th day of June, 1984.

TEXAS-NEW MEXICO POWER COMPANY
By J

Its Vice President

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
EPE-TNP-PNM
AMENDMENT NUMBER THREE
TO THE
SOUTHWEST NEW MEXICO TRANSMISSION PROJECT
PARTICIPATION AGREEMENT

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: April 29, 1987
EPE-TNP-PNM

AMENDMENT NUMBER THREE

TO THE

SOUTHWEST NEW MEXICO TRANSMISSION PROJECT

PARTICIPATION AGREEMENT

1. PARTIES:

The Parties to this Amendment Number Three are: Public Service Company of New Mexico, a New Mexico corporation, (“PNM”), Texas-New Mexico Power Company, formerly Community Public Service Company, a Texas corporation, (“TNP”) and El Paso Electric Company, a Texas corporation, (“EPE”). PNM, TNP and EPE are also sometimes referred to individually as “Participant” and collectively as “Participants.”

2. RECITALS:

2.1. The Participants have previously entered into an agreement entitled “Southwest New Mexico Transmission Project Participation Agreement dated April 11, 1977, (the “SWNMT Participation Agreement”).” The SWNMT Participation Agreement was amended and supplemented by a letter agreement entitled “SWNMT Letter Agreement” dated March 18, 1983, on the letterhead of PNM, the terms and conditions of which were accepted.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: April 29, 1987
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
2.2. By this Amendment Number Three to the SWNMT Participation Agreement, PNM, TNP and EPE want to formally readopt the terms and conditions of the SWNMT Letter Agreement and the SWNMT Letter Agreement--Supplement and to amend and supplement the SWNMT Letter Agreement and the SWNMT Letter Agreement--Supplement as hereinafter provided.

3. EFFECTIVE DATE:

This Amendment Number Three shall become effective when executed by all Participants.

4. AGREEMENT:

In consideration of the premises and mutual covenants

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: April 29, 1987
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
set forth herein, the Participants agree as follows:

4.1. The SWNMT Letter Agreement and the SWNMT Letter Agreement--Supplement, as supplemented and amended herein, are formally readopted by PNM, TNP and EPE.

4.2. Paragraph 2 of the SWNMT Letter Agreement is deleted and the following Paragraph 2 is inserted instead:

“2. EPE shall construct the Springerville-Luna-El Paso Transmission Project to be in service no later than December 31, 1990.”

5. GOVERNING LAW:

The SWNMT Participation Agreement, SWNMT Letter Agreement, the SWNMT Letter Agreement-Supplement and this Agreement shall be interpreted, governed by and construed under the laws of the State of New Mexico or the laws of the United States, as applicable, as if executed and to be performed wholly within the State of New Mexico.

6. FULL FORCE AND EFFECT:

Except as provided herein, the Southwest New Mexico Transmission Project Participation Agreement, the SWNMT Letter Agreement and the SWNMT Letter Agreement--Supplement, as amended and supplemented by

Execution Copy

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.
this Amendment Number Three, shall remain in full force and effect.

7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment Number Three on behalf of the Participant for whom they sign. This Amendment Number Three is hereby executed as of the 29th day of April, 1987.

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

President

ATTEST:

Secretary

TEXAS-NEW MEXICO POWER COMPANY

By

President and Chief Operating Officer

ATTEST:

Secretary

EL PASO ELECTRIC COMPANY

BY

President and Chairman of the Board

ATTEST:

Secretary

Issued by: John A. Whitacre, Vice President, Transmission and Distribution

Issued on: April 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.
AMENDMENT NUMBER 4

TO THE

SOUTHWEST NEW MEXICO TRANSMISSION PROJECT
PARTICIPATION AGREEMENT
DATED APRIL 11, 1977

AMONG

EL PASO ELECTRIC COMPANY,
TEXAS-NEW MEXICO POWER COMPANY
AND
PUBLIC SERVICE COMPANY OF NEW MEXICO

This Amendment Number 4 is made this 18th day of May, 1988, among El Paso Electric Company, a Texas corporation, hereinafter referred to as “EPE”; Texas-New Mexico Power Company, a Texas corporation, hereinafter referred to as “TNP”; and Public Service Company of New Mexico, a New Mexico corporation, hereinafter referred to as “PNM”. EPE, TNP, and PNM are jointly herein referred to as the “Parties” or “Participants”.

WITNESSETH:

WHEREAS, the Parties have heretofore entered into the Southwest New Mexico Transmission Project Participation Agreement (SWNMT Agreement) dated April 11, 1977; and

WHEREAS, the SWNMT Agreement has been amended and supplemented by (i) the SWNMT Letter Agreement, dated March 18, 1983, and agreed to by TNP on July 22, 1984; and

(ii) the SWNMT Letter Agreement--Supplement, dated

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: May 18, 1988

-1-
June 11, 1984, and agreed to by PNM on July 5, 1984; (iii) the EPE-TNP-PNM Amendment Number 3 to the SWNMT Agreement, dated April 29, 1987; hereinafter collectively referred to as the Agreement; and

WHEREAS, Southwest New Mexico Transmission Project (SWNMT) Audit Report 84-38 (May 1, 1981, through August 31, 1983) has caused the Parties to conclude that certain changes are appropriate in Section 17 (“Operation and Maintenance”), and Section 27 (“Operating Insurance”) of the Agreement.

NOW, THEREFORE, in consideration of the provisions and mutual covenants set forth herein, the Parties agree that the Agreement is hereby amended and supplemented as follows:

1. **New Paragraph 17.4.10.** A new Section 17.4.10 shall be added to Section 17 after paragraph 17.4.9 to read as follows:

   “17.4.10 Investigate, adjust, defend, and settle any and all claims made by any Participant or any third party, arising out of Operating Work; provided that the Operating Agent shall give the other Participants prompt notice of any claims that may exceed $100,000.00, as such claims are known.”

2. **Amended Section 27.** Sections 27.1 through 27.6 of Section 27 are deleted in their entirety and new Sections 27.1 through 27.6 are added to read as follows:

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.
27.1 The Participants shall individually maintain Comprehensive General Liability Insurance for Bodily Injury and Property Damage, covering their ownership in and/or existence of the SWNMT, including liability which may arise out of either their performance or their nonperformance of Operating Work as required by or called for in this Agreement. The above required liability coverage may be provided by each Participant either by a separate and individual policy issued for this specific purpose or by inclusion in each Participant’s corporate liability coverage.

27.2 Each Party shall maintain Comprehensive Automobile Liability Insurance for Bodily Injury and Property Damage, covering all automotive equipment used by it in connection with the SWNMT. This coverage may be provided either by a separate and individual policy issued for this specific purpose or by inclusion in each Participant’s Corporate Comprehensive Automobile Liability Insurance coverage.

27.3 If applicable, each Party shall maintain Aircraft Liability Insurance for Bodily Injury and Property Damage, covering all aircraft, whether fixed or rotary wing type, used by it in connection with the SWNMT. This coverage may be provided either by a separate and individual policy issued for this specific purpose or by inclusion in each Participant’s Corporate Aircraft Liability Insurance coverage.
27.4 Each Party shall maintain Workers’ Compensation and Employers’ Liability Insurance covering its employees engaged in any work in connection with the SWNMT. Such insurance shall comply with all applicable statutory provisions of the States of Arizona and/or New Mexico and/or Texas. This coverage may be provided either by a separate and individual policy issued for this specific purpose or by inclusion in each Participant’s Workers’ Compensation and Employers’ Liability Insurance Coverage.

27.5 In the event that any Party shall be or elect to become self-insured for any or all of the insurance coverages required of a Party, said Party may do so without obligation to notify the other Parties of such self-insurance and such self-insurance shall be deemed in compliance with this Section 27.

27.6 At the request of any Party, Certificates of Insurance or other sufficient evidence of insurance or self-insurance shall be promptly provided. Such evidence of insurance shall provide for no less than thirty (30) days’ notice of any cancellation or material change.”

Except as amended by the provisions set forth in this Amendment Number 4, all of the terms and conditions of the Agreement shall remain in full force and effect.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: May 18, 1988
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
IN WITNESS WHEREOF, the Parties have caused this Amendment Number 4 to be executed as of the day and year first set forth herein.

EL PASO ELECTRIC COMPANY

By ____________________________________________
Vice President

TEXAS-NEW MEXICO POWER COMPANY

By ____________________________________________
Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

By ____________________________________________
Vice President, Revenue Management
Electric Operations

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: May 18, 1988
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
AMENDMENT NO. 5 TO THE
SWNMT PARTICIPATION AGREEMENT

This Amendment No. 5 to the SWNMT Participation Agreement is entered into by and among Public Service Company of New Mexico, a New Mexico Corporation (“PNM”), Texas-New Mexico Power Company, formerly Community Public Service Company, a Texas corporation (“TNP”) and El Paso Electric Company, a Texas corporation (“EPE”), herein individually the “Party” and collectively the “Parties” (herein, “Amendment No. 5.”).

RECITALS

A. The Parties have previously entered into an agreement entitled “Southwest New Mexico Transmission Project Participation Agreement” dated April 11, 1977 (the “SWNMT Participation Agreement”).

B. The SWNMT Participation Agreement has been amended and supplemented by (i) the “SWNMT Letter Agreement” dated March 18, 1983, the terms and conditions of which were accepted and agreed to on March 18, 1983 by EPE and on July 22, 1984 by TNP, (ii) the “SWNMT Letter Agreement-Supplement” dated June 11, 1984 which was accepted and agreed by PNM on July 5, 1984 and by TNP on June 11, 1984, (iii) Amendment No. 3 dated April 27, 1987, and (iv) Amendment No. 4 dated May 18, 1988 (collectively, together with the SWNMT Participation Agreement, the “SWNMT Agreement, as amended”). Unless otherwise defined herein, the terms defined in the SWNMT Agreement, as amended, are used herein as therein defined.

C. It is the intention of the Parties that the terms and conditions of the SWNMT Agreement, as amended, be affirmed and that certain additional terms and conditions as set forth herein be expressed. Specifically, the Parties’ intention is that the terms and conditions of the SWNMT Agreement, as amended, with respect to the Primary Purposes and the Secondary Purposes of SWNMT, and the Capacity Entitlement and ownership rights of the Parties in and to SWNMT are affirmed as expressed in the SWNMT Agreement, as amended, except as expressly modified by Amendment No. 5.

D. At the time that the SWNMT Participation Agreement was entered into by the Parties, the Parties anticipated that the New Mexico Transmission System (NMTS or “System”) and the Arizona transmission system would be developed by EPE, PNM and third parties in a manner that would have resulted in greater NMTS transmission capability. However, neither the NMTS nor the Arizona transmission system developed in such a manner. The result of this changed development was

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that EPE and PNM had a dispute over the capability of the southern New Mexico transmission system (SNMTS) in relation to total System capability.

E. To reach a settlement of the EPE-PNM dispute referenced above, EPE has proposed to install a phase shifting transformer (PST) on its 345 KV transmission line between the West Mesa and Arroyo substation. PNM has agreed with EPE in the Phase Shifter Support Principles dated February 22, 1994, (attached hereto as Exhibit A) and EPE and PNM have presented evidence to TNP that such an installation will result in Southern New Mexico Import Capability of up to approximately 890 MW under N-I Conditions with a PST base setting of 149 MW.

F. The Parties recognize an 890 MW value for deriving allocations for SWNMT Line A for the purpose of reaching the settlements set forth in this Amendment No. 5.

G. The purpose of this Amendment No. 5 is to (i) implement the negotiated allocation of a portion of the 890 MW to SWNMT Line A as Firm Transfer Capability, (ii) implement terms and conditions whereby each Party may utilize its rights up to its Capacity Entitlements on a non-firm basis when Usable SNMIC is available and (iii) implement terms and conditions whereby each Party may ultimately realize the ownership rights, Capacity Entitlement, and other rights each Party anticipated to be available pursuant to the SWNMT Participation Agreement.

H. This Amendment No. 5 is pursuant to and subject to the terms and conditions of the SWNMT Agreement, as amended. In consideration of the mutual agreements herein contained, and of the mutual benefits to be derived from this Amendment No. 5, PNM, TNP and EPE hereby covenant and agree to amend the SWNMT Agreement, as amended, as follows. It is expressly agreed that this Amendment No. 5 is part of a negotiated settlement among the Parties and has unique characteristics involving mutual considerations and compromises made in order to reach such settlement. As such, this Amendment No. 5 shall not constitute precedent, nor be cited by any Party for interpretation of any right or procedure in any other matter, except as may be expressly set forth herein.

I. The terms and conditions of this Amendment No. 5 are based on negotiations resulting from certain studies and analyses made by EPE and PNM as the operating agents for the WNTS and SNMTS, and such studies have been shared with TNP. In particular, it is understood that the Parties are relying on the results of these studies for purposes of the compromises and settlement as set forth herein.

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J. EPE is the Applicant in NMPUC Case No. 2527, in Which PNM and TNP are intervenors. Concurrent with the execution of this Amendment No. 5, the Parties shall enter and file a stipulation in NMPUC Case No. 2527 which shall support the installation of EPE’s phase shifting transformer in that case.

K. Concurrent with the execution of this Amendment No. 5, TNP and PNM shall enter into a separate agreement whereby TNP and PNM amend Service Schedule G, as previously amended, of the Interconnection Agreement dated February 28, 1974 between TNP and PNM.

L. Concurrent with the execution of this Amendment No. 5, TNP and EPE shall enter into a separate agreement whereby TNP and EPE amend Service Schedule C of the Interchange Agreement dated April 29, 1987 between TNP and EPE.

M. Concurrent with the execution of this Amendment No. 5, TNP, EPE and PNM shall enter into a separate agreement whereby TNP, EPE, and PNM agree to EPE’s Airport Substation design plans and operation.

N. Concurrent with the execution of this Amendment No. 5, EPE and PNM shall enter into a separate agreement whereby EPE and PNM amend Service Schedule A to the Interconnection Agreement dated July 16, 1966 between EPE and PNM.

AGREEMENTS

NOW, THEREFORE, in consideration of the premises, the agreements, representations and undertakings of the Parties set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as set forth above and as follows:

ARTICLE I
EFFECTIVENESS AND TERM

Section 1.1 Effective Date. This Amendment No. 5 shall become effective on the date it is signed by the Parties. The terms and conditions that affect system operations shall be implemented on the first day of the month following the filing of this Amendment No. 5 with the Federal Energy Regulatory Commission (FERC).

Section 1.2 Term. The term of this Amendment No. 5 shall continue in full force and effect for so long as the SWNMT Agreement, as amended, shall remain in effect. Provided, however, if the phase shifting transformer EPE is proposing to install pursuant to NMPUC Case No. 2527 is not in operation by May 1, 1996, or if any required Bankruptcy Court or regulatory approval, including approval of EPE’s CCN in NMPUC Case No. 2527 or acceptance for filing of this Amendment

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No. 5 by FERC, is not obtained, or if such approval requires modifications to this Amendment No. 5 that are unacceptable to the Parties, this Amendment No. 5 shall terminate and thereafter be of no further force or effect. Within thirty (30) days of the execution of this Amendment No. 5, EPE agrees to either (i) seek Bankruptcy Court approval or (ii) issue a written notification to PNM and TNP that such approval is not required for EPE’s performance under this Amendment No. 5.

ARTICLE II
DEFINITION OF TERMS

_Firm Transfer Capability_ means that share of the Southern New Mexico Import Capability that is attributable to the presence of Line A in the NMTS under N-1 Conditions.

_Firming Transmission Service_ means transmission service that is provided by EPE for a period of time coincident with the outage of any segment of Line A in order to replace the transmission capability lost by TNP and PNM as the result of such outage.

_N-1 Conditions_ means an operating state of the System in which all System transmission components are operable and in their normal configuration and power and associated energy flows on the System are constrained by the ability of the System to continue to operate in a stable and reliable manner in the event of the failure of the single most critical System transmission component.

_N-2 Conditions_ means an operating state of the System in which, except for a single System transmission component, all System transmission components are operable and configured as necessary to respond to the failure of the next single most critical System transmission component. During N-2 Conditions, power and associated energy flows on the System are constrained by the capability of the System to continue to operate in a stable and reliable manner in the event of the failure of the next single most critical System transmission component then operable.

_Southern New Mexico Import Capability or “SNMIC” _ means the firm capability of the SNMTS to accommodate the arithmetic sum of the amounts of power and associated energy, measured in MWs, (a) from Greenlee to Hidalgo across Line A of the SWNMT (measured at Greenlee), (b) from Springerville to Luna across the Arizona Interconnection Project (measured at Springerville), (c) from West Mesa to Arroyo across EPE’s West Mesa to Arroyo 343 kV transmission line (measured at West Mesa), (d) from West Mesa to Belen across Plains Generation & Transmission Cooperative’s West Mesa to Belen 115 kV transmission line (measured at West Mesa)
and (e) other future interconnection points. Southern New Mexico Import Capability is determined from power system studies that are used to develop monograms which are graphical representations of the safe and reliable operating limits of the System while maintaining acceptable levels of voltages and line loadings.

Transmission Improvements means the installation of facilities which increase the SNMIC without decreasing the transmission capability of another Party’s system or the ability of that Party to use its transmission capability, as measured in accordance with the applicable WSCC criteria, guidelines or policies.

Usable SNMIC means the difference between actual import levels and limits in place under N-1 Conditions and N-2 Conditions, as appropriate, which is available to the Parties on a non-firm basis.

ARTICLE III
FIRM TRANSFER CAPABILITY OF LINE A

Section 3.1 Prior to the in-service date of EPE’s PST, the Parties agree that PNM shall limit its use of the Firm Transfer Capability of Line A to 50 MW and TNP shall limit its use of the Firm Transfer Capability of Line A to 80 MW. These limits, along with limits in place on total SNMIC which are applicable to EPE, are based on a negotiated allocation of SNMIC that will enable the Parties to meet their respective needs in the pre-PST period, within the current constraints on the NMTS and based on a pre-PST SNMIC of up to 842 MW under N-1 Conditions, which is derived from current agreements between PNM and EPE.

Section 3.2 EPE and PNM have performed certain engineering studies of the System. Based on an allocation negotiated from these studies, the Parties agree that the Firm Transfer Capability of Line A shall be 267 MW in the post-PST period. Upon the in-service date of EPE’s PST, the Parties agree that the Firm Transfer Capability of Line A shall be 267 MW, unless increased as provided in this Amendment No. 5, and such Firm Transfer Capability of Line A shall be allocated among the Parties as follows:

(a) to EPE, 107 MW;
(b) to PNM, 80 MW; and
(c) to TNP, 80 MW.

Section 3.3 Of its 80 MW of Firm Transfer Capability in the post-PST period, PNM hereby permanently and irrevocably assigns, transfers and conveys to EPE for all intents and purposes 30 MW of the Firm Transfer Capability. PNM retains 50 MW of Firm Transfer Capability.

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Section 3.4  Of its 107 MW of Firm Transfer Capability in the post-PST period, EPE hereby permanently and irrevocably assigns, transfers and conveys to TNP for all intents and purposes 30 MW of the Firm Transfer Capability. This assignment, transfer and conveyance by EPE to TNP is not conditioned or restricted in any manner upon the ownership by EPE of the Firm Transfer Capability assigned by PNM to EPE in Section 3.3.

Section 3.5  As the result of the allocation of the Firm Transfer Capability in Section 3.2 and the assignment, transfer and conveyance of 30 MW of Firm Transfer Capability in Section 3.3 and 3.4, the Firm Transfer Capability of each Party in the post-PST period shall be as follows:

(a) to EPE, 107 MW;
(b) to PNM, 50 MW; and
(c) to TNP, 110 MW.

Section 3.6  PNM and EPE agree to construct and operate their respective separate transmission systems so that TNP’s Firm Transfer Capability or rights to such Firm Transfer Capability are not affected. TNP agrees to construct and operate its separate transmission system so that PNM’s and EPE’s Firm Transfer Capability or rights to such Firm Transfer Capability are not affected.

Section 3.7  The Parties acknowledge that certain modifications to the non-NMTS system by third parties external to the system may increase or decrease, either temporarily or permanently, the SNMIC. The Parties agree that increases in SNMIC resulting in these particular instances will be shared among Line A and the other 345 kv SNMTS import lines and allocated among the Parties in the same proportion as SNMIC is being shared in this Amendment No. 5 pursuant to Section 3.2 for a period of time consistent with the duration of such increase or until such increase is offset by a similarly-caused decrease in SNMIC.

Section 3.8

3.8.1  The Parties acknowledge that Transmission Improvements may also increase SNMIC. The Party or Parties making such Transmission Improvement shall retain the additional SNMIC thus created, unless any other Party participates in the cost of such Transmission Improvement in a mutually agreeable manner.

3.8.2  The Parties agree that if the studies outlined in paragraph 4 of the Phase Shifter Support Principles result in a maximum SNMIC of greater than 890 MW with a PST Base Setting of 149 MW, TNP shall receive a one-time allocation of ten percent (10%) of such increase (to the nearest whole megawatt) to its Firm Transfer Capability. Once these studies are completed and this allocation, if any, made to TNP, Section 3.5 shall be modified accordingly and this Section 3.8.2 shall no longer be in effect.
Section 3.9

3.9.1 The Parties acknowledge that the PST Base Setting of 149 MW as set forth in the Phase Shifter Support Principles is the basis for a SNMIC of 890 MW. The Parties further recognize that settings above the PST Base Setting are subject to the agreement of PNM, EPE and the party requesting service, and that such increased capability shall be usable by the party or parties paying for such increased import capability. The first such instance is expected to be EPE’s and PNM’s agreement to provide up to 50 MW of firm transmission service to Plains Electric Generation and Transmission Cooperative, Inc., which service will increase the PST Base Setting above 149 MW on a MW-for-MW basis. To the extent that SNMIC is greater than 890 MW for reasons other than permanent or temporary changes or adjustments to the PST Base Setting, this higher amount of SNMIC shall be used to determine the amount of Usable SNMIC, one third of which shall be allocated to the Parties pursuant to (a), (b) and (c) of Section 3.9.3.

3.9.2 The Parties acknowledge that under some System conditions the actual imports on the SNMTS are at a level less than 890 MW or the maximum SNMIC available under the operating nomogram then in effect. The extent to which actual imports on the SNMTS are at a level less than 890 MW or the maximum SNMIC available under the operating nomogram then in effect, and this results in non-firm transfer capability being available in addition to the Firm Transfer Capability of the Parties set forth in Section 3.5, one third of such additional non-firm transfer capability (herein, “Usable SNMIC”) shall be allocated to the Parties pursuant to (a), (b) and (c) of Section 3.9.3.

3.9.3 To the extent that Usable SNMIC is available under the operating nomogram in effect in any hour, one third of the Usable SNMIC shall be allocated to Line A and shall be allocated on a non-firm basis among the Parties, up to an amount equal to the difference between that Party’s Firm Transfer Capability (as set forth in Section 3.5) and its Capacity Entitlement (for TNP 150 MW, for EPE 200 MW, for PNM 150 MW), as follows:

(a) to EPE, 40 percent (40%),
(b) to PNM, 30 percent (30%), and
(c) to TNP, 30 percent (30%).

3.9.4 In the event that Usable SNMIC needs to be apportioned due to simultaneous scheduling of a Party’s allocated share of non-firm capability, as set forth in Section 3.9.3, such apportionment shall be made according to each Party’s respective allocations as set forth in Section 3.9.3. Notwithstanding any provision of this Amendment No. 5 regarding Usable SNMIC, however, the Parties agree that all SNMIC beyond that allocated to SWNMT Line A pursuant to Section 3.5 represents the firm transfer capability available to the owners (or contracted users) of the remainder of the SNMTS. In this regard, a Party’s right...
to schedule Usable SNMIC is subject to the continuing right of the firm transfer capability of the non-SWNMT SNMIC to have precedence over Usable SNMIC.

3.9.5 Nothing in this subsection shall prohibit any Party from installing an automatic transfer trip load shedding arrangement on its transmission facilities in conformance with “WSCC Criteria for Transmission System Planning” and thereby operating at import levels in excess of the SNMIC by means of an adjustment mechanism that incorporates the effect of the automatic load shedding equipment into the operating nomograms on a non-firm basis. The Party proposing to install such an arrangement shall be solely responsible for seeking and obtaining concurrence of all affected parties and for all costs associated with third party approvals for the arrangement and installation of the arrangement. No Party shall unreasonably withhold its concurrence of such arrangement provided that the requesting Party is not seeking for its own use an amount of non-firm capability greater than the difference between that Party’s Capacity Entitlement and its Firm Transfer Capability.

Section 3.10 PNM and EPE agree not to impose or seek to impose upon TNP and TNP agrees not to impose or seek to impose upon PNM or EPE any charges, monetary or otherwise, related to (i) the use by each Party of its share of the Firm Transfer Capability of Line A, (ii) the use by each Party of its share of Usable SNMIC made available under Section 3.9 or Section 3.11, or (iii) Firming Transmission Service.

Section 3.11 Section 19 of the SWNMT Agreement, as amended, is hereby deleted in its entirety and replaced with the following:

“To the extent that a Party is not utilizing its share of Firm Transfer Capability or portion of Usable SNMIC under the then prevailing operating status of the System, another Party may use such share; provided, however, (a) the Party seeking to utilize such share shall provide prior notice to the Party whose share is sought to be utilized, (b) such use shall be subject to the continuing right of such Party whose share is sought to reasonably deny such use and (c) that use of Firm Transfer Capability is withdrawable by the permitting Party immediately for any reason whatever. The Party permitting such use shall not charge the Party utilizing such share; provided, however, the Party utilizing such share shall compensate the Party whose share is utilized for any transmission losses incurred.”

Section 3.12 Unless precluded by law, and prior to any Party making available for sale or for lease any portion of its Firm Transfer Capability to a third party, that Party shall first provide the other Parties the opportunity to purchase such capability under terms and conditions agreed upon by the Parties.
to purchase, lease or contract for such rights at the same prices and on the same terms and conditions as offered to the third party. The opportunity afforded the other Parties shall include reasonable prior notice of not less than thirty (30) calendar days. In the event that the other Parties both desire to purchase, lease or contract for such rights, each shall be entitled to purchase, lease or contract for an equal share of such rights.

ARTICLE IV
FIRMING TRANSMISSION SERVICE

Section 4.1  EPE is obligated to provide to PNM and TNP Firming Transmission Service as set forth in the Letter Amendment and the Letter Amendment-Supplement. The Parties desire to clarify the nature and meaning of the Firming Transmission Service and EPE’s obligation to provide such Firming Transmission Service. Paragraph 4 of the Letter Agreement, as amended by paragraph 1 of the Letter Agreement-Supplement, is hereby deleted and replaced by Sections 4.2 through 4.5 of this Amendment No. 5.

Section 4.2  EPE shall provide Firming Transmission Service without charge to TNP and PNM such that, with any one SWNMT line segment out of service, EPE shall provide (a) for TNP, Firming Transmission Service in an aggregate amount not to exceed the lesser of TNP’s share of Firm Transfer Capability (110 MW as set forth in Section 3.5 and as may be modified in Section 3.8) or the sum of TNP’s respective actual transmission requirement between Greenlee and Hidalgo and between Hidalgo and Luna to transfer (1) power TNP is delivering into SWNMT via transmission owned by TNP and (2) power TNP is receiving into SWNMT from EPE, PNM or third parties via purchases or wheeling; and (b) for PNM, Firming Transmission Service between Greenlee, Hidalgo, and Luna in an aggregate amount not to exceed the lesser of PNM’s share of Firm Transfer Capability (50 MW) or the sum of PNM’s actual transmission requirements between Greenlee, Hidalgo and Luna to transfer (1) power PNM is delivering to SWNMT via transmission owned by PNM or (2) power PNM is receiving into SWNMT from EPE, PNM or third parties via purchases or wheeling.

Section 4.3  In the event EPE’s Firming Transmission Service for PNM and TNP hereunder requires it, PNM and TNP agree first to use their respective transmission rights in the Springerville to Greenlee, Line A, and Luna to Central to Hidalgo transmission lines as well as other applicable transmission facilities.

Section 4.4  The Emergency transmission service provisions of Section 8 of the Tucson-El Paso Power Exchange and Transmission Agreement dated April 19, 1982 between Tucson Electric Power Company (TEP) and EPE shall not be amended or

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terminated by EPE without the consent of TNP and PNM. Such consent shall not be unreasonably withhold.

Section 4.5 EPE’s Firming Transmission Service shall commence simultaneously with the occurrence of each outage and continue until the earlier of (i) the time that each outage ceases to be present or (ii) the Operating Agent has determined that the SWNMT line segment will be out of service for such a period of time so as to require that the System be operated under N-2 Conditions.

Section 4.6 Under such N-2 Conditions, the Parties shall curtail scheduled SWNMT deliveries as necessary so that each Party’s scheduled deliveries of power and associated energy during such N-2 Conditions shall not exceed the product of (i) the ratio of the SNMIC during such N-2 Conditions to the SNMIC during N-1 Conditions present prior to the outage times (ii) each Party’s respective Firm Transfer Capability as set forth in Section 3.5 or as modified for TNP in Section 3.8. In no event shall the magnitude of the curtailment necessary by any Party under a given System condition be greater (as a percentage of that Party’s share of the SNMIC) than the curtailment necessary by any other Party (as a percentage of such other Party’s share of the SNMIC) for the same System condition.

Section 4.7 Paragraph 11 of the Letter Agreement, created pursuant to paragraph 4 of the Letter Agreement-Supplement, is hereby deleted in its entirety.

ARTICLE V
DEFERRAL OF LINE B

Section 5.1 Paragraph 5 of the Letter Agreement is hereby deleted in its entirety and replaced with the following:

“5. The in-service dates for Line B, Phase 4 and Phase 5, shall be deferred until such date as may be later agreed upon by the SWNMT Coordinating Committee. The Parties agree that Line B, Phase 4 and Phase 5, shall be one of the alternatives included in future transmission planning studies by any Party that are conducted to determine the most efficient and cost effective transmission enhancements for the System.”

Section 5.2 Section 12.0 of the SWNMT Agreement, as amended, is hereby deleted in its entirety and replaced with the following:

“12.0 ADDITIONAL SWNMT PARTICIPATION RIGHTS: TNP may, at its sole option, prior to the start of construction of Line B, Phase 4, elect
to participate with EPE in the construction and ownership of up to twenty percent (20%), or such higher amount as mutually agreed between EPE and TNP, of Line B between Greenlee Substation and Hidalgo Switching Station. The ownership percentage elected by TNP shall entitle TNP to a like percentage of the share of Southern New Mexico Import Capability, including both firm and non-firm transfer capability (i.e., in the same manner as for Line A pursuant to this Amendment No. 5), attributable to Line B between Greenlee and Hidalgo. The share of Southern New Mexico Import Capability attributable to Line B between Greenlee and Hidalgo shall be determined in accordance with applicableWSCC criteria, guidelines or policies. If TNP elects not to participate in Line B between Greenlee and Hidalgo, or if TNP participates at a level less than 20%, PNM may, at its sole option, participate with EPE in construction of all or part of the remaining part of the 20% of Line B between Greenlee and Hidalgo. Further, PNM may, at its sole option; elect to participate with EPE in the construction of Line B, between Hidalgo and the Luna Switching Station, in an amount equal to or less than the total of PNM's and TNP's combined participation in Line B.”

Section 5.3 Nothing in this Article V shall be construed to limit any Party from constructing and operating a transmission line, separate and apart from the SWNMT Project, that originates at the Greenlee Substation and terminates at the Hidalgo Switching Station, provided that the capability of that line is determined pursuant to applicable WSCC criteria, guidelines or procedures, and Interconnection agreements are agreed to by the affected parties.

ARTICLE VI
SWNMT OPERATING AGENT

Section 6.1 The first sentence of paragraph 8 of the Letter Agreement is hereby deleted in its entirety and replaced with the following:

“8. EPE shall replace PNM as Operating Agent (including transfer of control area) for all SWNMT Project Facilities for which PNM is currently Operating Agent as contemplated in the Phase Shifter Support Principles between EPE and PNM, dated February 22, 1994; provided, however, that to the extent, if any, that the operating procedures resulting from the Phase Shifter Support Principles conflict with this Amendment No. 5, this Amendment No. 5 shall govern.”

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Section 6.2 Paragraph 9 of the Letter Agreement is hereby deleted in its entirety and replaced with the following:

“9. Prior to the in-service date of EPE’s phase shifting transformer, the SWNMT E&O committee shall establish rules and procedures required by Section 18.1 of the SMNMT Agreement. Such rules and procedures shall be established in connection with the operating procedures contemplated in paragraph 8 of the Letter Agreement, as amended by Amendment No. 5, and shall not require the SWNMT Operating Agent to act in conflict with such paragraph 8 procedures. Additionally, the SWNMT E&O Committees shall determine any changes that will be required pursuant to Section 23 of the SWNMT Agreement, provided, however, such changes shall be consistent with Amendment No. 5.”

Section 6.3 As Operating Agent for the Parties, EPE shall maintain in force contractual arrangements with TEP adequate to provide for the interconnection of Line A at the Greenlee Substation.

Section 6.4 Once EPE becomes Operating Agent for SWNMT, including the transfer of all SWNMT Project Facilities into EPE’s control area, PNM and TNP shall provide their respective schedules of firm and non-firm power transfers over SWNMT Line A and any other facility for which EPE is, or becomes, operating agent.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Survival of Agreement. In the event of any inconsistency between the provisions of this Amendment No. 5 and the execution or delivery of any documents required hereunder, this Amendment No. 5 shall govern.

Section 7.2 No Dedication of Facilities. Any undertaking by one Party to the other Party under my provision of this Amendment No. 5 shall not constitute the dedication of the system or any portion thereof of the Party to the public or to the other Party, which shall not include the transfer and conveyance set forth in Section 3.3 and 3.4, and it is understood and agreed that any such undertaking under any provision of this Amendment No. 5 by a party shall cease upon the termination of its obligations hereunder.

Section 7.3 No Third Party Rights. The Parties do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Amendment No. 5 or of any duty, covenant, obligation or undertaking established hereunder.

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Section 7.4

A. No approvals, consents, orders, or other action by any third parties, including any governmental, judicial (including the Federal Bankruptcy Court) or regulatory agencies, are required to authorize the execution of such Party of this Amendment No. 5 and the related matters described in Recitals J, K, L, M, and N.

B. The Parties agree that all issues they have or may have had relating to the allocation of transmission capacity to SWNMT Line A to TNP are contained within this Amendment No. 5.

C. PNM and EPE shall not (i) take any action that is adverse to TNP’s Firm Transfer Capability or the use of such Firm Transfer Capability, (ii) take any position in any legal proceeding adverse to TNP’s Firm Transfer Capability, or to the use of such Firm Transfer Capability, or, (iii) seek any judicial, arbitral or administrative remedy or relief that would adversely affect TMN’s Firm Transfer Capability or the use of such Firm Transfer Capability Likewise, TNP shall not (i) take any action that is adverse to PNM’s or EPE’s Firm Transfer Capability, or the use of such Firm Transfer Capability, (ii) take any position in any legal proceeding adverse to PNM’s or EPE’s Firm Transfer Capability, or to the use of such Firm Transfer Capability, or, (iii) seek any judicial, arbitral or administrative remedy or relief that would adversely affect PNM’s or EPE’s Firm Transfer Capability or the use of such Firm Transfer Capability.

Section 7.5 Counterparts. This Amendment No. 5 may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall together constitute one and the same agreement.

Section 7.6 Recitals. Each and all of the recitals set forth at the beginning of this instrument are hereby incorporated herein by this reference.

(This space left intentionally blank)
Section 7.7 Signature Clause. The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 5 on behalf of the Party for whom they sign. This Amendment No. 5 is hereby executed as of the 21st day of November, 1994.

TEXAS-NEW MEXICO POWER COMPANY

By

Its: Assistant Vice President

EL PASO ELECTRIC COMPANY

By

Its: Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its: Senior Vice President

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
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Effective: November 21, 1994

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PHASE SHIFTER SUPPORT PRINCIPLES

DEFINITIONS:

EPE SS “A” Rights: Wheeling provided by PNM to EPE Pursuant to Service Schedule A (SS “A”) to the PNM/EPE Interconnection Agreement (currently 104 MW).

PNM SS “A” Rights: Wheeling provided by EPE to PNM pursuant to SS “A” (currently 25 MW).

PNM SNM RIGHTS: The sum of PNM SWNMT Line A Rights (currently 50 MW) plus PNM SS “A” Rights.

PST Base Setting: The sum of (1) EPE’s scheduled use of EPE SS “A” Rights, plus (2) PNM’s scheduled use of PNM SS “A” Rights, plus (3) an additional amount of 20 MW.

Real Time Check Points: The operating status of certain generating units and shunt reactors, as defined in the Interim Southern New Mexico Transmission Operating Procedure attached as Exhibit “A” to the Interim Transmission Capability Agreement and Agreement to Arbitrate between EPE and PNM dated March 30, 1990 (Interim Agreement).

SNM Limit: The SNM Import capability in MW at the knee of the NNM vs. SNM operating nomogram in effect from time to time, with the PST in-service and operating at the PST Base Setting. The maximum SNM Limit from the attached preliminary nomogram is expected to be 890 MW when the PST Base Setting is fully scheduled by EPE and PNM.

PRINCIPLES OF AGREEMENT: PNM and EPE (Parties) agree to enter into a stipulation in NMPUC Case No. 2527 based on the following principles of agreement:

PNM will support the construction and operation by EPE of a PST on EPE’s West Mesa to Arroyo 345kV line, and EPE will allow PNM to operate EPE’s 345kV reactor switch located at West Mesa pursuant to the West Mesa Reactor Switch Agreement, in conjunction with the following principles:

1. Under normal operating conditions with the PST in-service and operating at the PST Base Setting, the SNM Limit will be in effect under the following conditions:

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: November 21, 1994
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
El Paso Electric Company

Rate Schedule FERC No. 78

a. EPE shall pay PNM (1) for 20 MW of reserved transmission capacity at PNM’s embedded transmission service rate, and (2) for up to a 20 MW portion of PNM’s incremental energy cost of local gas-fired generation and/or purchased energy when such energy is actually used due to PNM’s need to increase use of NNM Import capability. (In this paragraph, the term “incremental energy cost” shall mean the difference between the energy cost of PNM’s locally generated or purchased energy and the energy cost of PNM’s foregone remotely generated or purchased energy. Additionally, the Parties agree that running PNM local generation increases NNM Import Capability on a basis higher than 1 to 1.) The Parties agree to enter into an operating procedure to implement the provisions of this item (2). Prior to committing such energy for this purpose, PNM shall notify EPE verbally of its intent to use local generation and/or purchased energy, and EPE shall either (1) lower its SNM Imports to accommodate NNM Import needs, or (2) pay PNM its incremental cost of such energy. Neither Party waives its right to have other SNM entities participate in these payments to PNM.

b. PNM shall ensure that its share of SNM Imports are at all times within PNM SNM Rights. EPE shall ensure that the SNM Limit in effect is not exceeded. With respect to curtailments: (1) EPE shall effect all curtailments of SNM Imports when (1) decreases in the SNM Limit are caused by failure to achieve or maintain Real Time Check Points, and (ii) limits are placed on flows into SNM from TEP’s System; and, (2) PNM shall effect all curtailments of NNM Imports when decreases in NNM Import capability are caused by failure to achieve or maintain the necessary status of NMM capacitors and/or shunt reactors. Neither Party waives its right to have third party entities participate in these curtailments.

c. Due to the impact on NNM Import capability of PST settings higher than PST Base Setting and PNM’s need to assess whether NNM Import capability is available, EPE and/or EPE with any third party shall enter into written agreements with PNM before implementing and/or agreeing with third parties to implement firm schedules of SNM Imports (and verbal agreement is required for non-firm schedules) through the PST that are above schedules related to the PST Base Setting. EPE agrees that such agreements, to the extent that PNM determines necessary, may involve additional service and hence additional compensation to PNM by EPE and/or the third party, unless PNM agrees in advance to the contrary. The Parties agree that compensation to PNM for such additional service will be based on the cost of the type of wheeling (i.e., firm or interruptible) or other services involved.

2. When the PST is out-of-service, EPE shall curtail its SNM Imports as required to ensure that the PST out-of-service nomogram limits are not exceeded.

3. For the period prior to the earlier of the termination of Service Schedule

Issued by: John A. Whitacre, Vice President, Transmission and Distribution

Effective: November 21, 1994

Issued on: April 1, 2005

Filed to comply with order of the Federal Energy Regulatory Commission,

Docket No. ER05-427-000, issued March 4, 2005.
G to the PNM/EPE Interconnection Agreement (SS “G”) or the in-service date of the PST, the Parties agree to implement in written agreement the modifications to the Interim Agreement that were contemplated in Sections 6.3 and 6.4 of the Transition Agreement between EPE and PNM dated September 2, 1993. If SS “G” expires or terminates prior to the in-service date of the PST, the Parties agree to negotiate in good faith the terms and conditions under which the Interim Agreement could be extended.

4. Operating procedure to implement the post-PST principles set forth above and to address related operating parameters (including new operating monograms) shall be executed prior to the in-service date of the PST. The Parties agree to use best efforts to agree to both pre- and post-PST operating procedure and to implement such operating procedures in conjunction with the enabling agreements that will result from these principles. Once both pre- and post-PST operating procedures are executed by the Parties, EPE shall become operating Agent for the SNM transmission system.

5. No later than 60 days following the conclusion of EPE’s NMPUC CCN case for the PST, PNM and EPE shall begin joint planning studies to determine a least cost system capital addition distinct from PNM’s OLE Project (or its replacement) that, when in-service, would permit EPE and PNM and participating third parties to realize the entirety of the incremental transmission capability needed in NNM and SNM by PNM, EPE and such third parties. Until such system addition is in service, PNM and EPE shall work together to encourage third parties to accept entitlements to SNM Import capability that are within the NNM Import capability and SNM Limit as each is established hereunder. PNM and EPE shall not contract with third parties to recognize NNM or SNM entitlements or facilitate NNM or SNM Imports that cause SNM Imports to exceed the SNM Limit under the operating nomograms resulting from these principles.

6. The agreements and operating procedures that result from these principles shall be in effect until the earlier of May 1, 1998, or the in-service date of the least cost system addition distinct from PNM’s OLE Project as contemplated in paragraph 5, and shall continue in effect from year to year thereafter until terminated by either EPE or PNM giving one year’s prior written notice to the other.

7. EPE agrees to support PNM’s FERC filings for acceptance of the enabling service agreements that will result from these principles.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Effective: November 21, 1994
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.
………, ted and agreed to this 22nd day of February, 1994.

Public Service Company of New Mexico

BY: 
ITS: Senior Vice President

El Paso Electric Company

BY: 
ITS: President

[ILLEGIBLE]

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: November 21, 1994
Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: February 22, 1994
TUCSON - EL PASO

POWER EXCHANGE AND TRANSMISSION AGREEMENT

1. PARTIES

The Parties to this Agreement are EL PASO ELECTRIC COMPANY, a Texas corporation (hereinafter referred to as "EPE"); and TUCSON ELECTRIC POWER COMPANY, an Arizona corporation (hereinafter referred to as "TEP"); (collectively "Parties" and individually "Party").

2. RECITALS

This Agreement is made with reference to the following facts, among others:

2.1 The Parties are engaged in the generation, transmission and distribution of electric power and energy in one or more of the States of Arizona, New Mexico, and Texas.

2.2 Electrical system interconnections exist and are being constructed which will allow scheduled interchanges of power and energy to take place between the Parties' respective systems.

2.3 EPE is a participant in the Palo Verde Nuclear Generating Station ("PVNGS") and its share of the capacity of each of the three units now under construction will be approximately 150 MW. EPE is also a participant in the Valley Transmission System which includes the Palo Verde-Westwing 500 kV Circuit No. 1, the Palo Verde-Kyrene Circuit and will include a third line east from PVNGS.
2.4 TEP operates a 345 kV transmission system ("Eastern Transmission System") with connections to the San Juan Generating Station ("San Juan"), and the Four Corners Generating Station ("Four Corners") in each of which it is a participant. This system is likewise connected to TEP's Springerville Generating Station ("Springerville"), its generating stations in Tucson and also to Coronado Generating Station ("Coronado") and the Greenlee 345 kV Substation, among others.

2.5 The Parties wish to exchange capacity and energy between EPE's share of the PVNGS generating units and TEP's system generation and to achieve other economies in the transmission of energy for their mutual benefit.

3. AGREEMENT
The Parties agree as follows:

4. EFFECTIVE DATE AND TERM
This Agreement shall become effective when it is executed. The term during which transactions may take place hereunder is specified where applicable in the following sections.

5. EXCHANGE OF CAPACITY AND ENERGY
5.1 EPE will deliver from its share of the PVNGS generating units, and TEP will receive, amounts of capacity with corresponding energy in accordance with the following:
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<th>Max. Capacity</th>
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<td>300 MW</td>
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<tr>
<td>Unit 3</td>
<td>300 MW</td>
<td>300 MW</td>
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</tbody>
</table>

At TEP's option such capacity and energy may be received in whole or in part at the Palo Verde Switchyard or the Westwing Substation.

5.2 The amounts listed in Paragraph 5.1 above correspond to the PVNGS generating units operating at full rated output. The Minimum capacity schedules shall be adhered to unless EPE's share of the PVNGS generating units' production is less than the minimum schedules, in which case all of EPE's share of the PVNGS generating unit production shall be scheduled for delivery to TEP. Scheduling of amounts between the Minimum and the Maximum shall be at EPE's option.

5.3 TEP recognizes that EPE will enter into another exchange agreement involving a third party with an effective date of May 1, 1995, and agrees that such third party exchange after said date shall take priority over the exchange between TEP and EPE to the extent EPE's generation at PVNGS is inadequate to cover both arrangements. The Parties agree to cooperate and use best efforts to enable EPE to meet its power exchange obligations to the third party.

5.4 TEP shall schedule from its system generation deliveries of

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capacity and energy to EPE at Greenlee, Springerville, Coronado, San Juan, or Four Corners at EPE's option; and EPE shall receive such capacity and energy at Greenlee, Springerville, Coronado, San Juan, or Four Corners in total amounts equal to that scheduled to TEP at the Palo Verde switchyard or Westwing Substation.

5.5 There shall be no charges, costs or losses associated with the exchange of capacity and energy as covered by this Agreement.

5.6 This Agreement for the exchange of capacity and energy shall become effective with the initial synchronization date of the first PVNGS generating unit and shall continue for a term equal to the life of the PVNGS Units 1, 2, and 3.

6. ASSIGNMENT OF TRANSMISSION RIGHTS

6.1 EPE hereby assigns to TEP 200 MW of EPE's firm transmission rights and a proportional amount of nonfirm rights in the Palo Verde-Westwing Circuit No. 1 for deliveries from Westwing to Palo Verde. EPE will participate in the Palo Verde-Westwing Circuit No. 2 or an alternative third line east from Palo Verde and will assign to TEP 100 MW of firm transmission rights and a proportional amount of nonfirm rights for deliveries from Westwing to Palo Verde in this Circuit No. 2 or to Palo Verde over the alternative third line east.

6.2 The assignment by EPE to TEP of transmission rights in accordance with Paragraph 6.1 shall be for a term of forty-three (43) years
beginning with the effective date of this Agreement.

6.3 EPE hereby assigns to TEP 200 megawatts of transmission rights in the Springerville-Luna 345 kV circuit and in the existing 345 kV circuit from Luna via Hidalgo to Greenlee.

6.4 This assignment of transmission rights from EPE to TEP in the Springerville-Luna-Greenlee circuits shall begin with the commercial operating date of the Springerville-Luna circuit and shall continue for a term of 40 years from that date.

6.5 TEP hereby assigns to EPE rights in TEP's 345 kV Eastern Transmission System between (a) the San Juan 345 kV switchyard, the Four Corners 345 kV switchyard, or the Coronado Station 345 kV terminal, and (b) the Greenlee 345 kV substation as follows:

6.5.1 For delivery to Greenlee:

6.5.1.1 50 MW beginning with the commercial operating date of PVNGS Unit No. 1.
6.5.1.2 100 MW beginning with the commercial operating date of PVNGS Unit No. 2.
6.5.1.3 150 MW beginning with the commercial operating date of PVNGS Unit No. 3.
6.5.1.4 This assignment of transmission rights from TEP to EPE under Paragraph 6.5.1 shall terminate on the commercial operating date of the Springerville–Luna circuit.
6.5.2 For delivery from Greenlee to the Coronado 345 kV terminal, San Juan 345 kV switchyard, or Four Corners 345 kV switchyard, TEP hereby assigns to EPE transmission rights of 150 megawatts, beginning with the effective date of this Agreement and terminating on the commercial operating date of the Springerville-Luna circuit.

6.5.3 Beginning with the commercial operating date of the Springerville-Luna 345 kV circuit, TEP hereby assigns to EPE 150 megawatts of transmission rights in TEP's 345 kV system between Springerville and either of Four Corners, San Juan, or Coronado. Such rights may be utilized by EPE at its option in whole or in part to either of these delivery points. This assignment of rights shall include transmission in both directions and shall be for a term of forty (40) years.

6.6 Transmission losses over assigned and owned rights shall be shared in proportion to scheduled use.

7. **SPRINGERVILLE-LUNA 345 KV CIRCUIT**

7.1 The Parties agree to cooperate in the construction of EPE's Springerville-Luna 345 kV circuit. The Parties' responsibilities for the construction, operation and cost of the Springerville-Luna circuit shall be as follows:
7.1.1 EPE shall construct a single-circuit 345 kV transmission line of approximately 210 miles in length from Luna to a point in New Mexico approximately 12 miles east of the Springerville switchyard. This line shall be constructed so as to be in service on or before June 1, 1987.

7.1.2 At Luna 345 kV Substation, EPE shall install at least one 345 kV circuit breaker and associated equipment, including shunt reactors, relays, meters, and microwave systems to terminate the Springerville-Luna 345 kV circuit.

7.1.3 EPE shall install series capacitors for 25 percent line compensation at Luna in the Springerville-Luna 345 kV circuit to control the power flow distribution. This amount may be changed by mutual agreement of the Parties based on joint studies of the system. TEP and EPE will conduct such studies and employ such corrective measures as needed to protect the Springerville generating units from subsynchronous resonance.

7.1.4 All costs associated with the construction, operation, and maintenance of the facilities in this Paragraph 7.1 are to be the responsibility of EPE.

7.2 TEP will purchase, install, operate and maintain the following facilities as part of the Springerville-Luna 345 kV circuit:
7.2.1 A double-circuit 345 kV transmission tower line shall be constructed from the Springerville switchyard eastward for a distance of approximately 12 miles. One-half of this tower line and the northern circuit position shall be dedicated to the Springerville-Luna circuit and strung with a bundle of two conductors not larger than 954 KCM ACSR per phase.

7.2.2 At Springerville two 345 kV circuit breakers and associated switchyard equipment, including shunt reactors, relaying, metering, and microwave systems shall be installed to provide a termination for the Springerville-Luna 345 kV circuit. TEP will maintain, operate, upgrade, or replace as required the termination facilities of the Springerville-Luna circuit at the Springerville switchyard and the 12 miles of double-circuit line east of Springerville switchyard.

7.3 EPE will reimburse TEP for one-half of all costs as incurred in Paragraph 7.2.1 and for all costs as incurred in Paragraph 7.2.2, including overheads, taxes, insurance, and administrative and general costs, all as associated with the procurement, installation, construction, operation and maintenance, upgrading or replacement of the facilities described in Paragraph 7.2. To cover TEP’s administrative and general costs, a charge of one and one-quarter (1 ¼) percent shall be added to the total construction costs and capital.
improvement costs (including overheads) and twenty (20) percent shall be added to the operation and maintenance expenses. Included in EPE’s costs shall be a $4.5 million share of the common facilities of the Springerville switchyard as indicated in Exhibit A, or the Parties may by mutual agreement apply this $4.5 million share to other project facilities.

7.4 The facilities to be constructed by TEP for EPE’s Springerville-Luna 345 kV circuit shall be ready for service on or before June 1, 1987. At EPE’s request, TEP will construct the above facilities for completion at an earlier date, in which case EPE shall reimburse TEP for its carrying charges during the interim period.

7.5 In the event EPE desires to terminate the 345 kV circuit from Springerville at a location other than Luna, the Parties agree to renegotiate such elements of this Agreement as may be affected, with the intent to achieve similar system performance and exchange of rights.

8. EMERGENCY TRANSMISSION SERVICE

8.1 Each Party will supply emergency transmission service when and if requested by the other Party in amounts up to the capacity of its transmission system and for a period not to exceed 10 days, provided that in the sole judgment of the supplying party, such transmission service will not result in impairment of or jeopardy
to service to its customers. Each Party shall be the sole judge as to the conditions under which it is possible for it to provide emergency transmission service.

8.2 Insofar as practicable, hourly schedules for emergency transmission service shall be arranged between the system dispatchers on a tentative basis at least one day in advance, subject to later modification if unforeseen circumstances should arise.

9. ENGINEERING AND OPERATING COMMITTEE

9.1 In order to provide for the continuing communication between the Parties with regard to construction schedules, costs, possible delays, expected performance, and other matters which may affect the facilities between which power will be exchanged and the construction of the Springerville-Luna transmission line, and thereafter the operation of the facilities over which rights are assigned between the Parties under this Agreement, an Engineering and Operating Committee shall be established, with EPE’s member acting as chairman.

9.2 The Committee shall consist of two members from each Party and will meet periodically, but not less than twice annually, and shall have the following duties:

9.2.1 Provide liaison with respect to engineering and construction progress of generating and transmission facilities.
9.2.2 Provide update of capital budget costs and operating costs for the Springerville-Luna transmission circuit.

9.2.3 Provide coordination with respect to power exchange and scheduling.

9.2.4 Provide liaison on matters which may be the subject of this Agreement.

9.3 The Engineering and Operating Committee shall have no authority to modify any of the provisions of this Agreement, but may by mutual agreement put into effect rules and procedures for the purpose of implementing this Agreement. The E&O Committee may also appoint such ad hoc committees as may be required for joint planning and operating studies, auditing of billed expenses, and such other matters as may be required to effect coordinated operation under this Agreement.

10. PAYMENT OF FUNDS

10.1 EPE shall pay its share of the costs specified in Paragraph 7.3 no later than the date when funds are required by TEP to pay for procurement, installation, construction, operation and maintenance, upgrading or replacement of facilities so that TEP will not have to advance any funds on behalf of EPE.

10.2 On or before the twenty-fifth day of each month, TEP shall advise EPE of the following month's estimated expenditures for EPE's share of all costs pursuant to Paragraphs 7.3 and 7.4. The
amount specified by TEP shall consider unexpended funds from EPE's prior payments.

10.3 Upon completion of construction, TEP shall compute the total recorded construction expenditures, including appropriate overheads, and EPE shall promptly settle any balance between its share of such total recorded construction expenditures and funds advanced by EPE.

10.4 Following completion of all construction, TEP will provide the cost data required for EPE to keep its books in compliance with the Uniform System of Accounts.

10.5 TEP shall notify EPE by telephone of the need for payment by EPE for its share of costs specified in Paragraphs 7.3 and 7.4. On the following day EPE shall wire such payment to a bank of TEP's choice.

10.6 Funds not paid by EPE to TEP on or before the due date specified shall be payable with interest accrued at the rate charged to prime commercial borrowers by the Bank of America, but not in excess of the maximum rate of interest permitted by law.

11. **UNCONTROLLABLE FORCES**

Neither Party shall be considered to be in default in the performance of any of its obligations hereunder (other than the obligations of EPE to make payments to TEP as required) when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall
mean any cause beyond the control of the Party unable to perform such obligation, including but not limited to failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material or fuel shortage, sabotage, government priorities and 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 reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed as to require either Party to settle any strike or labor dispute in which it may be involved.

12. ELECTRICAL DISTURBANCES

Each Party hereto shall maintain its system in conformance with accepted modern practices to:

12.1 Minimize electric disturbances, such as, but not limited to, an abnormal flow of power, which may damage or interfere with the system or customers of the other Party hereto; and

12.2 Minimize the effect on its system and its customers of such electric disturbances originating on the system of either Party hereto.

13. LIABILITY AND INDEMNITY

13.1 Except for any loss, damage, claim, cost, charge or expense
resulting from Willful Action, neither Party, its directors, officers nor employees shall be liable to the other Party for any loss, damage, claim, cost, charge, or expense of any kind or nature incurred by the other Party (including direct, indirect or consequential loss, damage, claim, cost, charge or expense; and whether or not resulting from the negligence of a Party, its directors, officers, employees or any person or entity whose negligence would be imputed to such Party) from (i) engineering, repair, supervision, inspection, testing, protection, operation, maintenance, replacement, reconstruction, use or ownership of such Party's electric system, or (ii) the performance or nonperformance of the obligations of a Party under this Agreement. Except for any loss, damage, claim, cost, charge or expense resulting from Willful Action, each Party releases the other Party, its directors or other governing body, officers, and employees from any such liability.

13.2 For the purpose of this Paragraph 13, Willful Action shall be defined as:

13.2.1 Action taken or not taken by a Party at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under this Agreement, which action is knowingly or intentionally taken or not taken with
conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom.

13.2.2 Action taken or not taken by a Party at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under this Agreement, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under this Agreement and which occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default.

13.2.3 Action taken or not taken by a Party at the direction of its directors, officers or employees having management or administrative responsibility affecting its performance under this Agreement, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under this Agreement.

13.2.4 Willful Action does not include any act or failure to act
which is merely involuntary, accidental or negligent.

13.2.5 The phrase "employees having management or administrative responsibility," as used in this Paragraph 13.2, means the employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party's performance under this Agreement with responsibility for results.

13.3 A Party whose electric customer shall have a claim or bring an action against the other Party for any death, injury, loss, or damage arising or alleged to have arisen out of or in connection with interruptions to or curtailment of electric service to such customer caused by any act or omission, including active or passive negligence, of the other Party or anyone directly or indirectly employed by the other Party shall indemnify and hold harmless such other Party, its directors, officers, agents, and employees from and against any liability for such death, injury, loss or damage.

13.4 Neither Party shall be liable for any loss of earnings, revenues, indirect or consequential damages which may occur to the other Party as a result of performance or failure of performance hereunder by reason of any cause whatsoever, including negligence.

13.5 The provisions of this Paragraph 13 shall not be construed so as

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to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms of any valid policy.

14. ASSIGNMENT OF AGREEMENT

Neither Party shall voluntarily assign this Agreement or any part thereof without the written consent of the other Party, except in connection with the sale or merger of a substantial portion of its properties.

15. NO DEDICATION OF FACILITIES

Any undertaking by one Party to the other under any provision of this Agreement shall not constitute the dedication of the system or any portion thereof of either Party to the public or to the other Party, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination of this Agreement.

16. NOTICES

Any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by United States mail, postage prepaid, to the persons specified below:

El Paso Electric Company
c/o The Secretary
P. O. Box 982
El Paso, Texas 79960

Tucson Electric Power Company
c/o The Secretary
P. O. Box 711
Tucson, Arizona 85702
Either Party may at any time or from time to time, by notice to the other Party, change the designation or address of the person so specified as the one to receive notices pursuant to this Agreement.

17. **GOVERNING LAW**

This Agreement shall be interpreted, governed by and construed under the laws of the State of Arizona or the laws of the United States, as applicable, as if executed and to be performed wholly within the State of Arizona.

18. **GENERAL**

The compensation, rates, charges, terms and conditions as specified herein shall remain in effect for the term of this Agreement and shall not be subject to change through filing with, or application to, the Federal Energy Regulatory Commission pursuant to the provisions of Section 205 of the Federal Power Act absent the mutual agreement of the Parties hereto. Neither Party shall request or initiate, directly or indirectly, action by said Commission for any change herein pursuant to Section 206(a) of said Act.

19. **THIRD PARTY RIGHTS**

Nothing in this Agreement shall be construed to extend any benefits to, or create a cause of action by, any third party.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the 19th day of April, 1982.

TUCSON ELECTRIC POWER COMPANY
By /s/ [ILLEGIBLE]
   Executive Vice President

EL PASO ELECTRIC COMPANY
By /s/ Harry I. Zimmer
   Vice President
EXHIBIT A

SPRINGERVILLE SWITCHYARD

COMMON FACILITIES

Site Preparation
Yard Surfacing
Access Road
Land and Land Rights
Drainage
Fencing
Lighting
Civil Work
Grounding
Control House
Control Cable
Communications
Microwave
345 kV Yard

EPE's share of the costs for these facilities will be as follows:

May 31 1984 - $1,000,000
(1) May 31 1985 - $1,000,000
(2) May 31 1987 - $2,500,000
TOTAL $4,500,000

(1) Or the commercial operating date of Springerville Unit 1, if earlier.
(2) Or the commercial operating date of Springerville Unit 2, if earlier.
ANPP TRANSMISSION PROJECT

WESTWING SWITCHYARD

AMENDED INTERCONNECTION AGREEMENT

APS Contract No. 7651

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1. **PARTIES:**

The parties to this Westwing Switchyard Amended Interconnection Agreement hereinafter referred to as the "Amended Interconnection Agreement," are: THE UNITED STATES OF AMERICA, hereinafter referred to as the "United States," acting through the Secretary of the Interior, his duly appointed successor or his duly authorized representative; ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, hereinafter referred to as "Arizona"; DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, hereinafter referred to as "Los Angeles"; EL PASO ELECTRIC COMPANY, a Texas corporation, hereinafter referred to as "El Paso"; NEVADA POWER COMPANY, a Nevada corporation, hereinafter referred to as "Nevada"; PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, hereinafter referred to as "PNM"; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, hereinafter referred to as "Salt River Project"; and TUCSON ELECTRIC POWER COMPANY, an Arizona corporation formerly known as Tucson Gas & Electric Company, hereinafter referred to as "Tucson." These entities are referred to collectively as "Parties" and individually as "Party."
2. **RECITALS.**

This Amended Interconnection Agreement is made with reference to the following facts, among others:

2.1 Arizona, El Paso, PNM, and Salt River Project, hereinafter collectively referred to as the "Palo Verde-Westwing Participants," are participants, together with Southern California Edison Company, Southern California Public Power Authority and Los Angeles, in the Arizona Nuclear Power Project (ANPP) which is constructing the Palo Verde nuclear-electric generating units 1, 2 and 3 west of Phoenix, Arizona. Pursuant to the ANPP Valley Transmission System Participation Agreement dated August 20, 1981, as amended, the Palo Verde-Westwing Participants have constructed a 500 kV transmission line, hereinafter referred to as the "First Palo Verde Line," between the Palo Verde Nuclear Generating Station and the Westwing Switchyard, both located west of Phoenix, Arizona. The Palo Verde Westwing Participants have constructed and now desire to interconnect a second 500 kV transmission line parallel to the First Palo Verde Line, hereinafter referred to as the "Second Palo Verde Line." Both lines are hereinafter collectively referred to as the "Palo Verde Lines."

2.2 The United States, Arizona, Los Angeles, Nevada, Salt River Project, and Tucson, hereinafter collectively referred to as the "Navajo Southern Transmission System Participants," owners in undivided interest of various portions of the
Navajo Southern Transmission System which includes the Westwing Switchyard among its facilities, recognize the mutual benefits of interconnecting transmission systems, among which are improved reliability, increased transfer capability between systems, a means of furnishing emergency assistance, and exchanges of economy energy between systems. They are consequently willing to permit the interconnection of the Palo Verde Lines with the Westwing Switchyard in accordance with the terms and conditions contained in this Amended Interconnection Agreement.

2.3 Navajo Southern Transmission System Participants with cost responsibility in the Westwing Switchyard are the United States, Arizona, Salt River Project, and Tucson, hereinafter collectively referred to as the "Navajo Westwing Participants," and they retain certain rights and obligations under this Amended Interconnection Agreement in the interest of the Navajo Southern Transmission System Participants.

2.4 Arizona constructed and now operates the Westwing Switchyard as project manager and operating agent for the Navajo Project Southern Transmission System, and the Navajo Southern Transmission System Participants desire to continue to have Arizona as the Party responsible for the design, construction, and operation of the Westwing Switchyard.

2.5 The Palo Verde-Westwing Participants have designated Salt
River Project as project manager and operating agent to design, construct, and operate the Palo Verde Lines, and Arizona as Project Manager and Operating Agent of the Westwing Switchyard, hereinafter referred to as "Operating Agent", to design, construct, and operate the additions to the Westwing Switchyard incidental to the Palo Verde Lines interconnection.

2.6 The Palo Verde-Westwing Participants have completed the construction and interconnection of the First Palo Verde Line and its termination facilities to both the ANPP High Voltage Switchyard and the Westwing Switchyard and contemplate completing interconnection of the Second Palo Verde Line and other associated switchyard facilities on or about March 1, 1986.

3. AGREEMENT:
In consideration of the mutual covenants herein, the Parties hereby agree as follows:

4. EFFECTIVE DATE AND TERMINATION:
This Amended Interconnection Agreement shall become effective when it has been duly executed and delivered on behalf of all the Parties and is subject to acceptance for filing by the Federal Energy Regulatory Commission ("FERC") and will terminate concurrently with the termination of the Navajo Project Co-Tenancy Agreement or the ANPP Valley Transmission System Participation Agreement, whichever occurs first. On the effective date of this Amended Interconnection Agreement, the
Westwing Switchyard Interconnection Agreement dated October 26, 1978 shall be superseded and shall be of no further force or effect.

5. **FACILITIES TO BE PROVIDED**:

5.1 The Navajo Westwing Participants will grant to the Palo Verde-Westwing Participants the necessary easements to be evidenced by appropriate documents in a form acceptable to the Palo Verde-Westwing Participants and executed by the Navajo Westwing Participants, across the Westwing Switchyard property to enable the Palo Verde-Westwing Participants to connect the Palo Verde Lines and the 500/230 kV transformer to the Westwing Switchyard 500 kV bay locations 10, 11, 12, 14 and 15 and 230 kV bay locations 1, 2, and 7, including such space as may be required for installation of shunt reactors required as a result of the interconnection. The bay locations are generally shown on Appendix C attached hereto and made a part hereof. Also to be granted to the Palo Verde-Westwing Participants is an easement for a microwave control house and associated equipment to be installed in the Westwing Switchyard by Salt River Project, acting as operating agent for the ANPP High Voltage Switchyard, the Palo Verde Lines and the Palo Verde-Kyrene 500 kV line. Said microwave control house and associated equipment will provide a communication link necessary for operation of the ANPP Valley Transmission System.

5.2 The Navajo Southern Transmission System Participants hereby
extend to the Palo Verde-Westwing Participants the right to use the spare single phase 500/230 kV transformer as a spare for the transformers installed by the Palo Verde Westwing Participants. The cost of the spare transformer is included in the cost of common facilities shown in Appendix A attached hereto and made a part hereof.

5.3 The Palo Verde-Westwing Participants shall provide at their cost and expense:

5.3.1 Termination facilities for the Palo Verde Lines.

5.3.2 A 1500 MVA 500/230 kV transformer bank suitable for parallel operation with the existing 500/230 kV transformers.

5.3.3 Shunt or territory reactors as required at Westwing Switchyard as a direct result of the interconnection of the Palo Verde Lines to the Westwing 500 kV bus.

5.3.4 Associated facilities including, but not limited to, structures, buswork, grounding, disconnect switches, 500 kV breakers, 230 kV breakers, insulators and associated appurtenances.

5.3.5 All relaying, metering, control and communication equipment including microwave facilities with necessary conduit, duct work and control and communication cable required incidental to the interconnection of the Palo Verde Lines and/or the 500/230kV transformer bank.

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5.3.6 Upgrading of eleven of the existing Navajo Project 230 kV circuit breakers shown on Appendices C and D attached hereto and made parts hereof, which have inadequate fault duty capability as a result of the interconnection of the Palo Verde Lines. The upgrading shall coincide with the installation of the 500/230 kV transformer bank.

5.3.7 Three new 230 kV breakers: two shall be installed with the 500/230 kV transformer; the third, including its associated equipment, shall be installed for the interconnection of Arizona's anticipated second Westwing-El Sol line to be installed in 1993.

5.4 The facilities to be installed by the Palo Verde-Westwing Participants shall conform as nearly as possible in design and appearance with existing facilities at the Westwing Switchyard. Design and location of facilities to be installed shall be subject to review and approval of the Navajo Project Transmission Engineering and Operating Committee. Such approval shall not be unreasonably withheld.

6. **OWNERSHIP:**

6.1 The facilities installed under the Westwing Switchyard Interconnection Agreement and the facilities to be installed under this Amended Interconnection Agreement, except those facilities described in Sections 5.3.6 and 5.3.7, shall be owned by and remain the property of the
Palo Verde-Westwing Participants. Facilities provided for in Section 5.3.6 shall be the sole property of the Navajo Westwing Participants. The Palo Verde-Westwing Participants shall own 1-1/2 of the two 230 kV breakers installed with the 500/230 kV transformer. The Navajo Westwing Participants shall own the remaining 1/2 of the center breaker and the third breaker to be installed pursuant to Section 5.3.7.

6.2 Net salvage value calculated based on original cost less depreciation for existing equipment replaced pursuant to Section 5.3.7 hereof shall be credited to the Palo Verde Westwing Participants when the equipment is replaced or removed.

6.3 All facilities existing prior to the interconnection of the First Palo Verde Line shall remain the property of the Navajo Westwing Participants.

6.4 The division of ownership of facilities between the Palo Verde-Westwing Participants and the Navajo Westwing Participants as provided in this Amended Interconnection Agreement shall not be construed to limit the rights now held by the Navajo Southern Transmission System Participants for orderly expansion of the Westwing Switchyard as they may deem necessary.

7. **OPERATION:**

7.1 Equipment or facilities installed by Palo Verde-Westwing Participants to uprate and replace existing Westwing

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Switchyard facilities shall be operated and maintained by Arizona, the Operating Agent for the Westwing Switchyard, at the expense of the Navajo Westwing Participants pursuant to Section 9 hereof.

7.2 Other equipment or facilities installed by the Palo Verde-Westwing Participants to effect the 500 kV interconnections and the 500/230 kV transformer installation shall be operated and maintained by Arizona, the Operating Agent for the Westwing Switchyard, in coordination with Salt River Project, acting as operating agent for the Palo Verde Lines, at the expense of the Palo Verde-Westwing Participants pursuant to Section 9 hereof. Upon the in service date of Arizona’s second Westwing-El Sol line, the Palo Verde-Westwing Participants shall have cost responsibility for operating and maintaining a breaker and a half and appurtenant facilities associated with their 500/230 kV transformer in the 230 kV switchyard.

7.3 The Palo Verde-Westwing Participants and the Navajo Southern Transmission System Participants acknowledge that it may from time to time be necessary for the Westwing Switchyard Operating Agent to de-energize certain facilities at the Westwing Switchyard in order to complete the installation of equipment set forth in Section 5 hereof and to maintain facilities of both the Palo Verde-Westwing Participants and the Navajo Southern Transmission System Participants. The Operating Agent will coordinate any
outage of facilities required for construction or maintenance purposes with the affected Parties, all in accordance with the provisions of the Navajo Project Southern Transmission System Operating Agreement, dated July 23, 1979 and the ANPP Valley Transmission System Participation Agreement.

7.4 Under normal operating conditions, the Palo Verde-Westwing Participants shall have the right to transmit power and energy through the components of the Westwing Switchyard to the extent of their firm entitlement in the Palo Verde Lines as long as such use does not interfere with or impair the firm transmission capability of the Navajo Southern Transmission System and as long as such use does not create an overloaded condition in any of the components of the Westwing Switchyard. The words "firm transmission capability" as used herein shall mean "the maximum amount of power that can be transmitted continuously as determined by the Navajo Engineering and Operating Committee."

7.5 In the event the capacity of the Westwing Switchyard is insufficient to accommodate all requests, the Operating Agent shall first curtail non-firm schedules through the Westwing Switchyard which contribute to the overload. The Operating Agent shall curtail non-firm schedules in a manner which results in schedules which are proportional to the Parties' schedules prior to curtailment, and shall curtail schedules in the following order:
7.5.1 The non-firm schedules of the Palo Verde-Westwing Participants.

7.5.2 The non-firm schedules of the Navajo Southern Transmission System Participants.

7.6 In the event that the capacity of the Westwing Switchyard is insufficient to accommodate all firm schedules after all non-firm schedules are curtailed pursuant to Section 7.5, the Operating Agent shall curtail firm schedules through the Westwing Switchyard which contribute to the overload. The Operating Agent shall curtail firm schedules in a manner which results in schedules which are proportional to the Parties' percentage ownership in the respective systems, and shall curtail schedules in the following order:

7.6.1 The firm schedules of the Palo Verde-Westwing Participants other than ANPP generation or its replacement capacity.

7.6.2 The firm schedules of the Navajo Southern Transmission System Participants other than Navajo generation schedules or its replacement capacity.

7.6.3 ANPP generation schedules or its replacement capacity.

7.6.4 Navajo generation schedules or its replacement capacity.

7.7 As a means of permitting El Paso and PNM to participate in the coordination and interchange of information on a prompt and orderly basis in connection with operating matters
under this Amended Interconnection Agreement, El Paso and PNM shall each be allowed to have a non-voting representative attend appropriate meetings of the Navajo Transmission System Engineering and Operating Committee.

7.8 During operating emergencies, the Navajo Southern Transmission System Participants and the Palo Verde-Westwing Participants shall make available to each other, through their respective operating agents, such transmission capacity as may be determined to be available in the sole judgment of the supplier. The transmission capacity provided under this Section 7.8 shall be on an interruptible basis and shall be provided only when it will not result in the impairment of or jeopardy to service in the system of the supplier:

8. COST RESPONSIBILITY RATIOS:

8.1 "Cost Responsibility Ratios" shall be computed for the purpose of sharing operation and maintenance expenses between the Navajo Westwing Participants collectively, the Palo Verde-Westwing Participants collectively, and other parties or individual Parties. For this purpose, each connection to the Westwing 500-kV bus and/or 230 kV bus through a power circuit breaker such as line connections, transformer connections, reactor or capacitor bank connections will be deemed a "Function." Likewise, each power transformer bank will be deemed a Function. Cost
Responsibility Ratios shall be computed by the Westwing Switchyard Operating Agent initially and subsequently upon the installation of additional Functions in the Westwing Switchyard, as follows:

8.1.1 Navajo Westwing Participants
Cost Responsibility Ratio

\[ \frac{X}{X+Y+Z} \]

8.1.2 Palo Verde-Westwing Participants
Cost Responsibility Ratio

\[ \frac{Y}{X+Y+Z} \]

8.1.3 Third Party Cost
Responsibility Ratio

\[ \frac{Z}{X+Y+Z} \]

Where, 

\( X = \) Number of Functions for Navajo Westwing Participants.

\( Y = \) Number of Functions for Palo Verde-Westwing Participants.

\( Z = \) Number of Functions for any third party (ies) and/or individual Party.

Ratios will be computed and used for the 500 kV Switchyard when only 500 kV costs are to be allocated, for the power transformers when only power transformer costs are to be allocated, for the 230 kV yard when only 230 kV costs are to be allocated and for the composite switchyard when 500 kV and 230 kV costs cannot be or are not normally accounted for separately. Calculations of Cost Responsibility Ratios are shown in Appendix E attached hereto and made a part hereof.

9. ALLOCATION OF OPERATION AND MAINTENANCE EXPENSES:

9.1 All costs of operation for the Westwing Switchyard, and for such maintenance which is not allocable to any specific
facility or equipment within the Westwing Switchyard, shall be paid monthly by the Navajo Westwing Participants and the Palo Verde-Westwing Participants in proportion to their respective Cost Responsibility Ratios:

9.1.1 Separately by each Navajo Westwing Participant in accordance with its individual cost responsibility as set forth in Exhibit B of the Navajo Project Southern Transmission System Operating Agreement, as now written or as hereafter modified.

9.1.2 Separately by each Palo Verde-Westwing Participant in accordance with its individual cost responsibility as set forth in Appendix B of the ANPP Valley Transmission System Participation Agreement, as now written or as hereafter modified.

9.2 The costs of maintenance for the Westwing Switchyard which are allocable to any specific facility or equipment within the Westwing Switchyard shall be paid by the owners of that facility or equipment, in accordance with the applicable agreement mentioned in Sections 9.1.1 or 9.1.2 herein.

10. PAYMENT FOR USE OF COMMON FACILITIES:

10.1 Certain facilities, as shown in Appendix A, and referred to as common facilities, are for the common use and benefit of the Navajo Westwing Participants and the Palo Verde-Westwing Participants. It is neither feasible nor desirable to alter the ownership of common facilities installed prior to the effective date of this Amended
Interconnection Agreement. Therefore, an equalization charge will be computed to equalize the investment costs of common facilities. The payment of such charge calculated pursuant to Section 10.2 hereof shall entitle the Palo Verde-Westwing Participants to the nonexclusive use and benefit of all common facilities in the Westwing Switchyard.

10.2 Beginning on the date of firm operation of the First Palo Verde Line, the Palo Verde-Westwing Participants shall pay the Navajo Westwing Participants an equalization charge for the use of common facilities owned by the Navajo Westwing Participants. Such payment shall be calculated as follows: (i) total actual original cost of all common facilities shall be multiplied by the Cost Responsibility Ratio of the Palo Verde-Westwing Participants for the composite yard; (ii) then subtract the amount invested by the Palo Verde-Westwing Participants for common facilities; (iii) then multiply the result (i-ii) by the Weighted Average Annual Fixed Charge Rate (including ad valorem taxes or payments in lieu of) of the Navajo Westwing Participants, computed as shown in Line D of Appendix B.

10.3 A monthly payment shall be computed as one-twelfth of the equalization charge computed pursuant to Section 10.2 hereof.

10.4 The Palo Verde-Westwing Participants shall individually pay each month their appropriate share of the monthly payment in accordance with Section 9.1.2 hereof, to be received by
Arizona, as Operating Agent, and credited to the accounts of the Navajo Westwing Participants, in accordance with Line E of Appendix B.

10.5 The equalization charge may be changed only under the provisions of Section 11 hereof.

10.6 The costs and percentages set forth in Appendices A and B hereto shall be subject to review and audit by the Palo Verde-Westwing Participants.

11. REGULATORY AUTHORITY AND RATE CHANGE:

11.1 Any Navajo Westwing Participant which can demonstrate that its respective Annual Fixed Charge Rate shown in Appendix B has become inequitable shall be entitled to change that Annual Fixed Charge Rate so that it is equitable after having first received the consent of all the Palo Verde-Westwing Participants, which consent shall not be unreasonably withheld. The Salt River Project shall use an Annual Fixed Charge Rate which is consistent with its pricing methods used for other inter-utility transactions.

11.2 Nothing contained herein, including the provisions of Section 11.1 hereof, shall be construed as affecting in any way the rights of any Navajo Westwing Participant subject to the jurisdiction of the FERC to unilaterally make application to FERC for a change in rates or allocations shown in Appendix B, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder.
11.3 The Parties agree that application for changes pursuant to Sections 11.1 or 11.2 hereof shall not be submitted by an individual Navajo Westwing Participant at less than two-year intervals.

12. OTHER PROJECT AGREEMENTS:

Arizona as Operating Agent for the Navajo Southern Transmission System Participants shall continue to act with respect to such participants in accordance with the Navajo Project Southern Transmission System Operating Agreement, as presently written or hereafter modified, except to the extent such agreement conflicts with this Amended Interconnection Agreement. Arizona as Project Manager and Operating Agent on behalf of the Palo Verde-Westwing Participants at the Westwing Switchyard shall act with respect to such participants in accordance with the ANPP Valley Transmission System Participation Agreement, as presently written or hereafter modified, except to the extent such agreement conflicts with this Amended Interconnection Agreement. If differences between the Navajo Project Southern Transmission System Operating Agreement and the ANPP Valley Transmission System Participation Agreement make concurrent performance with both agreements either impossible or impracticable, then, to the extent of such impossibility or impracticability, Arizona's obligations under the ANPP Valley Transmission System Participation Agreement shall be suspended.

13. POWER AND ENERGY LOSSES:

Any power and energy losses directly resulting from the Palo Verde Lines interconnections at the Westwing Switchyard identifiable as being caused by the Palo Verde-Westwing Participants as individuals on the Navajo Southern Transmission System or any power and energy losses identifiable
as being caused by the Navajo Southern Transmission System Participants as individuals on the ANPP Valley Transmission System shall be returned in kind by the individual causing such losses to the affected Party(ies) at times of like conditions of loads and generation resources on the systems of the affected Party(ies) in accordance with procedures developed jointly by the Engineering and Operating Committees of the ANPP Valley Transmission System Participants and the Navajo Southern Transmission System Participants.

14. **PAYMENT OF TAXES:**

14.1 Each Party shall use its best efforts to have any taxing authority imposing any property taxes or other taxes (excluding any sales or use taxes) or assessments on the facilities within the Westwing Switchyard, impose such taxes or assessments directly upon each Party on the basis of its respective ownership interest in the Westwing Switchyard.

14.2 All taxes and assessments levied against any Party shall be the sole responsibility of the Party upon whom said taxes and assessments are levied, unless such taxes and assessments are levied directly upon an individual Party in behalf of any or all of the other Parties.

14.3 Any Party exempted from any taxes assessed against any or all of the other Parties shall be given credit for such
15. **INSURANCE**:

The Palo Verde-Westwing Participants shall provide construction and operating insurance and the Navajo Southern Transmission System Participants shall provide operating insurance to cover facilities in which they respectively retain ownership. Such insurance shall be provided by the Palo Verde-Westwing Participants in accordance with Sections 22 and 23 of the ANPP Valley Transmission System Participation Agreement and by the Navajo Southern Transmission System Participants in accordance with Section 18 of the Navajo Project Southern Transmission System Operating Agreement, as those agreements are written or may be hereafter amended by the Parties to each agreement. Arizona, as Operating Agent, shall require insurance carriers furnishing insurance to waive rights of subrogation against all Parties as their respective interests may appear.

16. **LIABILITY; COVENANT NOT TO EXECUTE**:

16.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid insurance provided pursuant to Section 15 hereof, and subject to the provisions of Sections 16.2, 16.4, and 16.5 hereof, each Party hereby extends to all other Parties, their directors, members of their governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against any of them, including recording or
effecting a judgment lien, for any direct, indirect or consequential loss, including but not limited to, death, injury, damage, claim, cost, charge or expense, whether or not resulting from the negligence of such Party, its directors, members of its governing bodies, officers, employees, or any person or entity whose negligence would be imputed to such Party from the performance or non-performance of the obligations of any Party under this Amended Interconnection Agreement, or the construction, operation or ownership of facilities at the Westwing Switchyard, other than the obligation to pay any monies which have become due under the terms of this Agreement.

16.2 In the event any insurer providing insurance pursuant to Section 15 hereof refuses to pay any judgment obtained by a Party against another Party, its directors, members of its governing bodies, officers or employees, on account of liability referred to in Section 16.1 hereof, the Party, its directors, members of its governing bodies, officers or employees against whom the judgment is obtained shall, at the request of the prevailing Party and in consideration of the covenant given in Section 16.1 hereof, execute such documents as may be necessary to effect an assignment of its contractual rights against the nonpaying insurer and thereby give the prevailing Party the opportunity to enforce its judgment directly against such insurer. In no event when a judgment debt is collectible from valid
insurance provided pursuant to Section 15 hereof shall the Party obtaining the judgment execute, levy or otherwise enforce the judgment (including recording or effecting a judgment lien) against the Party, its directors, members of its governing bodies, officers or employees, against whom the judgment was obtained.

16.3 Except as provided in Sections 16.4 and 16.5, the costs and expenses, including but not limited to attorneys fees, of discharging all Work Liability imposed upon one or more of the Parties for which payment is not made by the insurance procured by the Palo Verde-Westwing Participants or the Navajo Southern Transmission System Participants pursuant to Section 15 hereof shall be allocated among the Parties in proportion to their Cost Responsibility in the facilities involved in the operative facts which give rise to the Work Liability. However, if the proximate cause of such liability cannot be determined or is not related to any particular facilities, then such costs and expenses shall be allocated among the Parties in proportion to the Cost Responsibility Ratios of the Palo Verde-Westwing Participants and the Navajo Westwing Participants in the composite switchyard and according to Sections 9.1.1 and 9.1.2 hereof. "Work Liability" as used herein is the liability of one or more Parties for damages suffered by anyone other than a Party, whether or not resulting from the negligence of any Party, its directors, members of its
governing bodies, officers, employees or any other person or entity whose negligence would be imputed to such Party, resulting from the
construction, operation or ownership of facilities at the Westwing Switchyard or the performance or nonperformance of the obligations of any
Party under this Amended Interconnection Agreement.

16.4 Each Party shall be responsible for the consequences of its own Willful Action that are not covered by insurance provided pursuant to Section
15 hereof, and each Party except the United States shall indemnify and hold harmless the other Parties, their directors, members of their
governing bodies, officers and employees from the consequences thereof.

Since the United States has not agreed to indemnify the other Parties, the indemnity provided by this Section 16.4 shall not extend to the
United States.

16.5 Except for liability resulting from Willful Action, which shall be the responsibility of the willfully acting Party, any Party, except the United
States, whose electric customer shall have a claim or bring an action against any other Party for any death, injury, loss or damage arising out of
or in connection with electric service to such customer and caused by the operation or failure of operation of the Westwing Switchyard or any
portion thereof, shall indemnify and hold harmless such other Party, its directors, members of its governing bodies,
officers and employees from and against any liability for such death, injury, loss or damage.

Since the United States has not agreed to indemnify the other Parties, the indemnity provisions of this Section shall not extend to the United States.

16.6 The liability of the United States for any claims for damages arising out of negligence shall be governed by the Federal Tort Claims Act (28 U.S.C. 2671 S.E.Q.).

16.7 The provisions of this Section 16 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

16.8 The term "Willful Action" as used in this Amended Interconnection Agreement is defined as follows:

16.8.1 Action taken or not taken by a Party (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under this Amended Interconnection Agreement, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with knowledge or intent that injury or damage would result or would probably result therefrom.

16.8.2 Action taken or not taken by a Party (including the Operating Agent), at the direction of its
directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under this Amended Interconnection Agreement, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under this Amended Interconnection Agreement and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default.

16.8.3 Action taken or not taken by a Party (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under this Amended Interconnection Agreement, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under this Amended Interconnection Agreement.

16.8.4 The phrase "employees having management or administrative responsibility" as used in this Section 16.8 means employees of a Party who are responsible
for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Party's performance under this Amended Interconnection Agreement; provided, however, that, with respect to employees of the Operating Agent acting in its capacity as such and not in its capacity as a Party, such phrase shall refer only to (i) the Manager of System Control for the Operating Agent and (ii) anyone in the organizational structure of the Operating Agent between the Manager of System Control and an officer.

16.8.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

16.9 The Parties recognize that Los Angeles and Nevada are required to execute this Amended Interconnection Agreement because they are Navajo Southern Transmission System Participants even though Los Angeles and Nevada have no cost responsibilities in the Westwing Switchyard. Therefore, the remaining Parties to this Amended Interconnection Agreement agree that Los Angeles and Nevada have no liabilities arising from this Agreement.

16.10 If Section 19 of the Navajo Project Navajo Generating Station Operating Agreement is amended to limit the liability of any Party for Willful Action, the Parties
agree to likewise amend this Section 16 in order to incorporate substantially the same limitation of liability principles at dollar levels to be negotiated and agreed upon.

17. **UNCONTROLLABLE FORCES**

No Party shall be considered to be in default in the performance of its obligations hereunder (other than obligations of said Party to make payment of bills rendered hereunder) when a failure of performance shall be due to an Uncontrollable Force. The term "Uncontrollable Force" shall be 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 reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations hereunder by reason of an Uncontrollable Force shall give prompt written notice of such fact to the other Parties and shall exercise due diligence to remove such inability with all reasonable dispatch.
18. **RELATIONSHIP OF THE PARTIES:**

The covenants, obligations and liabilities of the Parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities as herein provided. No Party or group of Parties shall be under the control of or shall be deemed to control any other Party or the Parties as a group. No Party shall be the agent of or have a right or power to bind any other Party without its express written consent, except as expressly provided in this Amended Interconnection Agreement or other project agreements as may be applicable.

19. **GOVERNING LAW:**

This Amended Interconnection Agreement shall be governed by and construed and enforceable in accordance with the laws of the State of Arizona.

20. **SUCCESSORS AND ASSIGNS:**

This Amended Interconnection Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties.

21. **UNFORESEEN CIRCUMSTANCES:**

Should this Amended Interconnection Agreement result in placing
an undue burden on any Party or the Operating Agent due to circumstances not presently contemplated by the Parties, the Parties agree, upon request of the affected Party, to meet and negotiate an appropriate amendment to this Amended Interconnection Agreement.

22. **GENERAL CONTRACT PROVISIONS:**

The General Contract Provisions attached hereto as Appendix F are hereby made a part of this Amended Interconnection Agreement.

23. **EXECUTION BY COUNTERPARTS:**

This Amended Interconnection Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Amended Interconnection Agreement may be detached from any counterpart hereof without impairing the legal effect of any signature thereon and may be attached to another counterpart of this Amended Interconnection Agreement identical in form hereto but having attached to it one or more signature pages.
24. SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amended Interconnection Agreement on behalf of the Party for whom they sign. This Amended Interconnection Agreement is hereby executed as of this 14th day of August, 1986.

UNITED STATES OF AMERICA

By /s/ Edward M. Hallenbeck
Regional Director, Lower Colorado Region, U.S. Bureau of Reclamation

ARIZONA PUBLIC SERVICE COMPANY

By

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

by

BOARD OF WATER AND POWER COMMISSIONERS

OF THE CITY OF LOS ANGELES

By

And

EL PASO ELECTRIC COMPANY

By

ATTEST AND COUNTERSIGN

______________________________
Secretary

/ 
/ 
/
24. **SIGNATURE CLAUSE**: The signatories hereto represent that they have been appropriately authorized to enter into this Amended Interconnection Agreement on behalf of the Party for whom they sign. This Amended Interconnection Agreement is hereby executed as of this ____ day of _______, 1986.

UNITED STATES OF AMERICA

By

____________________________
Regional Director, Lower Colorado
Region, U.S. Bureau of Reclamation

ARIZONA PUBLIC SERVICE COMPANY

By /s/ Russell D. Hulse

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

by

BOARD OF WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES

By

______________________________
And

______________________________

EL PASO ELECTRIC COMPANY

By

______________________________

NEVADA POWER COMPANY

ATTEST AND COUNTERSIGN

______________________________
Secretary

/ /
24. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amended Interconnection Agreement on behalf of the Party for whom they sign. This Amended Interconnection Agreement is hereby executed as of this _____ day of _______________, 1986.

**UNITED STATES OF AMERICA**

By

______________________________
Regional Director, Lower Colorado Region, U.S. Bureau of Reclamation

**ARIZONA PUBLIC SERVICE COMPANY**

By

______________________________

**DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES**

by

______________________________
BOARD OF WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES

By /s/ Paul H. Lane

______________________________
General Manager and Chief Engineer

And /s/ Judith K. Davidson

______________________________
Secretary

**EL PASO ELECTRIC COMPANY**

By

______________________________

**Nevada Power Company**

ATTEST AND COUNTERSIGN

______________________________
Secretary

______________________________

______________________________
The signatories hereto represent that they have been appropriately authorized to enter into this Amended Interconnection Agreement on behalf of the Party for whom they sign. This Amended Interconnection Agreement is hereby executed as of this ______ day of ______________, 1986.

UNITED STATES OF AMERICA

By ____________________________
                 Regional Director, Lower Colorado
                 Region, U.S. Bureau of Reclamation

ARIZONA PUBLIC SERVICE COMPANY

By ____________________________

DEPARTMENT OF WATER AND POWER OF THE
CITY OF LOS ANGELES

by

BOARD OF WATER AND POWER
COMMISSIONERS
OF THE CITY OF LOS ANGELES

By ____________________________
And ____________________________

EL PASO ELECTRIC COMPANY

By /s/ James P. Maloney
     Vice President

NEVADA POWER COMPANY

ATTEST AND COUNTERSIGN

By ____________________________
   Secretary

/  
/  
/  
/
24. SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amended Interconnection Agreement on behalf of the Party for whom they sign. This Amended Interconnection Agreement is hereby executed as of this 23rd day of May, 1986.

UNITED STATES OF AMERICA

By __________________________
Regional Director, Lower Colorado
Region, U.S. Bureau of Reclamation

ARIZONA PUBLIC SERVICE COMPANY

By __________________________

DEPARTMENT OF WATER AND POWER OF THE
CITY OF LOS ANGELES

by
BOARD OF WATER AND POWER
COMMISSIONERS
OF THE CITY OF LOS ANGELES

By __________________________

And __________________________

EL PASO ELECTRIC COMPANY

By __________________________

ATTEST AND COUNTERSIGN

/s/ [Illegible]
Secretary

NEVADA POWER COMPANY

By /s/ [Illegible]
Vice President
Resource Planning
and Power Dispatch

-29-
PUBLIC SERVICE COMPANY OF NEW MEXICO
By /s/ C. D. Bedford

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT
By ________________________________

TUCSON ELECTRIC POWER COMPANY
By ________________________________

-30-
PUBLIC SERVICE COMPANY OF NEW MEXICO
By

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT
By /s/ John R. Lassen
President

TUCSON ELECTRIC POWER COMPANY
By

May 29, 1986
PUBLIC SERVICE COMPANY OF NEW MEXICO
By

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
By

TUCSON ELECTRIC POWER COMPANY
By /s/ H. A. Heim

-30-
STATE OF NEVADA

COUNTY OF CLARK

On this the 13th day of June, 1986, before me, the undersigned officer, personally appeared Edward M. Hallenbeck the Regional Director, LC Region, Bureau of Reclamation of the United States of America, known to me to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ Rebecca A. Dalton
Notary Public

My commission expires:

Official Seal
Rebecca A. Dalton
Notary Public-Nevada
My Commission expires Aug. 7, 1986

-31-
On this the 13th day of June, 1986, before me, the undersigned Notary Public, personally appeared Russell D. Hulse, who acknowledged himself to be the Vice President of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Public

My commission expires:

April 9, 1988
On this the 14th day of August, 1986, before me, the undersigned officer, personally appeared Paul H. Lane and Judith K. Davison who acknowledged themselves to be the General Manager and Chief Engineer and Secretary of the Board respectively, of the DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, known to me to be the persons described in the foregoing instrument, and acknowledged that they executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ Linda L. Newman
Notary Public

My commission expires: May 27, 1989
On this the 30th day of May, 1986, before me, the undersigned Notary Public, personally appeared James P. Maloney who acknowledged himself to be the Vice President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ Edna M. Chavez
Notary Public

My commission expires:

January 17, 1989
On this the 23rd day of May, 1986, before me, the undersigned Notary Public, personally appeared Wooldridge and who acknowledged himself to be the Vice President, Resource Planning of NEVADA POWER COMPANY, a Nevada corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President, Resource Planning.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/ss/ Andrea Bybee
Notary Public

My commission expires:

-35-
On this the 13th day of May, 1986, before me, the undersigned Notary Public, personally appeared C. D. Bedford who acknowledged himself to be the Sr. Vice President of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself, as such Sr. Vice President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ [Illegible]
Notary Public

My commission expires:
3/17/87
On this the 3rd day of June, 1986, before me, the undersigned Notary Public, personally appeared John R. Lassen and Paul D. Rice who acknowledged themselves to be the President and Secretary of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized to so do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ Terrill A. London
Notary Public

My commission expires:

-37-
On this the 24th day of April, 1986, before me, the undersigned Notary Public, personally appeared H. A. Heim who acknowledged himself to be the Senior Vice President of TUCSON ELECTRIC POWER COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company himself as such Senior Vice President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

/s/ Herlinda H. Kennedy (Mr. Herrera)
Notary Public

My commission expires:

4/-14-87
WESTWING SWITCHYARD
AMENDED INTERCONNECTION AGREEMENT
COMMON FACILITIES COSTS

APPENDIX A

Notes:
1. This estimate includes land costs and common facilities costs including the main busses.
2. Cost of '82 and '87 facilities cover only ANPP additions at Westwing.
3. Costs of ‘87 facilities are escalated to the year spent.

<table>
<thead>
<tr>
<th>Common Facilities Item</th>
<th>Description</th>
<th>Paid for and owned by Navajo Westwing</th>
<th>Paid for and owned Palo Verde-West-wing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Participants</td>
<td>230 KV</td>
<td>500 KV</td>
</tr>
<tr>
<td>Land Cost</td>
<td></td>
<td>19,703 $</td>
<td>41,554 $</td>
</tr>
<tr>
<td>Grading, Surfacing,</td>
<td></td>
<td>104,910</td>
<td>244,786</td>
</tr>
<tr>
<td>Fencing</td>
<td></td>
<td>8,590</td>
<td>20,052</td>
</tr>
<tr>
<td>Yard Grounding</td>
<td></td>
<td>23,160</td>
<td>54,042</td>
</tr>
<tr>
<td>Trench &amp; Conduit</td>
<td></td>
<td>58,840</td>
<td>137,299</td>
</tr>
<tr>
<td>Control &amp; Power Cables</td>
<td></td>
<td>19,800</td>
<td>46,195</td>
</tr>
<tr>
<td>Station Service</td>
<td></td>
<td>44,140</td>
<td>102,992</td>
</tr>
<tr>
<td>Control House</td>
<td></td>
<td>147,200</td>
<td>343,434</td>
</tr>
<tr>
<td>Control House Equip.</td>
<td></td>
<td>37,880</td>
<td>88,397</td>
</tr>
<tr>
<td>Comm., Control,</td>
<td></td>
<td>104,650</td>
<td>244,184</td>
</tr>
<tr>
<td>Relays</td>
<td></td>
<td>120,820</td>
<td>217,900</td>
</tr>
<tr>
<td>Initial Main Bus</td>
<td></td>
<td>69,410</td>
<td>193,925</td>
</tr>
<tr>
<td>Additional Main Bus</td>
<td></td>
<td>62,730</td>
<td>146,380</td>
</tr>
<tr>
<td>Assoc. Equip. Costs</td>
<td></td>
<td>755,000</td>
<td>7,437</td>
</tr>
<tr>
<td>Engineering &amp; Insp.</td>
<td></td>
<td>93,100</td>
<td>217,239</td>
</tr>
<tr>
<td>Subtotal</td>
<td></td>
<td>1,669,933</td>
<td>1,904,454</td>
</tr>
<tr>
<td>AFUDC, IDC, Allocated OVH</td>
<td></td>
<td>290,231</td>
<td>316,649</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>1,960,164</td>
<td>2,221,103</td>
</tr>
</tbody>
</table>

Facilities Cost:

<table>
<thead>
<tr>
<th>Existing in 1978 -</th>
<th>230KV</th>
<th>500KV</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1978 -</td>
<td>1,960,164</td>
<td>2,221,103</td>
<td>4,181,267</td>
</tr>
<tr>
<td>1982 -</td>
<td>339,370</td>
<td>339,370</td>
<td>678,740</td>
</tr>
<tr>
<td>1987 -</td>
<td>62,686</td>
<td>359,375</td>
<td>422,061</td>
</tr>
</tbody>
</table>

Engineering & Accounting to update 1987 Numbers.

$ 2,022,850 $ 2,919,848 $ 4,942,698

*Note: The spare 500/230kV transformer is deemed a common facility for billing purposes.
The allocation of common facilities of the Westwing Switchyard will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Direct Cost</th>
<th>% Direct Cost</th>
<th>AFUDC, IDC Allocated OVH</th>
<th>Total Cost</th>
<th>% Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>SRP</td>
<td>$1,393,407</td>
<td>39%</td>
<td>$206,992</td>
<td>$1,600,399</td>
<td>38%</td>
</tr>
<tr>
<td>APS</td>
<td>$979,269</td>
<td>27%</td>
<td>$221,217</td>
<td>$1,200,486</td>
<td>29%</td>
</tr>
<tr>
<td>TEP</td>
<td>$253,292</td>
<td>7%</td>
<td>$64,260</td>
<td>$317,552</td>
<td>8%</td>
</tr>
<tr>
<td>US</td>
<td>$948,419</td>
<td>27%</td>
<td>$114,411</td>
<td>$1,062,830</td>
<td>25%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$3,574,387</td>
<td>100%</td>
<td>$606,880</td>
<td>$4,181,267</td>
<td>100%</td>
</tr>
</tbody>
</table>

These values were determined by using the "Responsibility for Costs -%" taken from VIIA (500 kV switchyard) and VIID (230 kV switchyard) from Exhibit B, pages 3 and 4 of the Navajo Project Southern Transmission System Agreement. These percentages were multiplied by the 230 kV costs ($1,669,933) in the case of VIID and by the 500 kV costs ($1,904,454) in the case of VIIA. The costs ($1,669,933 and $1,904,454) were taken from Appendix A (Common Facilities) of this Westwing Switchyard Amended Interconnection Agreement. The result of the aforementioned multiplication gives the dollar allocation of 500 kV and 230 kV common facilities to each Party. The spare transformer costs were similarly allocated based on VIIB from Exhibit B of the Navajo Agreement and added to the 230 kV and 500 kV costs to give the total Direct Cost allocations above. Each company furnished AFUDC, IDC, Allocated Overheads, Taxes, etc., that were capitalized as part of the Westwing Switchyard costs. The sum of the Direct Cost and the Allocated Costs equals the Total Cost of existing common facilities.
## APPENDIX B

### Weighted Average Annual Fixed Charge Rate

<table>
<thead>
<tr>
<th></th>
<th>Arizona</th>
<th>Salt River Project</th>
<th>Tucson</th>
<th>United States</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) % Total Cost of Common Facilities</td>
<td>28.71</td>
<td>38.28</td>
<td>7.59</td>
<td>25.42</td>
<td>100.0</td>
</tr>
<tr>
<td>(B) Annual Fixed Charge Rate</td>
<td>0.1865</td>
<td>0.1504</td>
<td>0.1679</td>
<td>0.0751</td>
<td>*</td>
</tr>
<tr>
<td>(C) % Annual Cost (A) X (B)</td>
<td>5.3544</td>
<td>5.7573</td>
<td>1.2744</td>
<td>1.9090</td>
<td>14.2951</td>
</tr>
<tr>
<td>(D) Weighted Total (C) Average Total (A) Annual Fixed Charge Rate</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>.142951</td>
</tr>
<tr>
<td>(E) % Annual Cost Distribution</td>
<td>37.46</td>
<td>40.27</td>
<td>8.92</td>
<td>13.35</td>
<td>100.0</td>
</tr>
</tbody>
</table>

(C) x 100 / Total (C)

Based on the following:

<table>
<thead>
<tr>
<th></th>
<th>Arizona</th>
<th>Salt River Project</th>
<th>Tucson</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Recovery</td>
<td>11.37%</td>
<td>12.76</td>
<td>10.86</td>
<td></td>
</tr>
<tr>
<td>Income Tax Component</td>
<td>5.03</td>
<td>0</td>
<td>3.68</td>
<td></td>
</tr>
<tr>
<td>Al Valorem Tax (or in lieu of)</td>
<td>2.25</td>
<td>2.28</td>
<td>2.25</td>
<td></td>
</tr>
<tr>
<td>TOTAL:</td>
<td>18.65%</td>
<td>15.04%</td>
<td>16.79%</td>
<td></td>
</tr>
<tr>
<td>Rate of Return</td>
<td>13.68%</td>
<td>12.50%</td>
<td>10.60%</td>
<td></td>
</tr>
<tr>
<td>Basis for Depreciation</td>
<td>33 yrs.</td>
<td>33 yrs.</td>
<td>37 yrs.</td>
<td></td>
</tr>
<tr>
<td>Composite Inc. Tax Rate</td>
<td>48.96%</td>
<td>0</td>
<td>43.90%</td>
<td></td>
</tr>
</tbody>
</table>
WESTWING SWITCHYARD  
AMENDED INTERCONNECTION AGREEMENT  
ESTIMATED COSTS  
APPENDIX D

<table>
<thead>
<tr>
<th></th>
<th>Total $(000)</th>
<th>4-Party Split</th>
<th>3-Party Split</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1987</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>230 kV Breaker Uprates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11 — PCB Uprates</td>
<td>448</td>
<td>448</td>
<td></td>
</tr>
<tr>
<td>15 — CCVT Uprates</td>
<td>244</td>
<td>244</td>
<td></td>
</tr>
<tr>
<td>Sub Total</td>
<td>692</td>
<td>692</td>
<td></td>
</tr>
<tr>
<td><strong>1993</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>230 kV Line Bay</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 — Add Dead End Struct</td>
<td>80</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>2 — Uprated Disc SW’s</td>
<td>117</td>
<td>117</td>
<td></td>
</tr>
<tr>
<td>2 — Line Side Disc SW’s</td>
<td>117</td>
<td>117</td>
<td></td>
</tr>
<tr>
<td>2 — PCB’s w CT’s</td>
<td>580</td>
<td>580</td>
<td></td>
</tr>
<tr>
<td>1 — Set of 3 CCVT’s</td>
<td>38</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td>3 — 90 Turning Struct’s</td>
<td>264</td>
<td>264</td>
<td></td>
</tr>
<tr>
<td>3 — Tangent Struct’s</td>
<td>175</td>
<td>175</td>
<td></td>
</tr>
<tr>
<td>1 — O.H. Line Across Bay</td>
<td>13</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Sub Total</td>
<td>1,384</td>
<td>1,384</td>
<td></td>
</tr>
<tr>
<td><strong>1993</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>230 kV El Sol Line #2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 — PCB w CT’s**</td>
<td>466</td>
<td>466</td>
<td></td>
</tr>
<tr>
<td>1 — Bus Disc. SW</td>
<td>94</td>
<td>94</td>
<td></td>
</tr>
<tr>
<td>1 — Line Disc. SW</td>
<td>94</td>
<td>94</td>
<td></td>
</tr>
<tr>
<td>Sub Total</td>
<td>654</td>
<td>654</td>
<td></td>
</tr>
</tbody>
</table>

*NOTE: All costs are escalated to year spent using 7% per year.
**Credit will be given for salvage value of existing breakers.
APPENDIX D (Cont’d)

<table>
<thead>
<tr>
<th>4-Party Split</th>
<th>3-Party Split</th>
</tr>
</thead>
<tbody>
<tr>
<td>APS — 35%</td>
<td>APS — 44%</td>
</tr>
<tr>
<td>EPE — 19%</td>
<td>SRP — 44%</td>
</tr>
<tr>
<td>PNM — 12%</td>
<td>PNM — 12%</td>
</tr>
<tr>
<td>SRP — 35%</td>
<td></td>
</tr>
</tbody>
</table>

1986

500 kV Palo Verde Line #2 Bay

<table>
<thead>
<tr>
<th></th>
<th>Total $(000)</th>
<th>4-Party Split</th>
<th>3-Party Split</th>
</tr>
</thead>
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<td>Add Dead End Struct</td>
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<td>2</td>
<td>Line Side Disc SW’s</td>
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<td>Bus Side Disc SW’s</td>
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<td>PCB’s w/o CT’s</td>
<td>672</td>
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<tr>
<td>1</td>
<td>O.H. Line Across Bay</td>
<td>50</td>
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Sub Total 2,236 2,236

1987

500 kV Transformer and Bay

<table>
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<tr>
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<td>PCB w/o CT’s</td>
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<td>Set of 3 CT’s</td>
<td>104</td>
<td>104</td>
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<tr>
<td>1</td>
<td>Lot Tertiary &amp; Jack Bus</td>
<td>580</td>
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<td>3</td>
<td>500/230 kV Xfmr’s</td>
<td>5,519</td>
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Sub Total 6,997 6,997

TOTAL 11,963 2,928 9,035

*NOTE: All costs are escalated to year spent using 7% per year.
APPENDIX C
WESTWING SWITCHYARD
ONE LINE DIAGRAM
The plan for the Westwing Switchyard, as shown for 1986 on Appendices C and D, provides for twenty (20) separate Functions, eight (8) on the 500 kV bus, four (4) power transformer banks, and eight (8) on the 230 kV bus. Five (5) Functions on the 500 kV bus, three (3) power transformer banks, and seven (7) Functions on the 230 kV bus, or a total of fifteen (15) Functions, are owned by the Navajo Westwing Participants. Three (3) Functions on the 500 kV bus, one (1) power transformer bank, and one (1) Function on the 230 kV bus, or a total of five (5) Functions, will be owned by the Palo Verde-Westwing Participants. An example of the computation of Cost Responsibility Ratios under the aforementioned 1986 plan, for the composite switchyard, would be:

Navajo Westwing Participants
\[
\frac{X}{X+Y+Z} = \frac{15}{15+5+0} = 75\% 
\]

Palo Verde-Westwing Participants
\[
\frac{Y}{X+Y+Z} = \frac{5}{15+5+0} = 25\% 
\]

Third Party Cost
\[
\frac{Z}{X+Y+Z} = \frac{0}{15+5+0} = 0.0\% 
\]

Computation of Cost Responsibility Ratios for the 500 kV yard, power transformer banks, and the 230 kV switchyard would be computed in similar fashion and result in the following:
### Example Calculation of Cost Responsibility Ratios

<table>
<thead>
<tr>
<th>Participants</th>
<th>500 kV only</th>
<th>Power Transformers only</th>
<th>230 kV only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navajo Westwing</td>
<td>62.50%</td>
<td>75%</td>
<td>87.50%</td>
</tr>
<tr>
<td>Palo Verde-Westwing</td>
<td>37.50%</td>
<td>25%</td>
<td>12.50%</td>
</tr>
</tbody>
</table>
1. **DEFINITIONS:**

   The following terms, when used in this Appendix F, shall have the meanings specified:

   1.1 Contracting Officer means the Secretary of Interior, his duly appointed successor or his duly authorized representative.

   1.2 Contractor means any of the non-Federal Participants.

   1.3 Non-Federal Participants means Arizona, Los Angeles, El Paso, Nevada, PNM, Salt River Project and Tucson.

   1.4 Agreement means the Amended Interconnection Agreement.

2. **OFFICIALS NOT TO BENEFIT:**

   No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.

3. **COVENANT AGAINST CONTINGENT FEES:**

   The non-Federal Participants warrant that no person or selling agency has been employed or retained to solicit or secure this Agreement 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 a non-Federal Participant for the purpose of securing business. For breach or violation of this warranty the United States shall have the right to annul this Agreement without liability, or in its discretion to deduct from the payments to be made hereunder, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

4. **EQUAL OPPORTUNITY CLAUSE:**

4.1 Except as provided in Title 42 U.S.C. Section 2000-e-2 (i) and in keeping with any obligation undertaken by any of the non-Federal Participants or its assigns, pursuant to the terms of said Title 42 U.S.C. Section 2000-e-2(i) to give preference for employment to qualified Indians for work on or near an Indian Reservation, during the performance of this agreement, the Contractor agrees as follows:

4.1.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff 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 equal opportunity clause.

4.1.2 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 or national origin.

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

4.1.4 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.
4.1.5 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 Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

4.1.6 In the event of the Contractor’s noncompliance with this equal opportunity clause, or with any of the said rules, regulations or orders, this Agreement 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 otherwise provided by law.

4.1.7 The Contractor will include the provisions of Sections 4.1.1 through 4.1.7 hereof 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, 1965, 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 agency 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 agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

5. **WORK HOURS ACT OF 1962:**

5.1 This Agreement, to the extent that it is of a character specified in the Contract Work Hours Standards Act (Public Law 87-581, 76 Stat. 357) and is not covered by the Walsh-Healey Public Contracts Act (41 U.S.C. Sections 35-45), is subject to the following provisions and to all other provisions and exceptions of said Contract Work Hours Standards Act:

5.1.1 No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in
any workweek in which he is employed on such work, to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in any workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours.

5.1.2 In the event of any violation of the provisions of Section 5.1.1 hereof, the Contractor and any subcontractor responsible for such violation shall be liable to any affected employee for his unpaid wages. In addition, such Contractor or subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the provisions of Sections 5.1.1 hereof, in the sum of Ten Dollars ($10.00) for each calendar day on which such employee was required or permitted to work in excess of eight (8) hours or in excess of forty (40) hours in a workweek without payment of the required overtime wages.

5.1.3 The Secretary of Labor may withhold, or cause to be
5.1.4 The Contractor shall require the foregoing Sections 5.1.1, 5.1.2, 5.1.3 and this 5.1.4 to be inserted in all subcontracts.

6. EXAMINATION OF RECORDS:

The non-Federal Participants agree that the Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the non-Federal Participants involving transactions related to this Agreement.

7. ASSIGNMENT OF CLAIMS:

7.1 Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. Section 203, 41 U.S.C. Section 15), if this agreement provides for payments aggregating $1,000 or more, claims for monies due or to become due any non-Federal Participant from the Government under this Agreement may be assigned to a bank, trust company,
or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this Agreement and not already paid and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this Agreement, payments to an assignee of any monies due or to become due under this Agreement shall not, to the extent provided in said Act, be amended, be subject to reduction or setoff. (The preceding sentence applies only if this Agreement is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of Section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

7.2 In no event shall copies of this Agreement or of any plans, specifications, or other similar documents relating to work under this Agreement, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this Agreement or to any other person not
entitled to receive the same. However, a copy of any part or all of this Agreement so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

8. **CONVICT LABOR:**

In connection with the performance of work under this Agreement, the non-Federal Participants agree not to employ any person undergoing sentence of imprisonment at hard labor.

9. **AGREEMENT SUBJECT TO COMPACTS, ACTS AND TREATY:**

This Agreement is made upon the express conditions and with the express understanding that all rights hereunder shall be subject to and controlled by the applicable provisions of the Colorado River Compact dated November 24, 1922, and proclaimed by the President of the United States June 25, 1929, the Boulder Canyon Project Act approved December 21, 1928, the Boulder Canyon Project Adjustment Act of July 19, 1940, the Upper Colorado River Basin Compact dated October 11, 1948, and the Mexican Water Treaty of February 3, 1944.
INTERCHANGE AGREEMENT

BETWEEN

COMISION FEDERAL DE ELECTRICIDAD

AND

EL PASO ELECTRIC COMPANY
**INDEX**

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This Electric Energy Interchange Agreement (referred to hereinafter as the "Agreement") is entered into by and between Comisión Federal de Electricidad, represented herein by its General Director, Mr. Alberto Escofet Artigas and El Paso Electric Company, represented herein by its President Mr. Evern R. Wall, in accordance to the following recitals and clauses, in which, for purposes of brevity, the Parties shall be referred to as "CFE" and "EPE", respectively.

RECITALS

This Agreement is entered into on April 14, 1982, by and between Comisión Federal de Electricidad and El Paso Electric Company. CFE is a Descentralized Institution which is part of the Federal Public Administration of the United Mexican States, whose purpose is to provide the public electric energy service, in accordance with the Ley del Servicio Público de Energía Eléctrica (Electric Energy Public Service Law), which was published in the Diario Oficial de la Federación (Official Gazzette of the Federation) of December 22, 1975; being represented herein by its General Director, Mr. Alberto Escofet Artigas, who evidences his authority and powers in the terms of Article 14 of the above-cited Law, with a certified copy of his appointment, issued by the President of the Republic, recorded under Public Instrument Number 37,999, dated July 16, 1980, before Mr. Pedro del Paso Regaert, Notary Public Number 65 of Mexico City.
El Paso Electric Company is a corporation organized and existing under the laws in effect in the State of Texas and in the United States of America, which is represented herein by Mr. Evern R. Wall, President of EPE, who herein evidences his authority and powers with the documents which are presented to C.F.E. and which it keeps in its files.

Hereinafter, CFE and EPE shall also be referred to individually as "Party", or jointly "Parties".

SECTION 1 - PREMISES

1.1 CFE's electric system in Ciudad Juárez, Chihuahua, hereinafter referred to as "CFE-Juárez", and EPE's electric system in El Paso, Texas, hereinafter referred to as "EL PASO", are contiguous along a portion of the Mexico-United States of America border, as is shown in Exhibit "A" hereof.

1.2 Both parties recognize that mutual benefits may derive from the interchange of electric energy between their systems, since such interchange will make the assistance in the operation of both systems possible, improving generation costs and rendering a more dependable service to the corresponding CFE-Juárez and EL PASO consumers.

1.3 Both Parties own and operate facilities for generation, transmission and distribution which may be interconnected through two existing 69/KV transmission lines.
The CFE-Juárez and EL PASO systems are members of major interconnected systems. CFE-Juárez is a member of CFE's Sistema Interconectado Nacional (SINAL), which shall also be referred to as the "Main System" corresponding to CFE-Juárez and EL PASO is a member of the Western Systems Coordinating Council (WSCC) system, which shall also be referred to as the "Main System" corresponding to EL PASO.

Both Parties recognize that at the present time it is not practical or convenient for the interconnection between the systems of the Parties to occur while the CFE-Juárez system is interconnected with the rest of CFE's Sistema Interconectado Nacional (SINAL) and EL PASO's system is simultaneously interconnected with the rest of the Western Systems Coordinating Council (WSCC) system.

According to what is provided in paragraph 1.5, in order to accomplish the electric energy interchanges between the Parties, it is convenient to separate a part of the system of one of the Parties when this part is interconnected with the Main System corresponding to the other Party, in accordance with the procedures which the Coordinating Committee shall establish within thirty (30) days after the signing hereof.

This Agreement shall allow the Parties, to join their efforts in order to analyze and construct if necessary, new interconnections which allow to increase collaboration between the Parties. In each case the corresponding situation shall be analyzed and this Agreement shall be modified, amended or ratified by an additional agreement if necessary, with the appropriate intervention of the corresponding authorities.
1.8 For purposes of implementation of this Agreement, all references to CFE’s system, shall be understood as CFE-Juárez's system.

SECTION 2. TERM, TERMINATION AND AUTHORIZATIONS.

2.1 Term. - This Agreement shall become effective when signed by both Parties, and shall continue in effect for a period of two (2) years. At the end of this term, this Agreement shall continue in effect for an indefinite term until written notice of termination is given by either of the Parties ninety (90) days in advance.

2.2 Authorizations. - Each Party agrees to take the necessary steps in their respective country to obtain all the authorizations necessary to implement this Agreement. Each Party agrees to notify the other Party when all of the authorizations required by that Party to implement this Agreement have been obtained.

2.2.1 According to what is provided in paragraph 2.2, as regards CFE, it must obtain authorizations from the agencies which are listed below:

(a) The Secretaría de Patrimonio y Fomento Industrial (National Assets and Industrial Development Department), with regard to the Ley del Servicio Público de Energía Eléctrica (Electric Energy Public Service Law) and Regulations derived therefrom.

(b) The Secretaría de Comercio (Commerce Department), according to the Ley del Servicio Público de Energía Eléctrica (Electric Energy Public Service Law) and Regulations derived therefrom, with regard to the importation and exportation of electric energy and in accordance with the Ley sobre Adquisiciones, Arrendamientos y Almacenes de la Administración Pública Federal (Federal Public Administration Acquisitions, Leases and Inventories Law).
2.2.2 According to the provisions of paragraph 2.2, the governmental authorizations which EPE must obtain are the following:

(a) Presidential permits and authorizations or permits from other governmental agencies with regard to the importation or exportation of electric energy and the construction of facilities on the international border.

(b) Registration of EPE in the Padrón de Proveedores de la Administración Pública Federal (Federal Public Administration Suppliers List) which is kept by the Secretaría de Comercio (Commerce Department), in accordance with the Ley sobre Adquisiciones, Arrendamientos y Almacenes de la Administración Pública Federal (Federal Public Administration Acquisitions, Leases and Inventories Law) of the United Mexican States.

2.3 Termination.

2.3.1 If the authorizations applicable in each case and referred to in section 2.2 hereof are not obtained during the nine-month period following the signing hereof, the Parties shall meet and decide to adopt any of the following solutions: (i) to terminate this Agreement without any further liability to either of the Parties or (ii) to continue the procedures to obtain such authorizations. If the Parties decide to continue along the lines of option (ii) above, the Agreement shall continue in force for another six-month period at the end of which if either of the Parties has not obtained the required authorizations, either of the Parties may terminate this Agreement by written notice to the other Party, thirty (30) calendar days in advance and without there being further liability to either Party. Once all the authorizations have been issued, neither Party may terminate this Agreement based on this section 2.3.1.
2.3.2 Breach. - In case of serious and repeated noncompliance by a Party with the obligations assumed according to this Agreement by a Party towards the other, the affected Party may request in writing to the other Party, the termination of this Agreement, regardless of the normal termination term provided for in section 2.1, giving authentic proof of the motives which justify its decision.

2.3.3 Termination of the Agreement in accordance to sections 2.3.1 or 2.3.2 shall not release either of the Parties of the obligation to return the interchange services derived from this Agreement or from complying with the corresponding compensation for the services which may have been previously received from the other Party.

SECTION 3. - DEFINITIONS.

For purposes of this Agreement, the Parties agree to establish the following conventional definitions:

3.1 Sistema Interconectado Nacional (SINAL) - The main electric system of CFE of which the electric system of CFE-Juárez is a part.

3.2 Western Systems Coordinating Council (WSCC) - An organization consisting of several electric utilities which are interconnected and are located in the western portion of the United States of America and Canada and of which EPE is a member.

3.3 CFE-Juárez - The electric system owned by CFE which supplies the northern portion of the State of Chihuahua and is contiguous with the United States of America border, and which is connected with the rest of SINAL at the Moctezuma Substation.
3.4 EL PASO - The electric system owned by EPE which supplies the southern portion of the State of New Mexico and the western portion of the State of Texas, which is contiguous with the Mexican border, and which is connected with the rest of theWSCC system at several points which are shown in Exhibit "A" of this document.

3.5 Capacity - The measure in Megawatts of the dependable load-carrying ability of one or more generating units determined in accordance with prevailing operating conditions at the applicable time.

3.6 Capacity Resources - The Capacity Resources of EL PASO are:

(a) The Capacity of the generating units installed in EPE's service area, plus
(b) The capacity owned by EPE from generating units installed outside EPE's service area, plus
(c) The aggregate capacity made available to EL PASO on a firm basis under purchase contracts with Third Parties, minus
(d) The aggregate capacity made available, under sales contracts, to Third Parties.

The Capacity Resources of CFE-Juárez are:

(a) The Capacity of all the generating units installed in CFE-Juárez service area, plus
(b) The aggregate capacity which is made available to CFE--Juárez on a firm basis from other CFE installations, plus
(c) The aggregate capacity which is made available to CFE-Juárez on a firm basis, according to purchase contracts with Third Parties, minus
(d) The aggregate capacity made available under sales contracts to Third Parties.
3.7 Unitary Decremental Energy Cost.- The expense in United States of America dollars, per Kilowatt-Hour, which the Receiver would incur if the total block of energy received in accordance with a particular Interchange Service of this Agreement (after adjustments for any increase or decrease of the Receiver's system transmission losses) were to be obtained in any of the two following manners:

(a) From generation with its own available Capacity Resources, using the generating unit or units which have the lowest Incremental Operating Costs and which are not being used to satisfy its own energy requirements at the time of the reception of the energy supplied by the Supplier. This expense is equal to the sum of the following concepts, divided by the amount of kilowatt-hours of such energy:

   (1) The cost of make ready, starting up and shutting-down (in case necessary to generate the energy received from the Supplier) such generating units, plus the Replacement Cost of Fuel for no-load operation and the cost of the fuel required to render its own services;

   (2) The Replacement Cost of Fuel or the cost of another primary energy source used to generate such energy in the generating units mentioned; and

   (3) The Incremental Maintenance Cost of such generating units.

(b) From the purchase of energy from Third Parties, or also, in the case of CFE-Juárez, for the energy obtained from any other installations of CFE.
3.8 Replacement Cost of Fuel.

Unless otherwise mutually agreed, the replacement cost of fuel shall be based on the following:

(1) For CFE-Juárez the replacement cost of fuel shall be based on the international export price of oil produced in Mexico or the cost of imported fuel, depending on the case.

(2) For EL PASO, the replacement cost of fuel placed in storage.

3.9 Associated Energy. - The energy (Kilowatt-Hour) associated with contracted capacity.

3.10 Emergency. - Any unforeseeable or inevitable temporary circumstance not within the control of the affected Party (such as the loss or reduction of generating or transmission capacity) which affects the system of either of the Parties, which prevents, interferes or jeopardizes the rendering of satisfactory service in the affected system, as a result of any cause other than: (a) Scheduled Maintenance or (b) an anticipated fuel supply deficiency.

3.11 Emergency Assistance. - Service provided pursuant to Interchange Service A, under which one of the Parties shall supply the other Party, upon the latter's request, the power and energy which the latter may require to reestablish or protect the supply of energy in its system when it is affected by Emergency conditions.

3.12 Energy Requirements. The total energy demand on a Party's system, during the applicable period, expressed in Kilowatt-Hours.

3.13 Energy Resources. - The energy generation capacity which a Party has in its Capacity Resources, during the applicable period, expressed in Kilowatt-Hours.
3.14 Firm Power Delivery.

Deliveries of capacity and electric energy to a Party, which are interruptible only in the event of degradation in the Supplier's system security.

3.15 Unitary Incremental Energy Cost.

The expense, in United States of America dollars, per Kilowatt-Hour incurred by the Supplier to supply the electric energy in accordance with a specific Interchange Service of this Agreement, determined in consideration of the following:

(a) If the Supplier generated such electric energy with its own generating units, the expense incurred in the generation of electric energy (after adjustments for increases or decreases in the transmission losses in the Supplier's system) using the generating unit or units which have the lowest Incremental Operation Cost and which are not being utilized to meet its Energy Requirements, which expense shall be the sum of the following items divided by the number of Kilowatt-Hours of such energy:

(1) The cost of make ready, starting up and shutting-down (if necessary to supply such electric energy) the generating units, plus the Replacement Cost of Fuel for no-load operation and the cost of the fuel required to render its own services; plus

(2) The Replacement Cost of Fuel or the cost of another primary source of energy utilized to generate the electric energy in question, and

(3) The Incremental Maintenance Cost of the generating units mentioned in this paragraph (a).
(b) If the Supplier obtained all or part of the electric energy supplied to the Receiver for that purpose and not to satisfy its own Energy requirements, then the Unitary Incremental Energy Cost of the Supplier for the energy acquired for that purpose shall be equal to the purchase price of such energy, which shall be adjusted for any increase or decrease of the transmission losses in the Supplier's system. In the case of CFE-Juárez, if it acquired all or part of the electric energy supplied to the Receiver from the rest of CFE's installations, then the Unitary Incremental Energy Cost for such Energy shall be equal to the cost which CFE incurs for its generation and transmission.

3.16 Incremental Maintenance Cost.

The amount, expressed in mills of United States of America dollars per Kilowatt-Hour, which the maintenance expenses are increased due to the increase in generation to satisfy the delivery of energy under any of the Interchange Services provided in this Agreement. This cost shall be established by the Coordinating Committee.

3.17 Incremental Operating Cost.

The increase in cost due to fuel consumption in United States of America dollars, per Kilowatt-Hour, due to the increase in the power output of a generating unit.

3.18 Interconnection.

Any arrangement of one or more transmission lines, switches, meters, control devices and other related facilities which directly connect or allow the interchange of electric energy between the CFE-Juárez and EL PASO systems.
3.19  Peak Demand.
The highest aggregate demand, in Megawatts, on all sources of power of a system, including all the purchases of energy during the applicable period, measured in one hour intervals, and less the demand resulting from all the sales of energy and all demands originated from transitory load variations between the interconnected systems.

3.20  Interconnection Point.
The geographical location where the transmission line or lines which are part of an Interconnection, cross the international border.

3.21  Receiver.
The Party receiving service provided for in the Interchange Services attached hereto.

3.22  Scheduled Maintenance.
The removal of a generating unit from service, planned in advance, for inspection or overhaul of one or more major equipment groups.

3.23  Short-Term Firm Capacity.
The service provided in Interchange Service B which, through mutual agreement of the Parties, the Supplier makes available for the Receiver to schedule a specified amount of Capacity and Associated Energy for a determined number of consecutive days.

3.24  Supplier.
The Party furnishing the services provided for in the Interchange Services, attached hereto.

Third Party.
Any person, physical or legal, whether public or private, which operates and/or owns an electric system, excluding any of the Parties to this Agreement.
SECTION 4 - OWNERSHIP AND OPERATION OF THE INTERCONNECTION.

4.1 Each Party accepts the obligation to operate and maintain its interconnection facilities up to the existing Interconnection Points which are shown in Exhibit A and which are described hereunder:

Interconnection I: Transmission of 69 KV between the Río Grande Substation of EL PASO and Chaveña Substation of CFE-Juárez.

Interconnection II: Transmission of 69 KV between the Ascárate Substation of EL PASO and the Colegio Substation of CFE-Juárez.

4.2 Each Party owns its installations up to the Interconnection Points and will modify, design, build, operate and maintain such installations at its own cost.

4.3 When the systems of both Parties, or a portion of them, are operating interconnected, each Party shall take the necessary care to maintain the continuity of service in the supply and receipt of capacity and energy according to this Agreement.

4.4 Neither Party will have physical access to the facilities of the other Party without the prior and express consent of the other Party. No labor relationship shall exist between the personnel of CFE and EPE, nor between the personnel of EPE and CFE. Consequently, each Party shall be considered as the employer of its workers, employees or agents; and will fully assume the responsibility derived from risks related to its facilities. Neither Party shall assume responsibility towards the customers of the other Party or for claims that third parties may bring against one of the Parties with respect to the facilities of the other Party.
4.5 Each of the Parties reserves the right to continue or renew existing agreements and to enter into additional agreements of any type with a Third Party.

SECTION 5 - INTERCHANGE SERVICES.

5.1 Terms and conditions.

The terms and conditions of the services that one Party as Supplier will provide, to the other Party, as Receiver, as provided in this Agreement, and the amount which will be paid for them shall be specifically detailed in the documents referred to as Interchange Services which shall be attached hereto, each one of which, after having been signed by the authorized officers of both Parties and approved by the competent regulatory agencies, shall become part of this Agreement for the whole term thereof or for a lesser term if the Parties so specify in each one of them.

5.2 Interchange Services.

Initially, it is agreed on the following Interchange Services which become part of this Agreement:

Interchange Service A: Emergency Assistance
Interchange Service B: Short-Term Firm Capacity

SECTION 6 - ADMINISTRATION.

6.1 Coordinating Committee.

The Parties hereby establish a committee, referred to as the Coordinating Committee, which shall have the authority and obligations set forth in this Section 6 and in other sections of this Agreement.

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The Coordinating Committee shall limit its duties to what is established in this Agreement. The Parties agree that within the membership of the Coordinating Committee there is no existing preeminence and therefore all its members shall have equal status and the vote of each member shall have equal value.

6.2 Membership in the Coordinating Committee.

Within thirty (30) days after the date this Agreement becomes effective, each Party shall appoint in written form the person which shall represent it in the Committee, as well as an alternate with authority to act in case of absence of the representative. Such appointments shall be made in written form and shall inform the other Party of the degree of delegated authority and the limitations of the representatives authority. Both Parties may designate new representatives or alternates by written notice to the other Party. The salaries and expenses of the representatives and alternates of each Party shall be borne by the Party they represent.

6.3 Unanimity Requirement.

Any determination, approval, recommendation or any other action related to this Agreement taken by the Coordinating Committee shall require the affirmative vote or consent of each member of such Committee. In case a consensus cannot be reached, the corresponding matter shall be dealt with and resolved by the Sub-Director de Operación (Sub-Director of Operation) of CFE and the President of EPE, with the understanding that the representatives which the Parties appoint hereby for such purpose, may be substituted by written notice to the other Party.
6.4 Meetings.
The Coordinating Committee shall decide on the place and dates to meet, it shall prepare the agendas for the meetings and shall prepare and distribute the minutes of the meetings and other official documents of the Coordinating Committee as well. The meetings of the Coordinating Committee may be called by any of its members, but in any case, such Committee must meet at least once every quarter, or more often if both Parties agree. Each Party undertakes that its representative or alternate shall be present in every meeting of the Coordinating Committee, called with at least fifteen (15) days prior written notice.

6.5 Appointment of Sub-Committees.
The Coordinating Committee is authorized to establish as many permanent or temporary Sub-Committees as necessary to assist the Committee to accomplish its purposes and to exercise its authority, according to the provisions of this Agreement. The Coordinating Committee shall determine the number of representatives which each one of the Parties shall have in each Sub-Committee with the understanding that each Party shall be equally represented. Each one of the Parties, upon being notified of the creation of any Sub-Committee by the Coordinating Committee, shall designate its representative on such Sub-Committee within thirty (30) days after such notice, as well as any alternates who will act in the absence of the representative. The salaries and expenses of the representatives and alternates of each Party shall be borne by the Party they represent.
6.6 Resolutions by Unanimity.

If a Sub-Committee cannot agree on a certain matter entrusted to it by the Coordinating Committee, that Sub-Committee may present several recommendations to the Coordinating Committee for its solution. In case no consensus is reached at the Coordinating Committee, the procedure established in paragraph 6.3 hereof shall be followed.

6.7 Powers and Duties of the Coordinating Committee.

The Coordinating Committee shall have the powers and duties listed in the following paragraphs:

6.7.1 Exchange of Information.

To establish procedures that will provide for exchange of information between the Parties so as to obtain optimum benefits from this Agreement.

6.7.2 Exchange Capacity.

To determine the transfer capacity of Interconnections I and II and of any other future Interconnections, under normal conditions or Emergency.

6.7.3 Metering and Energy Accounting.

To determine procedures to meter the interchange and to make the corresponding registrations, as well as verification and accounting procedures required for the implementation of this Agreement.

6.7.4 Operating Procedures.

To determine procedures and operational standards for the rendering of services according to this Agreement, including the delegation of authority to the system operators of each of the Parties for the implementation of this Agreement.
6.7.5 Interconnection Equipment.

To recommend the equipment needed to enhance the operation of the interconnected systems and for the management of this Agreement.

6.7.6 Attributes for Interchange Services.

To propose additional interchange services and, in such case, to carry out the necessary studies which lead to a recommendation to adjust the technical and economic parameters associated with the different Interchange Services.

6.7.7 Other Powers and Duties.

To carry out other authorized actions which may be necessary for the implementation of this Agreement.

SECTION 7 - OPERATION AND MAINTENANCE.

7.1 General Stipulations.

The provisions of this Section are applicable to all operations governed by this Agreement, unless an Interchange Service specifies otherwise for actions related to such Interchange Service. In the event that the terms of this Agreement conflict with the terms of an Interchange Service, the terms of the Interchange Service will prevail over this Agreement.

7.2 Service Interruption and Disturbances.

The Parties express that the basic objective of this Agreement, according to the premises established in Section 1, is to obtain reciprocal assistance. Therefore, each Party shall operate its system
attempting to minimize the probabilities of service interruptions or disturbances which might affect the other Party's service. In the event that one of the Parties deems that service to its own customers is being affected due to the operating conditions of the other Party's system, the proper steps to remedy the deficiency shall be taken by mutual agreement of the Parties. However, it is expressly agreed that neither Party may demand from the other Party payments for damages or losses or any other compensation as a result of service interruptions, disturbances, blackouts or other operating deficiencies. Consequently, each Party must assume the whole responsibility towards its own customers or users regarding claims arising from service interruptions, disturbances, blackouts or other operating deficiencies.

Each Party agrees to hold the other Party harmless if a customer of the first Party brings suit against the other Party.

7.3 Automatic Load Shedding and Tie Separation.
Immediately following the appointment of the Coordinating Committee, it will adopt procedures covering systems separation and automatic load shedding.

7.4 Maintenance of Interconnection Facilities.
Each Party will maintain its own interconnection facilities in good operating condition; however, the Parties shall coordinate scheduled maintenance or construction work, in accordance with the procedures to be established according to the provisions of Section 6.7.4.
7.5 Maintenance of Communication Equipment.
Each Party will pay the expense of maintaining its communication system and of its telemetering facilities, as well as those related to the interconnection of such equipment with the corresponding system of the other Party as needed to effectively implement this Agreement.

7.6 Metering Equipment.
Every capacity and energy service rendered through each Interconnection will be measured at the end of each Interconnection line and at any other location which may be necessary to verify deliveries and interchanges effected pursuant to this Agreement.

7.7 Non-Intentional Interchange of Energy.
The quantity of power and energy supplied according to this Agreement by one Party to the other, according to each Interchange Service or any other service between the CFE-Juárez and EL PASO systems, shall be determined based on quantity scheduled by the system operators of the Parties. The Parties shall operate the respective systems in a way that net energy and capacity delivered be as close as possible to the scheduled net deliveries. Any difference between the scheduled net delivery and the actual net deliveries shall be verified in accordance with the procedures established by the Coordinating Committee and such differences may be compensated in cash or in kind, as determined by the Coordinating Committee.

7.8 Frequency Maintenance.
Each Party shall operate its system in such a way that will permit to maintain the frequency of the Interconnected Systems of the Parties at approximately 60 Hz (within the maximum limits of normal
deviations of operation established periodically by the Coordinating Committee).

7.9 KVAR Requirements.

Each Party shall normally provide the reactive kilovoltpere (KVAR) requirements for its own system, so that there will be no interchange of KVAR between the systems; however, by prior agreement of the system operators, the Parties may exchange KVAR. The Parties shall cooperate to control the flow of KVAR to prevent the introduction of objectionable operating conditions on both systems.

SECTION 8 - GENERALITIES.

8.1 Notifications:

All notifications, petitions or applications with regard to this Agreement shall be considered to have been properly given, if sent by registered mail to the Sub-Director de Operación or to the Gerente del Centro Nacional de Control de Energía of the Comisión Federal, Río Ródano 14, 06500 México, D. F., if the notification is for CFE; and to the Secretary, El Paso Electric Company, Post Office Box 982, El Paso, Texas, 79960, if the notification is for El Paso Electric Company. The designation of the person to whom the notifications must be sent, or the address of such person, may be changed at any time by written notice. All notifications relating to the delivery or receipt of energy or relating to the operation of facilities shall be considered valid if transmitted by telephone and registered in the system operators' logs of both Parties.
Notifications of legal nature or within judicial procedures shall be subject to the applicable legal requirements.

8.2 Successors and Assigns.
This Agreement shall inure in the benefit of and shall bind the successors and assigns of both Parties. However, it will not be transferable by either Party without the prior written consent of the other Party, which shall not be denied unless there is justification.

8.3 Fortuitous Event and Force Majeure.
Neither EPE nor CFE shall be responsible for non-compliance with their obligations under this Agreement when such non-compliance is due to force majeure or to a fortuitous event, as defined by the Mexican Legislation. When a fortuitous event or force majeure occur, the affected Party shall notify and evidence such occurrence to the other within ten (10) calendar days of the occurrence.

SECTION 9 - COLLECTIONS AND PAYMENTS.

9.1 The Receiver shall compensate the Supplier for the interchanges rendered according to this Agreement in the amount billed every month. Such bills shall indicate separately the corresponding amounts of each type of Interchange Service that has been supplied.

9.2 The interchanges rendered hereunder shall be accounted for on a calendar month basis. The Supplier shall present a monthly invoice to the Receiver, in United States of America dollars, for the services rendered under this Agreement starting on the month in which the
9.3 In the event that upon reviewing an invoice, the Party which must pay it considers that a portion of the amount billed is not due by it, that Party shall make the corresponding observations to the other Party within a ten (10) natural day period following the receipt of the bill, so that the other Party may in turn review the bill and within the ten (10) natural days following the notification of the observations, make the corresponding correction or clearly evidence the propriety of the charge which is being objected, in the understanding that in the event the Parties have not resolved the existing differences before the term established in paragraph 9.2, fifty percent (50%) of the disputed amount and the total amount which is not disputed shall be paid within such term. The foregoing shall, of course, not preclude the reimbursement of the amount paid in excess or the payment of the additional amount which is determined to be owed, through the corresponding debits or credits on the following bill.

9.4 All payments made by EPE to CFE shall be made in United States of America dollars at a banking institution selected by CFE in Ciudad Juárez, Chihuahua. All payments made by CFE to EPE shall be made in United States of America dollars at a banking institution selected by EPE in El Paso, Texas. Each Party shall notify the other of the selection of a banking institution, pursuant to the terms of paragraph 8.1 of this Agreement, within a fifteen (15) calendar day period following the date of signature of this Agreement.
SECTION 10 - JURISDICTION.

10.1 For the interpretation and compliance of this Agreement, as well as for any case in which judicial intervention is required regarding the Agreement, the Parties hereby submit to the jurisdiction of the competent federal courts in Mexico City, Federal District. In every case, the provisions of article 45 of the Ley del Servicio Público de Energía Eléctrica (Electric Energy Public Service Law) shall be applicable.

SECTION 11 - TAXES.

11.1 The taxes and duties legally assessible which are incurred as a consequence of this Agreement in the United States of America or in the United Mexican States shall be paid respectively by EPE or CFE. In every case regarding payments which CFE must make, the provisions of the Ley de Presupuesto, Contabilidad y Gasto Público (Budget, Accounting and Public Expenditures Law), and regulations promulgated thereunder shall be observed.

SECTION 12 - LANGUAGE.

12.1 The Parties execute this Agreement signing two (2) originals in Spanish and two (2) originals in English. It is hereby agreed that both the Spanish and English texts of this Agreement are valid and binding, so long as the English version which is signed has been prepared and certified by an official expert translator authorized to act as such by the Mexican judicial authorities; and in the event of a dispute, both texts shall be used to determine the intention of the Parties.
This Agreement is signed in Mexico City, Federal District, on April 14, 1982.

EL PASO ELECTRIC COMPANY

/s/Even R. Wall
President

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]
General Director


CERTIFICO:

QUE LA ANTERIOR ES UNA FIEL TRADUCCION DEL INGLES AL ESPAÑOL, DEL DOCUMENTO ORIGINAL QUE TUVE A LA VISTA Y QUE SE ADJUNTA A ESTA TRADUCCION PARA TODOS LOS EFECTOS LEGALES A QUE HAYA LUGAR.

MEXICO, D. F., A 14 DE ABRIL DE 1982

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SECTION 1 - OBJECTIVE.

1.1 The objective of this Interchange Service A is to render Emergency Assistance between the electric systems of CFE-Juárez and EL PASO.

1.2 The Parties recognize that the terms under which a Party, as Receiver, has the right to request Emergency Assistance, and the other Party, as Supplier, is obligated according to this Service to provide Emergency Assistance, are conditions which arise in temporary circumstances out of control of the affected Party and which prevent, interfere or jeopardize the rendering of satisfactory service in the system of the Party which requests the Emergency Assistance, and which result from any cause other than Scheduled Maintenance or anticipated fuel supply deficiencies.

SECTION 2 - TERM.

This Interchange Service A, once it has been signed by the Parties, shall become effective simultaneously with the Interchange Agreement between Comisión Federal de Electricidad and El Paso Electric Company and shall continue in effect throughout the term of the Interchange Agreement, or until a new Interchange Service A is executed.
SECTION 3 - SUPPLY OF EMERGENCY ASSISTANCE.

3.1 Each Party, upon the request of the other Party, shall supply as Emergency Assistance the power and energy that the Receiver may need to restore or protect the supply of energy in the affected system by an Emergency under the following conditions: (a) that in the Supplier's judgement, such supply does not cause any deterioration or serious risk for the service of the Supplier's system; (b) that such supply does not exceed the maximum transmission capacity of the Interconnection facilities; and (c) that Emergency Assistance shall never exceed seventy-two (72) continuous hours. After such seventy-two (72) hours, the assistance shall continue to be supplied; however, the compensation basis for such supply shall be those of Interconnection Service B.

3.2 The Supplier from whom the Emergency Assistance is requested shall utilize, to the degree necessary, all energy sources at its disposal to render the Emergency Assistance.

3.3 If a Party affected by an Emergency requests Emergency Assistance, such Party shall communicate, as soon as possible, with the Supplier to schedule such Emergency Assistance. The Receiver with due diligence shall correct the conditions which caused the Emergency and reestablish the normal operating conditions of its system.

SECTION 4 - COMPENSATION BASIS.

4.1 The energy supplied during a period of Emergency Assistance shall be returned to the Supplier at the rate of 1.2 KWH for each KWH supplied during the Emergency. The conditions in which the energy supplied shall be returned shall be agreed upon by the system operators.
of both Parties, considering the following:

a) Energy supplied between 0700 and 2300 hours, time of Ciudad Juárez, shall be returned between 0700 and 2300 hours, time of Ciudad Juárez.

b) Energy supplied on days between Monday and Friday inclusive shall be returned on days between Monday and Friday inclusive.

c) Energy supplied on Saturday or Sunday shall be returned on Saturday or Sunday.

4.2 If the Receiver of Emergency Assistance service does not return the energy supplied within a period of fifteen (15) calendar days from the beginning of the Emergency Assistance, then the Receiver shall pay the Supplier for the energy not returned an amount to be determined on the basis of 120% of the Unitary Incremental Energy Cost of the Supplier incurred in supplying such energy. In determining which KWH will be billed by the Supplier to the Receiver, it is agreed that the first KWH supplied in Emergency Assistance shall be the first KWH which the Receiver must return.

4.3 In the event that this Interchange Service A is terminated, the obligations of the Parties with respect to compensation not paid shall continue in effect until they have been fulfilled.

EL PASO ELECTRIC COMPANY
/s/ Evern R. Wall
President
Date: April 14, 1982

COMISION FEDERAL DE ELECTRICIDAD
/s/[ILLEGIBLE]
General Director
Date: April 14, 1982
SECTION 1 - OBJECTIVE.

1.1 In order to achieve a more economical system operation, as well as to improve system reliability and permit increased flexibility and convenience of their operation, this Interchange Service B provides that either Party, as Supplier, may agree to furnish or make available to the other Party, as Receiver, a specified amount of Capacity and Associated Energy for a period not exceeding forty five (45) consecutive days.

SECTION 2 - TERM.

2.1 This Interchange Service B, once signed by the Parties, shall become effective simultaneously with the Interchange Agreement between Comisión Federal de Electricidad and El Paso Electric Company and shall continue in effect throughout the term of the Interchange Agreement, or until a new Interchange Service B is executed.

SECTION 3 - SUPPLY OF SHORT-TERM FIRM CAPACITY

3.1 Upon mutual agreement of the Parties, the Supplier shall maintain available for scheduling by the Receiver the agreed upon amount of Capacity at all times during the expressly agreed upon period of supply of Short-Term Firm Capacity.

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3.2 At any time during the agreed upon period, the Receiver may schedule and Supplier shall deliver Associated Energy up to the agreed upon amount of Short-Term Firm Capacity which has been made available.

3.3 The Unitary Incremental Energy Cost of the Supplier shall be determined prior to the rendering of this Service B.

3.4 The Receiver shall pay the Supplier for the Short-Term Firm Capacity and for the Associated Energy received according to the rate set-forth in Section 4 of this Interchange Service B.

SECTION 4 - COMPENSATION BASIS.

The Supplier shall bill and the Receiver shall pay for the agreed upon amounts of Short-Term Firm Capacity and for the Associated Energy received, based on the following charges:

4.1 Demand charges.

.10 dollars (10 cents of a dollar) of the United States of America, per kilowatt of demand per calendar day based on Ciudad Juárez time.

4.2 Energy charge.

At the rate of 115% (one hundred and fifteen percent) of the Unitary Incremental Energy Cost of the Supplier.

EL PASO ELECTRIC COMPANY

/s/Even R. Wall

President

Date: April 14, 1982

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

General Director

Date: April 14, 1982

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INTERCHANGE SERVICE C
ECONOMY ENERGY
COMISION FEDERAL DE ELECTRICIDAD
AND
EL PASO ELECTRIC COMPANY

SECTION 1 – OBJECTIVE

1.1 The objective of this Interchange Service C is to establish the terms and conditions of economic energy transactions ("Economy Energy") between the electric systems of CFE-Juárez and EL PASO. This Interchange Service C is expected to allow the Parties to achieve more efficient utilization of production capacity as well as to permit increased production flexibility and convenience of operation.

1.2 CFE-Juárez desires to obtain, and EL PASO desires to supply, up to 60 MW each hour of Economy Energy from the effective date of this Interchange Service C. This Interchange Service C provides the terms and conditions which will allow such Economy Energy transactions to occur.

1.3 This Interchange Service C allows for the repayment of Economy Energy by a Receiver in either cash or by the return of energy as specified in Section 4 herein.

SECTION 2 – TERM

2.1 This Interchange Service C shall become effective
once it has been signed by both Parties and shall continue in effect throughout the term of the
Interchange Agreement or until a new Interchange Service C is executed.

2.2 Each Party is hereby obligated to undertake the necessary actions to obtain all authorizations within its own country, needed to implement this Interchange Service C.

SECTION 3 – ECONOMY ENERGY

3.1 Either Party ("Receiver") may request Economy Energy from the other Party ("Supplier"). Each Party shall be the sole judge of the conditions under which it is economic or practical for it to deliver, accept or return Economy Energy hereunder.

3.2 Prior to the supply or return of Economy Energy hereunder, the Parties' respective system operators shall mutually agree upon the point(s), rate and term of delivery for each such Economy Energy transaction.

3.3 Either Party may interrupt or curtail the supply or receipt of Economy Energy, upon verbal notice to the other Party, when the supply or receipt of such energy will result in the impairment of or jeopardize service to its electrical system, its customers or its other commitments.
3.4 Upon mutual agreement of the Parties' respective system operators, either or both of CFE-Baja's 230 KV interconnections with San Diego Gas & Electric Company at the Tijuana and La Rosita substations may be designated as point(s) of delivery for Economy Energy transactions hereunder.

3.5 The supply or return of Economy Energy transactions shall be accounted for on the basis of actual hourly flows as metered. The Parties' respective system operators shall maintain records of actual hourly flows as metered, as well as applicable Unitary Incremental Energy Costs and Unitary Decremental Energy Costs for accounting and operating purposes. Upon mutual agreement of the Parties' respective system operators, such Unitary Incremental Energy Costs may be accounted for on a weekly basis and quoted in advance of any transactions hereunder. Should the Supplier's Unitary Incremental Energy Cost differ significantly from its quotation, the Supplier shall notify the Receiver of its revised Unitary Incremental Energy Cost and the Receiver shall have the option to curtail or interrupt its acceptance of further energy hereunder.

SECTION 4 – COMPENSATION BASIS

4.1 At the end of each month during the term of this Interchange Service C, a Party supplying Economy Energy
during that month shall bill the Receiver, and the Receiver shall have the option to pay for such Economy Energy provided hereunder in USA dollars or by the return of energy in accordance with this Section 4. Payments shall be made in accordance with the provisions of Section 9.2 of the Interchange Agreement.

4.1.1 In the event the Receive elects to return energy to the Supplier as payment for Economy Energy, then the Receiver shall return such energy at a rate equal to 120% of the Unitary Incremental Energy Cost of the supplier.

4.1.2 In the event the Receiver elects to pay in USA dollars (i) all or any portion of the monthly billing or (ii) all or any portion of the balance in the Open Account established pursuant to Section 4.2.1, then the Receiver shall pay for such Economy Energy at a rate equal to 115% of the Unitary Incremental Cost of the Supplier.

4.1.3 In the event the Receiver has not made payment for any portion of the Economy Energy provided by the Supplier within five (5) months following the date a monthly billing hereunder becomes due, then the Receiver shall pay for any remaining portion of that monthly billing in USA dollars at a rate equal to 120% of the Unitary Incremental Energy Cost of the Supplier.
4.2 On or before the date a monthly billing hereunder becomes due, the Receiver shall (i) pay the amount of such billing in USA dollars or (ii) give written notice from the Receiver's member on the Coordination Committee to the Supplier that it elects to compensate the Supplier with energy deliveries in accordance with the provisions of this Section 4; provided, however, that such election may not be made for more than $500,000 (five hundred thousand) USA dollars during any month or for an amount which would cause the balance in the Open Account described in Section 4.2.1 to exceed $2,000,000 (two million) USA dollars. These limits may be modified periodically by written agreement of the Coordination Committee.

4.2.1 An Open Account will be established in which the Parties shall enter the value, in USA dollars, of all monthly billings which were not paid when due and in which a Receiver has made the election to return energy as provided by Section 4.1.1 herein. Each Party will also enter into the Open Account all payments made by either Party, whether in USA dollars or by return of energy, in partial or total settlement of the outstanding balance of the Open Account.

4.2.2 As soon as possible after the end of each month, the Party with a credit balance in the Open Account at the end of each month ("Net Supplier")
shall submit to the Party with a debit balance in the Open Account at the end of each month ("Net Receiver") a statement showing the settlements and outstanding monthly balances in the Open Account, together with interest accrued thereon.

4.2.3 The value in USA dollars of energy returned in partial or total settlement of the outstanding balance of the Open Account shall be equal to Receiver's Unitary Decremental Energy Cost associated with the return energy.

4.2.4 Payments made shall be applied first to the oldest outstanding monthly balance in the Open Account until satisfied.

4.2.5 The outstanding balance carried at the end of each month in the Open Account shall accrue interest, which shall be entered into the Open Account, at a rate equal to one-twelve (1/12) the sum of the annual LIBOR rate (London Interbank Offered Rate) in effect on the last day of such month, plus two percent (2%).

SECTION 5 – GENERALITIES

5.1 In the event that this Interchange Service C is terminated, the obligations of the Parties with respect to compensation not paid shall continue in effect until they have been fulfilled.
5.2 The Interchange Agreement, as amended by this Interchange Service C, remains in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have agreed upon the foregoing and have executed this Interchange Service C in both Spanish and English in several counterparts, and in the cities and dates mentioned hereunder.

EL PASO ELECTRIC COMPANY

/s/Even R. Wall

Mr. Even R. Wall
President and Chairman of the Board

Date: April 23, 1987
Place: El Paso, Texas

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

Ing. Fernando Hiriart Balderrama
General Director

Date: 6/iv/87
Place: Mexico City
INTERCHANGE SERVICE D AGREEMENT
FIRM CAPACITY
COMISION FEDERAL DE ELECTRICIDAD
AND
EL PASO ELECTRIC COMPANY

This Interchange Service D Agreement of Firm Capacity and Associated Energy is executed pursuant the following antecedents and sections:

ANTECEDENTS

I. On April 14, 1982, the "COMISION FEDERAL DE ELECTRICIDAD" (hereinafter called "CFE") and the EL PASO ELECTRIC COMPANY (hereinafter called "EPE") executed an agreement for interchange of electric energy, which is called herein the "Basic Agreement". The Basic Agreement continues to be in effect, pursuant to Section 2.1 thereof.

II. Pursuant to the provisions of Section 5.1 of the Basic Agreement with regard to the Interchange Services, the specific terms and conditions of the services furnished by one Party as the Supplier to the other Party, as the Receiver, shall be fully described in the Agreements called Interchange Services, which, once signed by the authorized officers and approved by the authorities with jurisdiction, shall form a part of the Basic Agreement during the full term of the latter or for a shorter term. Such Interchange Service Agreements may be modified or terminated in accordance with its terms.

III. Pursuant to Section 5 of the Basic Agreement, the following Interchange Service Agreements continue to be in force:
IV. CFE recites that for execution of this Agreement it has obtained authorization from the Ministry of Energy, Mines and State-Owned Industries, with regard to the Law on Public Service of Electric Energy and Regulations derived therefrom, as well as authorization from the Ministry of Commerce and Industrial Promotion, pursuant to that law and its regulations, insofar as they refer to the importation and exportation of electric energy and pursuant to the Law on Acquisitions, Rentals and rendering of Services with regard to Personal Property.

Such assertion is corroborated by certified copies of cited authorizations and same copies which are attached hereto and hereby incorporated by reference.

V. CFE recites that, for execution and performance of this Agreement, it does not need any other governmental permit or authorization from the Federal Government of the Mexican United States.

VI. For its part, EPE, recites that it has permanent registration as a foreign supplier in the Register of the Suppliers authorized by the Federal Public Administration of the Ministry of Programming and Budgeting of the Mexican Federal Government as well as the authorization of the Department of Energy of the Federal Government of the United States of America, no other permit or authorization being required from the Federal Government of the United States of America.
VII. EPE, likewise, recites that previous to the date of this Agreement, has delivered to CFE certified copies of the registration and authorization mentioned in the preceding antecedent. CFE acknowledges having received such copies.

VIII. CFE declares that to cover the expenditures to be derived from the present Agreement, CFE will utilize current budget funds as authorized by the Ministry of Programming and Budgeting.

IX. The Parties hereto acknowledge that the authorization of the expenditures referred to in the preceding antecedent apply only to the present budget year of CFE and agree that execution of this Agreement for each of the subsequent budget years shall be subject to the continuance of authorization for the disbursement of funds, that in its case may be granted by the Ministry of Programming and Budgeting.

SECTIONS

SECTION 1 - DEFINITIONS

For purposes of this Agreement, CFE and EPE agree to establish the following conventional definitions:

1.1 "Associated Energy." - For the purposes of this Interchange Service D Agreement, Associated Energy shall mean the energy scheduled by CFE pursuant to Section 4 hereof, associated with Firm Capacity and provided by EPE hereunder.
1.2 "Average System Energy Cost" - Shall mean EPE's average cost of energy generated by EPE's system resources and/or purchased by EPE during any invoicing period. Currently, the EL PASO system resources include approximately 793 MW of natural gas, 600 MW of nuclear and 104 MW of coal based resources.

1.3 "CFE-Juárez" - Shall have the meaning stipulated in Section 3.3 of the Basic Agreement and is hereby incorporated by reference.

1.4 "EL PASO" - Shall have the meaning stipulated in Section 3.4 of the Basic Agreement and is hereby incorporated by reference.

1.5 "Firm Capacity" - Shall mean capacity produced and supplied by EPE pursuant to Section 4 hereof, which includes system reserves and is intended to have assured reliability.

1.6 "Firm Capacity Charge" - The monthly charge in United States of America dollars for each KW of Firm Capacity provided hereunder.

1.7 "Associated Energy Cost" - The monthly cost in United States of America dollars for each KWH of energy provided hereunder which consists of the Average System Energy Cost plus fifteen percent (15%), plus the cost of any third party purchase power dedicated to providing service hereunder.

1.8 "Monthly Demand" - The highest hourly metered amount of Firm Capacity for the month subject to a Minimum Monthly Demand charge as defined in Section 1.9.

1.9 "Minimum Monthly Demand" – For invoicing purposes, the Minimum Monthly Demand from May 1, 1991 through December 31, 1991, shall be 40MW for the period of
January 1, 1992 through December 31, 1996 such amount shall be 120 MW for the months of October through April and 150 MW for the months of May through September.

In the event the Diablo-Insurgentes facilities are not operational by January 1, 1992, the Minimum Monthly Demand shall be subject to the Parties determination as to the transfer capability, but in no case less than 80 MW.

**SECTION 2 - PURPOSE**

2.1 The purpose of this Interchange Service D Agreement is to set forth the terms and conditions which will permit transactions of Firm Capacity and Associated Energy between the electric systems of CFE-Juárez and EL PASO. This Interchange Service D Agreement shall permit the contracting Parties hereto to utilize more efficiently the generation of energy, as well as to permit a greater flexibility of generation of energy and convenience of operation.

2.2 Beginning on the date that this Interchange Service D Agreement becomes effective pursuant to Section 3 hereof, EPE shall supply to CFE-Juárez Firm Capacity and Associated Energy pursuant to the terms and conditions hereunder.

**SECTION 3 - TERM**

3.1 This Interchange Service D Agreement shall take effect once signed by both Parties and shall continue in force through December 31, 1996 and from month to month thereafter unless terminated by either Party by thirty (30) days written notice of termination; provided however, that the Parties shall have the option to extend Firm Capacity service beyond December 31, 1996 subject to mutual agreement of the Parties and negotiations regarding the Firm Capacity Charge and/or amounts of Firm Capacity.
4.1 EPE shall make varying amounts of Firm Capacity and Associated Energy available to CFE and CFE agrees to pay all the corresponding charges in accordance with the conditions in Sections 1.9 and 5 under this Interchange Service D Agreement.

4.2 CFE shall furnish EPE with schedules of its Firm Capacity and Associated Energy requirements from EPE prior to September 1 of each year for the following calendar year. In addition, by the twenty-fifth day of each month, CFE shall furnish EPE with its estimated Firm Capacity and Associated Energy requirements under this Interchange Service D Agreement for the following month.

4.3 In the event of an emergency either Party hereto may interrupt or restrict the supply or receipt of Associated Energy by means of verbal notice to the other Party. For the purposes of this Section 4.3 and in accordance with Section 3.10 of the Basic Agreement, an emergency is any unforeseeable or inevitable temporary circumstance not within the control of the affected Party (such as the loss or reduction of generating or transmission capacity) which affects the system of either of the Parties, which prevents, interferes or jeopardizes the rendering of satisfactory service in the affected system, as a result of any cause other than: (a) Scheduled Maintenance or (b) an anticipated fuel supply deficiency.

4.4 Normal points of delivery shall be at either the Ascarate-Rivereña or Diablo-Insurgentes interconnection points with CFE-Juárez system or other points mutually agreed upon by the Parties.
SECTION 5 - BASIS FOR COMPENSATION

5.1 EPE shall provide to CFE and CFE shall pay in United States of America Dollars for Firm Capacity and Associated Energy for the term of this Interchange Service D Agreement as follows:

5.1.1 The Firm Capacity Charge hereunder shall be as indicated below:

<table>
<thead>
<tr>
<th>Period</th>
<th>Monthly Firm Capacity Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/01/91 - 12/31/91</td>
<td>$15.00/KW-month</td>
</tr>
<tr>
<td>01/01/92 - 12/31/92</td>
<td>$15.60/KW-month</td>
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<tr>
<td>01/01/96 - 12/31/96</td>
<td>$17.90/KW-month</td>
</tr>
</tbody>
</table>

5.1.2 Charge for Associated Energy: The charge for Associated Energy shall be calculated using a base energy charge of $0.01870 per KWH.

5.2 Monthly Invoicing: The monthly invoice for services of Firm Capacity and Associated Energy provided by EPE to CFE hereunder shall be the sum of the Firm Capacity Invoicing, plus the Associated Energy Invoicing, plus the Base Energy Charge Invoicing Adjustment as indicated immediately below:

Firm Capacity Invoicing: The monthly Firm Capacity Charge ($/Kw-month) pursuant to Section 5.1.1 times the Monthly Demand as defined in Section 1.8 hereunder for Firm Capacity. If the Monthly Demand is less than the Minimum Monthly Demand then the Minimum Monthly Demand shall apply.
Associated Energy:

Invoicing: The base energy charge of $0.01870 times the amount of KWH provided during the invoiced month.

Base Energy Charge Invoicing Adjustment: The difference between the previous month's Associated Energy Cost and the base energy charge times the amount of KWH provided in that month.

For the convenience of the Parties, examples of monthly invoicing are included in Exhibit A, attached hereto and hereby incorporated by reference.

5.3 The Parties hereto acknowledge that the authorization for the expenditures to be derived from the present Agreement granted by the Ministry of Programming and Budgeting to CFE correspond only to the preset budget year and agree that execution of this Agreement for each of the subsequent budget years shall be subject to the continuance of authorization for the disbursement of funds that in its case may be granted by the Ministry of Programming and Budgeting.

5.4 Within ten (10) calendar days following the end of each month and for each month during the term of this Interchange Service D Agreement, EPE shall bill CFE and CFE shall pay to EPE for Firm Capacity and Associated Energy precisely in United States of America dollars and at the bank in the United States of America that from time to time EPE indicates to CFE, within twenty-one (21) calendar days upon the receipt of such invoice. The payments shall be made for the total Monthly Invoicing amount pursuant to Section 5.2 hereunder.

SECTION 6 - GENERAL STANDARDS

6.1 In the event this Interchange Service D Agreement is terminated, the obligations of CFE with regard to unpaid compensation shall continue until they have fully paid.
6.2 The Basic Agreement executed between the Parties, and except for the amendments thereto agreed in this Interchange Service D Agreement shall continue in full force and effect.

6.3 In the event of any discrepancy between the provisions of the Basic Agreement and those agreed herein, the provisions of this Interchange Service D Agreement shall prevail, as provided in Section 7.1 of the Basic Agreement.

IN TESTIMONY WHEREOF the Parties hereto have signed this Interchange Service D both in Spanish and in English in several counterparts and, in the cities and on the dates which follow.

EL PASO ELECTRIC COMPANY

/s/ David H. Wiggs, Jr.

David H. Wiggs, Jr.
CEO, Chairman and President
the Board

Date: March 18, 1991
Place: El Paso, Texas

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

Ing. Guillermo Guerrero Villalobos
Director General

Date: 3 de abril de 1991
Place: Mexico City
INTERCHANGE SERVICE AGREEMENT
FIRM CAPACITY
COMISION FEDERAL DE ELECTRICIDAD
AND
EL PASO ELECTRIC COMPANY

Exhibit A

Examples of Monthly Invoicing

For the convenience of the Parties, examples of monthly invoicing are included in this Exhibit A.
Invoice for Firm Capacity and Associated Energy for the month of _______ 1991 pursuant to the EPE-CFE Interchange Service D Agreement.

Account Number 2146-1000-01

Firm Capacity Invoicing:
40,000 KW of Demand @ $15.00/KW $ 600,000.00

Associated Energy Invoicing:
20,440,000 KWH @ $0.0187/KWH $ 382,228.00

Base Energy Charge Invoicing Adjustment:
19,000,000 KWH @ ($0.0157/KWH - $0.0187/KWH) $ 57,000.00 cr

Total $ 925,228.00

Date of receipt __
Signature __

Please Remit Payment to:
First City National Bank of El Paso
Routing Transit No. 1120-2233-2
Credit El Paso Electric Company
Account No. 4500474

For illustration purposes only
Invoice for Firm Capacity and Associated Energy for the month of _______ 1991 pursuant to the EPE-CFE Interchange Service D Agreement.

Account Number 2146-1000-01

Firm Capacity Invoicing:
120,000 KW of Demand @ $15.60/KW  $ 1,872,000.00

Associated Energy Invoicing:
61,320,000 KWH @ $0.0187/KWH  $ 1,146,684.00

Base Energy Charge Invoicing Adjustment:
60,000,000 KWH @ ($0.0185/KWH - $0.0187/KWH)  $ 12,000.00  cr

Total  $ 3,006,684.00

Date of receipt ___

Signature ___

Please Remit Payment to:
First City National Bank of El Paso
Routing Transit No. 1120-2233-2
Credit El Paso Electric Company
Account No. 4500474

For illustration purposes only
Invoice for Firm Capacity and Associated Energy for the month of _______ 1991 pursuant to the EPE-CFE Interchange Service D Agreement.

Account Number 2146-1000-01

Firm Capacity Invoicing:
150,000 KW of Demand @ $16.70/KW $ 2,505,000.00

Associated Energy Invoicing:
76,650,000 KWH @ $0.0187/KWH $ 1,433,355.00

Base Energy Charge Invoicing Adjustment:
71,000,000 KWH @ ($0.0217/KWH - $0.0187/KWH) $ 213,000.00 cr

Total $ 4,151,355.00

Date of receipt __

Signature __

Please Remit Payment to:
First City National Bank of El Paso
Routing Transit No. 1120-2233-2
Credit El Paso Electric Company
Account No. 4500474

For illustration purposes only
INTERCHANGE AGREEMENT

BETWEEN

EL PASO ELECTRIC COMPANY

AND

COMISION FEDERAL DE ELECTRICIDAD

OPERATING PROCEDURE No. 1

Revision No. 1

OPERATING PROCEDURES OF INTERCONNECTIONS AND UNITS BLACK

START ASSISTANCE.

1. PURPOSE:

Section 6.7.4 of the Interconnection Agreement (Agreement) between El Paso Electric Company (EPE) and Comision Federal de Electricidad (CFE), authorize the Coordinating Committee to determine operating rules and procedures to provide service under the Agreement. Operating Procedure No. 1 will provide the rules for the interchange of energy under the Interchange Agreement; and will also provide for black start interchange assistance.
2. **INTERCONNECTION OPERATING PROCEDURES**:

Under normal operating conditions, the interchange of energy will be maintained using the two interconnections. Under emergency conditions, assistance will be requested and energy will be taken subject to the supplying party conditions, such energy will be accounted as emergency energy pursuant to Section 4 of Interchange Service A.

3. **BLACK START ASSISTANCE**:

During the time of emergency conditions and requirement of black start assistance, the party needing such power will inform the supplying party of the situation and will receive, with such notice only, 10 MW for black start, such power will not be accounted under any other type of interchange but will be compensated pursuant to Section 4 of Interchange Service A.

---

**APPROVED**

EL PASO ELECTRIC COMPANY

/s/John A. Whitacre

John A. Whitacre
Assistant Vice-President
System Operations

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

Ing. Augusto Avalos Reyna
Jefe Centro de Control
Area Norte

Date: 02 July 1991
City: Gómez Palacio, Durango, México.
1. **PURPOSE:**

Pursuant to Section 6.7.4 of the Interchange Agreement between El Paso Electric Company (EPE) and Comision Federal de Electricidad (CFE), the Coordinating Committee is authorized to determine operating rules and procedures to provide service under the Interchange Agreement. Operating Procedure No. 2 will allow for the common provision of various interchange services between the parties and will simplify their accountability.

2. **INTERCHANGE SERVICES:**

The parties have agreed to the following interchange services:

   a. Interchange Service A-Emergency Assistance
   b. Interchange Service B-Short-Term Capacity
   c. Interchange Service C-Economy Energy
   d. Interchange Service D-Firm Capacity
3. PROCEDURES FOR THE INTERCHANGE OF SERVICES:

a. Firm Capacity Service is a service with priority and assured reliability to CFE, as such it is a basic service.

Firm Capacity Service has priority over the interchange of economy energy and other transactions with CFE, unless the parties agree otherwise.

When Economy Energy and/or Emergency Assistance is required in addition to Firm Capacity, the parties will follow the procedures listed in paragraphs (3.b) and (3.c).

b. Emergency Assistance is a service with priority and will be available to the parties upon mutual agreement of the system operators and will be under the terms and conditions of Interchange Service A and according to the following procedures:

1) The requesting party will notify the supplying party's system operator of the need for Emergency Assistance, type of emergency, amount, point(s) of delivery and estimated duration of the emergency.

2) The supplying party will provide Emergency Assistance to the requesting party as mutually agreed. During the time when EPE provides Emergency Assistance and Firm Capacity to CFE, the energy delivered to CFE will be considered as associated energy to Firm Capacity until the Maximum Energy Demand of
Firm Capacity is reached by CFE during a period of time. The Maximum Energy Demand of CFE is the agreed upon Forecasted Maximum Demand for the period and all energy associated with such demand assuming a 100 percent load factor. Any energy delivered to CFE over the Maximum Energy Demand will be considered as service under Emergency Assistance and will be treated as such, unless the parties agree otherwise.

c. Economy Energy Service is a nonfirm service with a reduced priority which may be interrupted by the supplying party with a minimum prior notice to the other party. This service will be delivered pursuant to Interchange Service C and the following procedures:

1) The requesting party will notify the supplying party's system operator of the need to purchase Economy Energy including the amount, point(s) of delivery and estimated duration of purchase.

2) The supplying party will provide Economy Energy to the requesting party as mutually agreed. During the time EPE provides Economy Energy and Firm Capacity to CFE, the energy delivered to CFE will be considered as associated energy to Firm Capacity until the Maximum Energy Demand of Firm Capacity is reached by CFE during a period of time. The Maximum Energy Demand of CFE is the agreed upon Forecasted Maximum Demand for the period and all energy associated with such demand assuming a 100 percent load factor. Any energy
delivered to CFE over the Maximum Energy Demand will be considered as Economy Energy Service and will be treated as such, unless the parties agree otherwise.

3) In the event of an emergency in EPE's system, EPE will notify CFE of such an emergency and if CFE can not reduce the demand of economy energy during the next hour of receiving such notification from EPE, EPE may take any action it considers necessary to preserve its system.

4. MONTHLY BILLING FOR INTERCHANGE SERVICES: When a combination of services occur during a month, the billing of each service will be determined as follows:

a. Firm Capacity only. The monthly billing will be determined using the actual maximum demand during a billing period, pursuant to Interchange Service D, plus the associated energy delivered during the month.

Pursuant to section 4.3 of Interchange Service D, when upon EPE's request a reduction in firm capacity is made, CFE may request a meeting to agree upon the adjustment to the Monthly Demand component of the monthly Firm Capacity Invoicing.

b. Firm Capacity and Economy Energy. The monthly billing for Firm Capacity will be determined by the Forecasted Maximum Demand and its associated energy. The Forecasted Maximum Demand is an agreed to amount equal to or greater than the Minimum Monthly Demand established in Interchange Service D that CFE and EPE set on or before the first day of the month for that month's billing cycle. This agreement may be increased by the Parties if system conditions
develop that would affect the agreed to amount. The remaining energy will be considered Economy Energy using paragraph (3.c.2.) and will be billed pursuant to Interchange Service C.

c. Firm Capacity and Emergency Assistance. The monthly billing for firm capacity will be determined in accordance with the Forecasted Maximum Demand and its associated energy as described in paragraph (4.b). The remaining energy will be treated as Emergency Assistance using paragraph (3.b.2) and will be billed pursuant to Interchange Service A.

d. Firm Capacity, Economy Energy and Emergency Assistance. The monthly billing for the combination of Firm Capacity and Economy Energy and/or Emergency Assistance will be the sum determined as described in paragraphs (4b) and (4c).

Approved By

El Paso Electric Company

/s/John A. Whitacre

John A. Whitacre
Assistant Vice-President
System Operations

Date: 12 May 1993
City: Gómez Palacio, Durango, México

Approved By

Comisión Federal De Electricidad

/s/[ILLEGIBLE]

Ing. Augusto Avalos Reyna
Jefe Centro de Control
Area Norte
INTERCHANGE AGREEMENT
BETWEEN
EL PASO ELECTRIC COMPANY
AND
COMISION FEDERAL DE ELECTRICIDAD
OPERATING PROCEDURE No. 3
COMMUNICATION AND COORDINATION
OF
SYSTEM OPERATIONS

1. **PURPOSE:**

Pursuant to Section 6.7.4 of the Interchange Agreement between El Paso Electric Company (EPE) and Comisión Federal de Electricidad (CFE), the Coordinating Committee is authorized to determine operating rules and procedures to provide service under the Interchange Agreement. The Parties believe that improved communication and coordination activities will minimize the effects to the extent possible of electrical disturbances that occur on one Party's system from affecting the other Party's system. This Operating Procedure No. 3 is established to promote greater communication and coordination under the different operating system conditions that would reduce the system reliability as defined by WSCC reliability criteria.

2. **PROCEDURES FOR SWITCHING COORDINATION:**

2.1 Switching under normal system conditions:

2.1.1 Each Party shall provide the other Party with a minimum twenty-four (24) hour notice prior to initiating any planned switching procedures regarding transmission lines, transformers or generators that could affect the reliability of the parties interconnected operations.
2.1.2 Each Party shall provide the other Party with a minimum twenty-four (24) hour notice prior to any scheduled or planned outages that might affect the quality of service to that Party's customers.

2.2 Switching under emergency conditions:

2.2.1 When possible, emergency switching that may affect interconnected operations shall be coordinated between the Parties' respective system controllers prior to switching taking place.

2.2.2 In any event, emergency switching activities that may affect interconnected operations shall be communicated to the Party as soon as practical following the switching activity.

3. COMMUNICATIONS:

3.1 Communication checks during normal operations:

3.1.1 The Parties shall notify each other of scheduled switching operations within the interconnected area.

3.2 Communications checks during an emergency:

3.2.1 System controllers of CFE shall notify EPE when there is an emergency in the CFE system that may affect EPE operations.

3.2.2 System controllers of EPE shall notify CFE when there is an emergency in the EPE system that may affect CFE operations.

3.3 The communication contemplated in 3.1 and 3.2 above is to be accomplished with existing telephone circuits. Contact is to be made between the system controllers as soon as possible upon the occurrence of an emergency condition as determined by each Party.

4. The Parties shall meet at least once a quarter to facilitate greater communication and coordination of operations affecting interconnected operations.
5. Exhibit A is a list of contacts that shall be used during system operations. This exhibit shall be revised during the quarterly meetings described in Section 4 above and shall be updated as appropriate.

6. Following a system disturbance affecting interconnected operations, the Parties shall meet within fifteen (15) days thereafter to exchange technical operating data information and, if deemed necessary, set another meeting date to investigate such disturbance and initiate activities that will prevent future disturbances of a similar nature or mitigate the effects of such disturbances if prevention is impractical.

APPROVED

El Paso Electric Company

/s/John A. Whitacre

John A. Whitacre
Assistant Vice President
System Operations

Date: 12 Mayo 1993

City: Gómez Palacio, Dgo. México

APPROVED

Comisión Federal De Electricidad

/s/[ILLEGIBLE]

Ing. Augusto Avalos Reyna
Jefe del Centro de Control
Area Norte
INTERCHANGE AGREEMENT
BETWEEN
EL PASO ELECTRIC COMPANY
AND
COMISION FEDERAL DE ELECTRICIDAD
OPERATING PROCEDURE No. 3
COMMUNICATION AND COORDINATION OF
SYSTEM OPERATIONS

EXHIBIT A

COMISION FEDERAL DE ELECTRICIDAD CONTACTS

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<thead>
<tr>
<th>NAME</th>
<th>FUNCTION</th>
<th>TELEPHONE</th>
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</thead>
<tbody>
<tr>
<td>System Controller</td>
<td>(24 Hours)</td>
<td>(011-52-16) 15-44-19</td>
</tr>
<tr>
<td>Ing. Adrián Aguirre</td>
<td>Jefe del Departamento de Operaciones</td>
<td>(011-52-16) 15-44-79</td>
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<td>Cellular</td>
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EL PASO ELECTRIC COMPANY CONTACTS

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<tr>
<th>NAME</th>
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<th>TELEPHONE</th>
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<tbody>
<tr>
<td>System Controller</td>
<td>(24 Hours)</td>
<td>(915) 543-5890</td>
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<tr>
<td>Mr. Bill Massie</td>
<td>Supervisor-System Control</td>
<td>(915) 543-5887</td>
</tr>
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<td>Cellular</td>
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<td></td>
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<td>(915) 525-8093</td>
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<tr>
<td>Mr. John A. Whitacre</td>
<td>Assistant Vice President System Operations</td>
<td>(915) 543-5888</td>
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<td>(915) 525-8094</td>
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APPROVED

El Paso Electric Company

/s/John A. Whitacre
John A. Whitacre
Assistant Vice President
System Operations

Comisión Federal De Electricidad

/s/[ILLEGIBLE]
Ing. Augusto Avalos Reyna
Jefe del Centro de Control
Area Norte
INTERCHANGE SERVICE E AGREEMENT

BLOCK ENERGY

COMISION FEDERAL DE ELECTRICIDAD

AND

EL PASO ELECTRIC COMPANY

This Interchange Service E Agreement of Block Energy is executed pursuant the following antecedents and sections:

ANTECEDENTS

I. On April 14, 1982, the "COMISION FEDERAL DE ELECTRICIDAD" (hereinafter called "CFE") and the EL PASO ELECTRIC COMPANY (hereinafter called "EPE") executed an agreement for interchange of electric energy, which is called herein the "Basic Agreement". The Basic Agreement continues to be in effect, pursuant to Section 2.1 thereof.

II. Pursuant to the provisions of Section 5.1 of the Basic Agreement with regard to the Interchange Services, the specific terms and conditions of the services furnished by one Party as the Supplier to the other Party, as the Receiver, shall be fully described in the Agreements called Interchange Services, which, once signed by the authorized officers and approved by the authorities with jurisdiction, shall form a part of the Basic Agreement during the full term of the latter or for a shorter term. Such Interchange Service Agreements may be modified or terminated in accordance with its terms.

III. Pursuant to Section 5 of the Basic Agreement, the following Interchange Service Agreements continue to be in force:

Interchange Service A: Emergency Assistance

Interchange Service B: Short-term Firm Capacity
IV. CFE recites that for execution of this Agreement it is in the process of obtaining authorization and in some cases has obtained authorization from the Ministry of Energy, with regard to the Law on Public Service of Electric Energy and Regulations derived therefrom, as well as authorization from the Secretaria de Hacienda y Credito Publico, pursuant to that law and its regulations, insofar as they refer to the importation and exportation of electric energy, and to the 1995 Budget Authorization, and pursuant to the Law on Acquisitions, Rentals and rendering of Services with regard to Personal Property. Such assertion is corroborated by certified copies of cited authorizations and same copies which are attached hereto and hereby incorporated by reference.

V. CFE recites that, for execution and performance of this Agreement, it does not need any other governmental permit or authorization from the Federal Government of the United States of Mexico.

VI. For its part, EPE, recites that it has the authorization of the Department of Energy of the Federal Government of the United States of America, no other permit or authorization being required from the Federal Government of the United States of America.

VII. EPE, likewise, recites that previous to the date of this Agreement, has delivered to CFE certified copies of the registration and authorization mentioned in the preceding antecedent CFE acknowledges having received such copies.
VIII. CFE declares that to cover the expenditures to be derived from the present Agreement, CFE will utilize current budget funds as authorized by the Secretaria de Hacienda y Credito Publico.

IX. The signatories hereto represent that they have been duly authorized to enter into this Agreement on behalf of the Party for which they sign, as corroborated by documentation attached and made part of this document.

SECTION 1 - DEFINITIONS

For purposes of this Agreement, CFE and EPE agree to establish the following conventional definitions:

1.1 "Block Energy" - For purposes of this Interchange Service E Agreement, "Block Energy" shall be energy scheduled by CFE in accordance with Section 4 of this Agreement, associated with a corresponding amount of capacity provided by EPE.

1.2 "CFE-Juárez" - Shall have the meaning stipulated in Section 3.3 of the Basic Agreement and is hereby incorporated by reference.

1.3 "EL PASO" - Shall have the meaning stipulated in Section 3.4 of the Basic Agreement and is hereby incorporated by reference.

1.4 "Block Energy Cost" - The monthly charge in United States of America dollars for each KWH of energy in accordance with the rate in Section 5.1.2.
SECTION 2 - PURPOSE

2.1 The purpose of this Interchange Service E Agreement is to set forth the terms and conditions which will allow for transactions of Block Energy between the electric systems of CFE-Juárez and EL PASO. This Interchange Service E Agreement shall permit the contracting Parties hereto to utilize more efficiently the generation of energy, as well as to permit a greater flexibility of generation of energy and convenience of operation.

2.2 Beginning on the date that this Interchange Service E Agreement becomes effective pursuant to Section 3 hereof, EPE shall supply to CFE-Juárez Block Energy pursuant to the terms and conditions hereunder.

SECTION 3 - TERM

3.1 This Interchange Service E Agreement shall, upon execution by both Parties, become effective as of June 1, 1995 and shall continue through September 30, 1995 and upon mutual agreement, may continue thereafter on a month-to-month basis but under no circumstance shall extend beyond December 31, 1995.

SECTION 4 - BLOCK ENERGY

4.1 EPE shall make available varying amounts of Block Energy up to 50 MW to CFE in accordance with Section 1.1 and CFE agrees to pay all the corresponding charges in accordance with the conditions in Section 5 under this Interchange Service E Agreement.

4.2 CFE shall furnish EPE with schedules of its Block Energy requirements from EPE by 12:00 pm Mountain Standard Time (MST) the day before such schedule is to be
effective. Schedules may be also made on a weekly or monthly basis. Schedules of Block Energy shall be subordinate to and shall be deemed as amounts in excess of the Minimum Monthly Demand for Firm Capacity pursuant to Interchange Service Schedule D Agreement.

4.3 In the event of an emergency (as defined in Section 4.3 of the Interchange Service D Agreement) during the term of this Interchange Service Schedule E Agreement, either Party may interrupt or restrict the supply or receipt of Block Energy by means of verbal notice to the other Party. The Parties agree that EPE will first curtail or interrupt CFE's schedules of Economy Energy, then Block Energy if necessary, prior to interrupting CFE's schedules of Firm Capacity.

4.4 Points of delivery shall be the Ascarate-Riverena and/or Diablo-Insurgentes interconnection points with CFE-Juárez system or other mutually agreed upon points.

SECTION 5 – BASIS FOR COMPENSATION

5.1 EPE shall provide to CFE and CFE shall pay in United States of America Dollars for Block Energy for the term of this Interchange Service E Agreement as follows:

5.1.2 Block Energy Charge: The charge for Block Energy shall be $35.00 United States of America dollars per megawatt hour delivered under this Agreement.

5.2 Within ten (10) calendar days following the end of each month and for each month during the term of this Interchange Service E Agreement, EPE shall bill CFE and CFE shall pay to EPE for Block Energy precisely in United States of America dollars and at the bank in the United States of America that from time to time EPE indicates to CFE, within twenty-one (21) calendar days upon the receipt of such invoice.
SECTION 6 - GENERAL STANDARDS

6.1 In the event this Interchange Service E Agreement is terminated, the obligations of CFE with regard to unpaid compensation shall continue until they have been fully paid.

6.2 The Basic Agreement executed between the Parties, except for modifications agreed to in this Interchange Service E Agreement, shall continue in full force and effect.

6.3 In the event of any discrepancy between the provisions of the Basic Agreement and those agreed herein, the provisions of this Interchange Service E Agreement shall prevail, as provided in Section 7.1 of the Basic Agreement.

IN TESTIMONY WHEREOF the Parties hereto have signed this Interchange Service E Agreement both in Spanish and in English on this ___ day of July 1995.

EL PASO ELECTRIC COMPANY

/s/[ILLEGIBLE]

John C. Horne
Vice President

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

Ing. Enrique Villanueva Landeros
Subdirector de Transmision-Transformacion Y Control

/s/[ILLEGIBLE]

Ing. Raymundo Campos Milan
Coordinador del CENACE

Translation Certification on back.
I, ELENA MILÁN REYES, expert translator acknowledged by the Superior Court of Justice of the Federal District of Mexico as proven by the Judiciary Gazette of March 31, 1995, CERTIFY THAT: to the best of my knowledge and belief this is a true, correct and complete translation of the original document that was brought before me.

México, Distrito Federal, August 2, 1995

/s/Elena Milan

ELENA MILÁN REYES
Ave. Copilco 76-A10-503
El presente Convenio de Servicio de Intercambio E de Bloques de Energía lo celebran las partes arriba indicadas de acuerdo con las siguientes antecedentes y secciones:

ANTECEDENTES

I. El 14 de abril de 1982, la "COMISION FEDERAL DE ELECTRICIDAD" (en adelante identificada como "CFE") y EL PASO ELECTRIC COMPANY (en adelante identificada como "EPE"), celebraron un convenio para el intercambio de energía eléctrica, el cual aquí se identificará como el "Convenio Básico". Tal convenio continúa en vigor de conformidad con la Sección 2.1 del mismo.

II. De acuerdo con las estipulaciones de la Sección 5.1 del Convenio Básico en relación con los servicios de intercambio, los términos y condiciones específicas de los servicios a ser proveidos por una de las partes como Proveedor a la otra parte como Receptor, se describen en detalle en los convenios denominados Servicios de Intercambio, los cuales, han sido firmados por funcionarios autorizados y aprobados por las autoridades competentes y forman parte integral del Convenio Básico durante toda la vigencia de este último o por un término más corto. Tales Convenios de Servicio de intercambio pueden ser modificados o terminados de acuerdo a lo estipulado en los mismos.

III. De acuerdo con la Sección 5 del Convenio Básico, los siguientes convenios de Servicio de Intercambio continúan en vigor:

**Servicio de Intercambio A:** Asistencia en Emergencia.

**Servicio de Intercambio B:** Capacidad Firme a Corto Plazo.
Servicio de Intercambio C: Energía Económica;
Servicio de Intercambio D: Capacidad Firme y Energía Asociada

IV. CFE declara, que para la celebración de este convenio está tramitando y en algunos casos ya ha obtenido autorización por parte de la Secretaría de Energía, por lo que toca a la Ley del Servicio Público de Energía Eléctrica y su Reglamento; y por parte de la Secretaría de Hacienda y Crédito Público por lo que se refiere a la importación y exportación de energía eléctrica y a la autorización presupuestal para 1995, de conformidad con la Ley de Aduanera y con la Ley de Presupuesto, Contabilidad y Gasto Público. Tal aseveración se corrobora con copias certificadas de las solicitudes y autorizaciones obtenidas, mismas copias que se agregan al presente convenio.

V. Igualmente, CFE declara que para la celebración y firma de este convenio, no requiere ningún otro permiso o autorización por parte del Gobierno Federal de los Estados Unidos Mexicanos.

VI. Por su parte EPE declara que cuenta con la autorización del Departamento de Energía del Gobierno Federal de los Estados Unidos de América y que para la celebración de este convenio no requiere ningún otro permiso o autorización del Gobierno Federal, Estatal o Local de los Estados Unidos de América.

VII De igual forma EPE declara, que previamente a la fecha de este Convenio, ha entregado a CFE copias certificadas de la autorización mencionada en el antecedente inmediato anterior.

VIII CFE declara que para cubrir las erogaciones que se deriven del presente Convenio, utilizará los fondos de la correspondiente partida presupuestal autorizada por la Secretaría de Hacienda y Crédito Público.
Los representantes de cada una de las Partes declaran que han sido autorizados por sus respectivas empresas para suscribir este Convenio y cuentan con facultades legales suficientes para este efecto, conforme a la documentación que exhiben y se agrega al presente Convenio como anexo.

SECCIONES

SECCION 1 - DEFINICIONES

Para los efectos de este convenio, CFE y EPE convienen en establecer las siguientes definiciones convencionales:

1.1. "Bloque de Energía." Para propósito de este Convenio de Servicio de intercambio E, "Bloque de Energía" significará la energía programada por CFE de acuerdo a la Sección 4 de este convenio, relacionada con una cantidad de capacidad correspondiente y proporcionada por EPE bajo este convenio.

1.2. "CFE-Juárez" Tendrá el significado estipulado en la Sección 3.3 del Convenio Básico, y misma sección que se incorpora aquí por referencia, tal y como si se insertara a la letra.

1.3. "El Paso" Tendrá el significado estipulado en la Sección 3.4 del Convenio Básico, y misma sección que se incorpora aquí por referencia, tal y como si se insertara a la letra.

1.4. "Costo por Bloque de Energía": El costo mensual en dólares de los Estados Unidos de América por cada KWh de la energía, al precio que se conviene en la Sección 5.1.2.

SECCION 2 - PROPOSITO

2.1 El propósito de este Convenio de Servicio de intercambio E es el señalar los términos y
condiciones que permitirán transacciones de Bloques de Energía entre los sistemas eléctricos de CFE-Juárez y EL PASO. Este Convenio de Servicio de Intercambio E permitirá a las partes contratantes el utilizar más eficientemente la generación de energía, así como permitir una mayor flexibilidad de generación de energía y conveniencia de operación.

2.2 A partir de la fecha en que este Convenio de Servicio de Intercambio E entre en vigor de acuerdo a su Sección 3, EPE suministrara a CFE-Juárez Bloques de Energía, de acuerdo con las condiciones y términos estipulados en este convenio.

SECCION 3 - VIGENCIA

3.1 Este Convenio de Servicio de Intercambio E entrará en vigor después de firmado por ambas partes contratantes a partir del 1° de junio de 1995 y continuará vigente hasta el 31 de septiembre de 1995, y de mutuo acuerdo podrá extenderse de tal fecha en adelante, de mes a mes, pero por ninguna circunstancia más allá del 31 de diciembre de 1995.

SECCION 4 - BLOQUES DE ENERGÍA

4.1 EPE pondrá a disposición de CFE cantidades variables de energía hasta por 50 MW de Bloque de Energía, y CFE se compromete a cubrir los cargos correspondientes de acuerdo con las condiciones establecidas en las secciones 1.1 y 5 de este Convenio de Servicio de Intercambio E.

4.2 CFE deberá proporcionar a EPE sus programas de Bloque de Energía a las 12:00 P.M. Tiempo de la Montaña, del día anterior al que se haga efectiva la programación. Tales programas deberán formularse con una base semanal o mensual. Los programas de Bloque de Energía deberán ser considerados en exceso a la Demanda Mínima Mensual de Capacidad Firme, de acuerdo al Convenio de Servicio de Intercambio D.
4.3 En caso de una Emergencia (como se le define en la Sección 4.3. del Convenio de Servicio de Intercambio D) que ocurra durante el plazo de vigencia de este Convenio de Servicio de Intercambio E, cualquiera de las Partes contratantes puede interrumpir o restringir el suministro o recepción del Bloque de Energía mediante aviso verbal a la otra Parte contratante. Las Partes contratantes están de acuerdo en que EPE cortará o interrumpirá primero la Energía Económica, después el Bloque de Energía y por último, de ser necesario, la Capacidad Firme programada por CFE, conforme al convenio de servicio de intercambio que corresponda.

4.4 Los puntos de entrega serán los puntos de las interconexiones Ascárate-Rivereña y/o Diablo-Insurgentes, con el sistema CFE-Juárez u otros puntos que sean mutuamente convenidos.

**SECCION 5 - BASES PARA LA COMPENSACION**

5.1 EPE suministrará a CFE y ésta pagará a EPE el Bloque de Energía en dólares de los Estados Unidos de América durante el plazo de vigencia de este Convenio de Servicio de Intercambio E, como se pasa a señalar:

5.1.2 Cargo por Bloque de Energía: El cargo por Bloque de Energía Asociada se calculará a razón de $35.00 Dólares de los Estados Unidos de América, por megawatt hora que se suministre en el Bloque de Energía conforme a este Convenio de Servicio de Intercambio.

5.2 Dentro de los días (10) días de calendario siguientes al final de cada mes y por cada mes durante la vigencia de este Convenio de Servicio de Intercambio E, EPE facturará a CFE y ésta pagará a EPE por Bloque de Energía, precisamente en dólares, moneda legal de los Estados Unidos de América y en el banco en los Estados Unidos de América que le indique EPE a CFE, y dentro de los 21 (veintiún) días de calendario a la recepción de la factura.
SECCION 6 - ESTANDARES GENERALES

6.1 En el caso de que este Convenio de Servicio de Intercambio E se termine, las obligaciones de CFE respecto a compensación no pagada a EPE subsistirán hasta que tal compensación haya sido totalmente pagada.

6.2 El Convenio Básico celebrado entre las partes y salvo por las modificaciones a tal convenio que se estipulen en este Convenio de Servicio de Intercambio E, continuarán en vigor en sus términos originales.

6.3 En caso de cualquier discrepancia entre lo estipulado en el Convenio Básico y lo estipulado en este convenio, prevalecerán las disposiciones de este Convenio de Servicio de Intercambio E, como se señala en la Sección 7.1 del Convenio Básico.

En testimonio de lo cual las partes contratantes firman este Convenio en español y en inglés el día de julio de 1995.

EL PASO ELECTRIC COMPANY

/s/[ILLEGIBLE]

John C. Horne
Vicepresident

COMISION FEDERAL DE ELECTRICIDAD

/s/[ILLEGIBLE]

Ing. Enrique Villanueva Landeros
Subdirector de Transmisión, Transformación y Control

/s/[ILLEGIBLE]

Ing. Raymundo Campos Milán
Coordinador del CENACE
TRUST AGREEMENT

BETWEEN

EL PASO ELECTRIC COMPANY

Trustor

AND

TEXAS COMMERCE BANK NATIONAL ASSOCIATION

Trustee

RIO GRANDE RESOURCES TRUST II

Dated as of February 12, 1996
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TRUST AGREEMENT

Rio Grande Resources Trust II

THIS TRUST AGREEMENT, dated as of February 12, 1996, is between EL PASO ELECTRIC COMPANY, a Texas corporation, as trustor (the "Trustor"), and TEXAS COMMERCE BANK NATIONAL ASSOCIATION, as trustee (the "Trustee").

WITNESSETH:

RECITALS

A. Trustor desires to create a trust with a situs in the State of Texas, for the initial purpose of enabling the Trustee to acquire from Trustor, certain rights to Nuclear Fuel that is intended to be utilized in the reactor core of an electric generating plant and certain rights under contracts into which Trustor has entered with certain others engaged in the Nuclear Fuel Cycle, and for the purpose of benefiting Beneficiary, as herein provided.

B. Trustor may desire to request the Trustee to enter into other transactions or acquire other assets, subject to the terms and conditions and as provided herein.
C. The Trustee is willing to accept the duties and obligations imposed hereby.

D. Trustor has paid to the Trustee the sum of $50 to be held as part of the Trust Estate, receipt of which is hereby acknowledged by the Trustee.

NOW, THEREFORE, the parties hereby agree as follows:

SECTION 1. Definitions.

For purposes of this Trust Agreement, the capitalized terms used herein and not heretofore or otherwise herein defined shall have the meanings set forth in Schedule A hereto.

SECTION 2. Authorization and Direction to Accept and/or Execute Documents.

Trustor hereby authorizes and directs:

(a) the Trustee to accept, execute and deliver the Purchase Contract and any modification thereof or supplement thereto and to perform all of the obligations and duties and to exercise all the rights of the Trustee thereunder;

(b) the Trustee to accept, execute and deliver the Assignment Agreements and any agreements similar thereto which
are entered into in accordance with the Purchase Contract and to perform the obligations and duties, if any, and to exercise all the rights, of the Trustee thereunder;

(c) the Trustee to accept, execute and deliver the Loan Documents and to perform all of the obligations and duties, and to exercise all the rights of the Trustee thereunder and to execute and file or record, or both, such financing statements, continuation statements with respect to financing statements and such other documents as are required to maintain the interests created under the Loan Documents;

(d) the Trustee to borrow such amounts and upon such terms and conditions, and to issue such promissory notes, obligations or evidences of indebtedness as shall be requested of the Trustee by the Trustor as provided herein;

(e) the Trustee to accept, execute, deliver and perform the obligations of the Trustee under all other instruments, documents and agreements presented to it by the Trustor, provided that such instruments, documents and agreements are reasonably satisfactory to Trustee and to its counsel, and upon the written instructions of the Trustor and only such instructions, to do all such additional things and to take all such further action as may be necessary, appropriate or convenient to consummate the transactions contemplated herein and to perform its duties and obligations as the Trustee of this
Trust, as contemplated hereby or by the documents referred to herein, provided that such doing, taking and performing shall be reasonably satisfactory to the Trustee and to its counsel; and

(f) the Trustee to execute and deliver such other agreements to accept the assignment of such other agreements or rights, and to acquire such properties and enter into such transactions, as Trustor may lawfully request by Supplemental Instructions in substantially the form set forth in Schedule B hereto, provided that such agreements, assignments, acquisitions and transactions are reasonably satisfactory to the Trustee and to its counsel and are not inconsistent with or in contravention of any agreement to which the Trustee is party; and to perform all of the obligations and duties, and exercise all of the rights, of the Trustee under any such agreements, assignments, rights or transactions.

The documents and instruments referred to in subsections (a) through (c) shall be executed in substantially the form delivered to the Trustee by Trustor on or after the date hereof, with such changes as shall be approved by the Trustor.

SECTION 3. Declaration of Trust.

Except as otherwise specifically provided herein, the Trustee hereby declares that it shall, and hereby undertakes and agrees to, receive, accept and hold the Trust Estate and any and

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all payments (other than payments to the Trustee of Trustee's Expenses or in connection with any indemnification of the Trustee), proceeds, rights, properties and privileges received under this Trust Agreement or any other document referred to or contemplated herein, in and subject to the Trust for the use and benefit of the Beneficiary, subject, as the case may be, to the terms and conditions of the Purchase Contract, the Loan Documents, the Assignment Agreements, the rights of the Trustor and others thereunder, the rights of others pursuant to other agreements entered into or assignments or rights accepted pursuant to Section 2 hereof, and the rights of the holders of promissory notes, other obligations or evidences of indebtedness issued pursuant to Section 2(d) hereof.

SECTION 4. Limitations on Authority of the Trustee with Respect to the Trust Estate.

Except to perform the duties set forth in the instruments, documents, agreements and Supplemental Instructions referred to in Section 2 hereof and to exercise and carry out or cause to be exercised and carried out the rights, duties and obligations of the Trustee thereunder and under Section 5 of this Trust Agreement, the Trustee shall have no power, right, duty or authority to manage, control, use, possess, sell, lease, dispose of or in any manner deal in the Trust Estate. Nothing contained in this Section 4, however, shall be deemed to limit or restrict the power or authority of the Trustee to enforce the terms and
provisions of the Purchase Contract, the Loan Documents, the Assignment Agreements and other agreements or assignments or rights pursuant to Section 2 hereof, to hold estates, to collect and receive sums payable thereunder and otherwise to exercise their rights, powers and privileges as provided for by said contracts and agreements to the fullest extent permitted by applicable law.

SECTION 5. Trustee's Agreements.

The Trustee hereby agrees:

(a) to accept, execute and deliver the documents or assignment of documents referred to in Section 2 hereof and, subject to the conditions contained therein and to availability of funds or credit pursuant to the Credit Agreement or other sources, and subject to compliance with all applicable laws and regulations, to perform all of the obligations and duties, and, subject to the provisions thereof and of this Trust Agreement, to exercise all the rights of the Trustee thereunder;

(b) to receive and to apply and distribute all Nuclear Fuel Proceeds: first, to the payment of any the Trustee's Expenses not theretofore paid pursuant to Section 5(c) hereof; second, at the election of the Trustor, to the payment or refinancing of the obligations then due and payable under the Loan Documents in the order set forth therein; third, to provide
the Trustee with funds necessary to pay, or to reimburse El Paso for the payment of, such amounts as shall become due and payable, or as shall have been paid by El Paso, with respect to Nuclear Fuel under the Assigned Agreements and pursuant to the Purchase Contract; fourth, to the prepayment of the amounts advanced to or borrowed by the Trustee pursuant to the Credit Agreement, to the extent such amounts may be prepaid with such proceeds and the Trustor instructs the Trustee to elect to make such prepayment; fifth, to hold and invest in accordance with Section 12.6 hereof funds not then applied or required to be applied in accordance with the foregoing clauses first through fourth until such funds are required to be applied; and sixth, upon termination of this Trust Agreement and payment in full of all amounts due the Trustee hereunder and upon payment by or for the account of the Trustee of all of its obligations pursuant to the Purchase Contract, Assignment Agreements, Loan Documents and other agreements, borrowings and arrangements entered into pursuant thereto or hereto (including any instruments, documents and agreements entered into pursuant to Section 2(d) hereof), to the payment of the entire balance to the Beneficiary or its designee;

(c) to receive and to apply and distribute all Basic Heat Supply Charges, Additional Sales Charges, Fuel Swap Proceeds, and payments received by the Trustee pursuant to Sections 3(a) and 3(b) of the Purchase Contract: first, to the payment of the Trustee's Expenses not theretofore paid; second,
to the payment of the obligations then due and payable under the Loan Documents in the order set forth therein; third, to the prepayment of the amounts advanced to or borrowed by the Trustee pursuant to the Credit Agreement, to the extent such amounts may be prepaid with such proceeds and the Trustor instructs the Trustee to make such prepayment; fourth, to hold and invest in accordance with Section 12.6 hereof funds not then applied or required to be applied in accordance with the foregoing clauses first through third until such funds are required to be applied; and fifth, upon termination of this Trust Agreement and payment in full of all amounts due the Trustee hereunder and upon payment by or for the account of the Trustee of all of its obligations pursuant to the Purchase Contract, Assignment Agreements, Loan Documents, and other agreements, borrowings and arrangements entered into pursuant thereto or hereto (including any instruments, documents and agreements entered into pursuant to Section 2 (d) hereof), to the payment of the entire balance to the Beneficiary or its designee; provided, that in the event that the Trustee has not received sufficient Basic Heat Supply Charges and/or Additional Sales Charges to pay in full the amounts to be paid in accordance with the foregoing clauses first through third, the Trustee shall provide five days prior written notice to Trustor of such deficiency, and the Trustor may, to compensate for such deficiency, elect to (i) provide additional funds from the Trustor to the Trustee, or (ii) instruct the Trustee to borrow additional amounts pursuant to the Credit Agreement.
(d) in its discretion and in any event (subject to the provisions of Section 6 hereof and of the agreements, documents or instruments referred to herein or contemplated hereby) upon the written request of the Trustor or upon the written request of the Credit Bank given pursuant to the Loan Documents, to exercise any and all rights or powers of the Trustee under the Purchase Contract, Assignment Agreements, the Loan Documents or any other contract, agreement, document, instrument, arrangement, right or estate referred to therein or herein (including any instrument, document or agreement entered into pursuant to Section 2(d) hereof);

(e) to receive any and all other funds payable to the Trustee pursuant to any agreement, document or instrument to which the Trustee is party pursuant hereto or any other document referred to herein or in any way relating to the transactions contemplated hereby and to distribute such funds in accordance with such agreement, instrument or document or the written instructions of the Trustor;

(f) to receive funds or proceeds from agreements, documents, instruments, arrangements, assignments or rights, or pursuant to transactions, entered into or obtained pursuant to Supplemental Instructions as contemplated by Section 2(f) hereof and to apply such proceeds as set forth in such Supplemental Instructions;
(g) to execute and file or record, or both, such deeds, conveyances, options, licenses, leases, other instruments evidencing or memorializing rights or estates, memoranda of the foregoing, mortgages, security agreements, financing statements, continuation statements with respect to financing statements and other such documents as are required to maintain the interests created hereunder or contemplated hereby in the Trust Estate, as may be specified from time to time in written instructions of the Trustor; and

(h) to furnish to Trustor promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to the Trustee under the agreements or arrangements referred to herein to the extent that the same shall not have theretofore been furnished to the Trustor.

Notwithstanding anything to the contrary contained in this Section 5 or elsewhere in this Trust Agreement or in any of the documents referred to herein, it is understood and agreed that the Trustee shall not be obligated (i) to make any payment or distribution hereunder until the funds for such payment or distribution have been received by the Trustee in immediately available funds or (ii) to receive physical delivery of or physically to possess any Nuclear Fuel.
SECTION 6. Concerning the Trustee.

6.1 Trustee's Liability.

The Trustee assumes no liability for anything other than its own gross negligence or willful misconduct, or the breach of any warranty, representation or covenant made by the Trustee specifically in its own individual capacity pursuant to, and other than in reliance on legal opinions as set forth in, the Purchase Contract, Assignment Agreements, Loan Documents or other agreements, documents, instruments or arrangements entered into pursuant hereto including, without limitation, any agreements, documents, instruments or arrangements entered into pursuant to Section 2 hereof. In accepting the trusts hereby created, the Trustee acts solely as trustee hereunder and not in its individual capacity, and all persons, including but not limited to the Trustor, the Beneficiary and others who are or may be parties to agreements or arrangements with the Trustee, having any claim against the Trustee by reason of the transactions contemplated hereby shall look only to the Trust Estate for payment or satisfaction thereof (except to the extent such claim arises from the Trustee's gross negligence or willful misconduct and except as otherwise expressly provided therein), and each agreement entered into by the Trustee pursuant hereto shall contain a provision to such effect.
6.2 Reliance on Writing; Limitation of Duties.

Subject to the provisions of Section 6.1 hereof, the Trustee shall not be liable to the Trustor, the Beneficiary, the Credit Bank, parties to agreements or arrangements with the Trustee or any one else, in acting upon any writing, including but not limited to, instructions from the Trustor, the Beneficiary, the Credit Bank or such other parties and certificates of any officer or representative thereof, and in assuming the truth and correctness of any statement, opinion or assertion of any nature therein, provided that any such writing is believed by the Trustee to be genuine and to have been sent or communicated by or on behalf of a party or parties to this Trust Agreement, the Purchase Contract, the Assignment Agreements, the Loan Documents or any other agreement or arrangement entered into pursuant hereto (including any agreement or arrangement entered into pursuant to Section 2 hereof).

6.3 Security or Indemnity to the Trustee.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement or to take any action required of it hereunder or under any of the agreements, documents, instruments or arrangements referred to herein unless the Trustee shall first have received such reasonable security or indemnity against costs, expenses, claims, demands and liabilities which legal counsel for the Trustee shall
have advised might be incurred by it in exercising such rights or powers or in taking such action. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document of the terms or provisions of any of the foregoing, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

6.4 Use of Agents.

The Trustee may exercise its powers and perform its duties by or through such attorneys, agents and servants as it shall appoint, and the Trustee and such attorneys, agents and servants shall be entitled to the advice of counsel (who may, in cases deemed by the Trustee in its reasonable discretion to be appropriate, be counsel for the Trustor or for a party to the Purchase Contract, Assignment Agreements, Loan Documents or any other agreement or arrangement entered into pursuant hereto (including any agreement or arrangement entered into pursuant to Section 2 hereof)). In furtherance of the foregoing, the Trustee may authorize one or more persons to execute documents, agreements, instruments, notices, certificates and authorization on its behalf and in its names in connection with the exercise of its powers and performance of its duties hereunder.
6.5 No Duties of Maintenance, Insurance, Etc.

Unless otherwise expressly agreed by the Trustee in writing, THE TRUSTEE SHALL NOT BE LIABLE TO ANYONE FOR ANY DEFECT IN, OR FOR THE SAFETY, CONDITION, existential, Quality, Quantity, location, repair, Production, storage, transportation, packaging, processing, supply, merchantability, fitness for use, conformity to specification, insurance, or maintenance of, any Assets at any time constituting part of the Trust estate, or for any defect in title thereto or ownership thereof, or for any fact which would impair or affect the rightfulness or effectiveness of the negotiation or transfer of title to any such Asset or any portion thereof or any document of title covering or relating in any way thereto, and nothing contained herein or in any of the documents referred to herein shall be construed as a representation or warranty on the part of the Trustee in respect of the title thereto or ownership thereof or the sufficiency, validity or effect of this Trust Agreement or any of the agreements or arrangements referred to herein.

6.6 [Reserved].

SECTION 7. [Reserved].
SECTION 8. Removal and Resignation of the Trustee and its Successors.

8.1 Removal and Resignation of the Trustee.

The Trustee may resign at any time, with or without cause, by giving at least 30 Business Days' prior written notice to Trustor, such resignation to be effective upon the date specified in said notice, or if no date is specified, on the 30th Business Day following the date said notice is given; provided, that said resignation shall not be deemed effective until the acceptance of appointment by the successor trustee and full compliance by the Trustee and said successor trustee with all laws respecting the transfer of title to the assets and properties of the Trust Estate, including without limitation laws requiring governmental approvals or exemptions and recordation of documents. Should the person or entity then serving as the Trustee hereunder (a) cease its activities or doing business as a going concern other than pursuant to a transaction described in Section 8.2 hereof, or (b) become incapable of acting as such, or (c) make an assignment for the benefit of creditors, or (d) admit in writing its inability to pay its debts as they become due, or (e) file a voluntary petition in bankruptcy, or (f) be adjudicated a bankrupt or insolvent, or (g) file a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation, or (h)
file an answer admitting the material allegations of a petition filed against it in any such proceeding, or (i) consent to or acquiesce in the appointment of a trustee, receiver or liquidator of it or all or any substantial part of its assets or properties, or (j) take any action looking to its dissolution or liquidation or (k) be subject to any proceeding against it seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, which proceeding is not dismissed within 60 days after commencement thereof, or (l) be subject to the appointment without its consent or acquiescence of any trustee, receiver or liquidator of it or of all or any substantial part of its assets or properties, which appointment is not vacated within 60 days after the date thereof, then such person or entity shall be deemed to have resigned as the Trustee hereunder effective immediately prior to the occurrence of any matter specified in items (a) through (j) above, or, in the event of the occurrence of any of the matters specified in items (k) or (l) above, immediately prior to the expiration of the 60 day period specified therein. Upon any resignation of the Trustee, the Trustor shall appoint a successor.

In addition to the foregoing, the Trustor may at any time, on at least ten Business Days' prior written notice, remove the Trustee for good cause and appoint a successor trustee or trustees.
To be eligible for appointment as a successor trustee hereunder, such successor must be a bank or trust company having a combined capital and surplus of at least $100,000,000, if there be such an institution willing, able and legally qualified to perform the duties of the Trustee hereunder upon reasonable or customary terms.

8.2 Merger or Consolidation of the Trustee.

Any corporation or entity into which the Trustee may be merged or converted or with which it may be consolidated, resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or entity succeeding to all or substantially all of the assets or the corporate trust business of the Trustee, shall be the successor trustee under this Trust Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto.

8.3 Estate and Rights of Successor Trustee.

Each successor trustee succeeding to all or substantially all of the assets of the corporate trust business of the Trustee, whether by merger, conversion, consolidation or sale or otherwise shall succeed, upon the trusts herein expressed, to all of the estate, properties, rights, powers, duties, obligations and trusts of such predecessor Trustee.
without the execution or filing of any paper or any further act on the part of any of the parties hereto, and such predecessor Trustee does hereby bargain, convey, transfer and assign to such successor trustee upon the trusts herein expressed, all of the estate, properties, rights, powers, duties, obligations and trusts thereof. Such succession shall be evidenced by an instrument or instruments executed by the predecessor Trustee and successor trustee in due form and in the required number of counterparts for recording or filing, as appropriate, but such execution, delivery, recording and/or filing of such instrument or instruments shall not be a prerequisite to the effectiveness of such succession. Upon such succession, the predecessor Trustee shall deliver and pay over to such successor trustee any property or moneys then held by such predecessor Trustee upon the trusts herein expressed. Any successor trustee shall execute and deliver to the predecessor Trustee and the Trustor an instrument or instruments (in due form and in the required number of counterparts for recording or filing as appropriate) accepting such appointment and assuming the obligations of the predecessor Trustee under the contracts and agreements executed and delivered pursuant hereto but the execution, delivery, recording and/or filing of such instrument or instruments shall not be a prerequisite to the effectiveness of such acceptance and assumption which shall become effective upon the succession of such successor trustee to the estate, properties, rights, powers, duties, obligations and trusts of the predecessor Trustee as herein provided. Upon such succession, the successor trustee shall give
to the predecessor Trustee a full written release of any and all further duties and obligations hereunder, and said successor trustee shall execute an indemnity agreement under which the predecessor Trustee shall be indemnified against any and all costs, expenses, claims, demands and liabilities which may arise or be incurred in connection with any and all further duties and obligations hereunder after the effective date of such succession.

SECTION 9. Transfer of Trustor's and Beneficiary's Interests.

Trustor and Beneficiary each agree not to transfer or assign their respective interests hereunder.

SECTION 10. Duration and Termination of and Amendment to Trust.

10.1 Duration.

The Trust created and provided for hereby shall continue until terminated as herein provided.

10.2 Termination.

The Trust shall cease and be terminated in any one of the following events, whichever shall first occur:
(a) If Trustor shall by notice in writing to the Trustee revoke and terminate the Trust, on and as of the date stated in such notice, then on the date specified in such notice the Trust created and provided for hereby shall cease and terminate, provided, that no such termination shall be effective unless and until the payment in full of all the obligations of the Trustee under the Credit Agreement, including without limitation (i) the principal and accrued interest on all Loans (as defined in the Credit Agreement) to the Trustee thereunder, (ii) all reimbursement obligations of the Trustee under any Letter of Credit (as defined in the Credit Agreement) issued pursuant thereto, (iii) the L/C Exposure (as defined in the Credit Agreement) has been reduced to zero (or cash collateral equal to the L/C Exposure has been deposited with the Collateral Agent (as defined in the Credit Agreement)), (iv) all fees (including without limitation any accrued commitment fees, agent fees, participation fees, and issuing bank fees) and (v) all out-of-pocket expenses incurred by the Credit Bank, including without limitation the reasonable fees, disbursements and charges of legal counsel, provided further, that El Paso and the Trustee agree and acknowledge that effective upon and after the Trust Termination Date (as defined in the Credit Agreement), the Trustee shall not be entitled to request any Borrowing (as defined in the Credit Agreement) or issuance of any Letter of Credit (as defined in the Credit Agreement); or
(b) If the period consisting of the life of the survivor of the members of the Board of Directors of the Trustee in office, and of their issue living, on the effective date of this Trust Agreement, plus 21 years shall expire; or

(c) The bankruptcy or dissolution of the Trustor or the Beneficiary.

10.3 Distribution of Trust Estate Upon Termination.

Upon any termination of this Trust pursuant to the provisions of Section 10.2 hereof, the Trustee shall transfer title to the Trust Estate to the Beneficiary or its designee, and, upon making such transfer and accounting for all funds which have come into its hands, the Trustee shall be discharged and free of any further liability hereunder, except such liability, not payable exclusively out of the assets of the Trust Estate, as may be shown by such accounting then to exist.

No later than the effective date of termination of this Trust, (i) the Trustee shall execute and deliver to the Beneficiary or its designee a bill of sale (substantially in the form of Schedule C to the Purchase Contract and in the required number of counterparts for recording) and other written instrument or instruments in form and content reasonably requested by the Beneficiary or its designee prior to such termination evidencing the transfer of title to the Trust Estate
to the Beneficiary or its designee, and (i) the Beneficiary or its designee shall execute and deliver to the Trustee a written instrument or instruments, in the required number of counterparts for recording and in form and content reasonably requested by the Trustee, evidencing the assumption by it of the Trustee's duties and obligations under this Trust Agreement, and the other agreements, documents and instruments referred to herein. Upon such discharge, the Beneficiary or its designee shall assume all of the Trustee's duties and obligations, and shall succeed to all of the Trustee's rights, powers and benefits under this Trust Agreement and all the documents and arrangements referred to herein.

10.4 Amendments to this Trust Agreement.

This Trust Agreement may, from time to time and at any time, be amended or supplemented by an instrument or instruments in writing executed by the Trustor and by the Trustee, provided, that no such amendment or supplement shall extend the maximum term of this Trust as provided for by Section 10.2 hereof.

SECTION 11. Compensation.

The Trustee shall receive as compensation for its services hereunder such fees as may heretofore and from time to time hereafter be agreed upon between Trustor and the Trustee.
SECTION 12. Miscellaneous.

12.1 Notices. Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(a) if to Trustor or the Beneficiary, to El Paso Electric Company, 303 North Oregon Street, El Paso, Texas 79901, Attention of: General Counsel (Telecopy No. (915) 543-5710)); and

(b) if to the Trustee, to Texas Commerce Bank National Association, Texas Commerce Bank Building, 201 East Main, El Paso, Texas 79901, Attention of Sarah Wilson (Telecopy No. (915) 546-6701).

All notices and other communications given to any party hereto in accordance with the provisions of this Trust Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by telecopy or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section or in accordance with the latest unrevoked direction from such party given in accordance with this Section.
12.2 Situs of Trust; Applicable Law.

The Trust has been accepted by the Trustee and will be located and administered in the State of Texas, and the validity and construction of, and all rights under this Trust Agreement shall be governed by the laws of the State of Texas. If any provisions of this Trust Agreement shall be invalid or unenforceable, the remaining provisions hereof shall continue to be fully effective, provided that such remaining provisions do not increase the obligations or liabilities of the Trustee.

12.3 Identification of Trust.

The Trust may for convenience be referred to as the Rio Grande Resources Trust II.

12.4 Counterparts.

This instrument may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute and be one and the same instrument.
12.5 Benefit of Parties, Successors and Assigns.

This instrument shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12.6 Status of Moneys Received.

All moneys received by the Trustee under or pursuant to any provision of this Trust Agreement (other than payments to the Trustee of Trustee's Expenses or in connection with any indemnification of the Trustee) shall constitute trust funds for the purpose for which they were paid or are held, but need not be segregated in any manner from any other moneys and shall be deposited by the Trustee under such conditions as may be prescribed or permitted by law for trust funds.

In addition, the balance at any time and from time to time of moneys received by the Trustee in excess of amounts sufficient to satisfy the amounts then owing and subject to distribution as provided in Section 5 hereof or in any Supplemental Instruction shall, to the extent practicable, be invested by the Trustee in any of the following, as directed from time to time by Trustor:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally
guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from Standard & Poor's Rating Group or from Moody's Investor Services, Inc.;

(c) money market funds which are invested solely in the types of investments described in subparagraphs (a) and (b) above, including but not limited to funds for which the Trustee, its affiliates, or subsidiaries provide investment, advisory, or other management services;

(d) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any state thereof which has
a combined capital and surplus and undivided profits of not less than $250,000,000; and

(e) other investment instruments approved in writing by the Credit Bank and offered by financial institutions which have a combined capital and surplus and undivided profits of not less than $250,000,000.

provided, however, that the maturities of such investments shall be such as to permit the Trust to meet its payment obligations as herein provided.

12.7 Conformity with ANPP Participation Agreement.

In connection with the provisions of Section 15.4 of the ANPP Participation Agreement, the Trustee (i) hereby waives all right to partitionment of any discrete portion or portions of Nuclear Fuel (as defined in the ANPP Participation Agreement) financed in connection with this Trust Agreement, (ii) understands that it shall not obtain any rights not possessed by the Trustor with respect to the operation or scheduling of any Generating Unit (as defined in the ANPP Participation Agreement) or removal of Nuclear Fuel therefrom and (iii) understands that it will not be a "Participant" (as defined in the ANPP Participation Agreement) unless and until it complies with certain requirements contained in the ANPP Participation Agreement.
Additionally, this Trust Agreement does not give the Trustee any different rights or obligations under the ANPP Participation Agreement than would be possessed or imposed upon the Trustor in the absence of the Trust Agreement.

12.8 Trust Agreement for Benefit of the Trustee, the Trustor and Beneficiary Only.

Nothing in this Trust Agreement, whether express or implied, shall be construed to give any person other than the Trustee, Trustor and Beneficiary any legal or equitable right, remedy or claim under or in respect of this Trust Agreement; but this Trust Agreement shall be held to be for the sole and exclusive benefit of the Trustee, Trustor and Beneficiary.

12.9 Grantor Trust.

The Trust is intended to be treated as a "grantor trust," as described in Internal Revenue Code Sections 671 through 679 and the applicable regulations pertaining thereto, for which the Trustor is treated as grantor and beneficiary. The Trustor, as grantor, acknowledges and agrees that the Trustee may take all such actions as are necessary to achieve such treatment, and the Trustee may file information returns and reports consistent therewith. Trustor, as grantor, acknowledges and agrees that Trustor will be responsible for reporting any income.
generated by the assets in trust or any expenses allocable to the Trust, based on information to be supplied to it by the Trust.

12.10 **Books, Records and Returns**.

The Trustee shall be responsible for the keeping of all customary and appropriate books and records relating to all transactions hereunder. Trustee agrees at the request and expense of Trustor to file an application prepared by Trustor with the Internal Revenue Service for a taxpayer identification number with respect to trust created hereby, and in the absence of such instruction, to use the taxpayer identification number of the Trustor in connection with reports and returns required in connection with the Trust. The Trustee agrees to sign and file a federal fiduciary return, but only if prepared by or on behalf of the Trustor and paid for by the Trustor. Trustee shall keep copies of all returns delivered to it or filed by it.

12.11 **Miscellaneous**.

(a) Section headings herein are for the convenience of the parties only, and shall be given no substantive or interpretative effect whatsoever.

(b) Waiver of the breach of any provision here under shall not be deemed a waiver of any prior or
subsequent breach of the same or any other provision hereunder.

(c) Pursuit of any remedy shall not be deemed the waiver of any other remedy hereunder or at law or equity.

(d) Any provision of this Trust Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating remaining provisions hereof, provided that such remaining provisions do not increase the obligations or liabilities of the Trustee; and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law which renders any provision hereof prohibited or unenforceable in any respect.
IN WITNESS WHEREOF, Trustor and the Trustee have caused this instrument to be duly executed on the day and year first above written.

EL PASO ELECTRIC COMPANY

By /s/ John E Droubay
Name: John E. Droubay
Title: VP & Treasurer
"Trustor"

TEXAS COMMERCE BANK NATIONAL ASSOCIATION

By ______________________________
Name:
Title:
"Trustee"
IN WITNESS WHEREOF, Trustor and the Trustee have caused this instrument to be duly executed on the day and year first above written.

EL PASO ELECTRIC COMPANY

By

"Trustor"

TExAS COMMERCe BANK NATIONAL ASSOCIATION

By /s/ [ILLEGIBLE]

Name:
Title:

"Trustee"
Acquisition Cost. The purchase price paid in order to acquire any portion of the Nuclear Fuel, including any progress payments made thereon, together with costs of milling, conversion, enrichment, fabrication, installation, delivery, containerization, transportation, storage, processing and any other direct costs with respect to acquiring or preparing such portion of the Nuclear Fuel for use in or management thereof through any stage of the Nuclear Fuel Cycle, but excluding therefrom all Capitalized Cost with respect thereto.

Additional Sales Charge. Additional Sales Charges are (i) all amounts that El Paso agrees to pay the Trustee as the result of charges (other than Basic Heat Supply Charges, Acquisition Cost and payments made by El Paso pursuant to Sections 3(a) and 3(b) of the Purchase Contract) incurred by the Trustee in connection with the Nuclear Fuel or a portion thereof (except amounts payable upon termination of the Purchase Contract and amounts payable pursuant to Section 18 of such Contract) and (ii) the Trustee's Expenses.

ANPP Participation Agreement. Arizona Nuclear Power Project Participation Agreement dated August 23, 1973, as amended, among Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California...
Edison Company, Public Service Company of New Mexico, El Paso, Southern California Public Power Authority and Department of Water and Power of the City of Los Angeles. The ANPP Participation Agreement is sometimes referred to as the Palo Verde Nuclear Generating Station Participation Agreement.

Assembly. Any one of the separate fuel assemblies constituting a portion of the Nuclear Fuel.

Assigned Agreements. The agreements and contracts and exhibits and appendices thereto between and among El Paso, or others on behalf of El Paso, and various entities engaged in the Nuclear Fuel Cycle which are the subject of the various Assignment Agreements, including the ANPP Participation Agreement and any additional such agreements entered into after the Closing Date, as such Assigned Agreements may from time to time be supplemented, amended, waived or modified in accordance with the terms thereof.

Assignment Agreements. All of the several Assignment Agreements, as of the date entered into (including those entered into subsequent to the Closing Date) between the Trustee and El Paso, together with the annexed consents thereto assigning certain rights of El Paso to the Trustee.
Basic Heat Supply Charge. The Basic Heat Supply Charge shall be calculated pursuant to the provisions of Section 3(j) of the Purchase Contract.

Basic Heat Supply Payment Date has the meaning set forth in Section 3(j) of the Purchase Contract.


Bill of Sale. A bill of sale in substantially the form of Schedule C to the Purchase Contract, by which title to all or any portion of the Nuclear Fuel is transferred from the Trustee to El Paso.

Business Day. Any day other than Saturday, Sunday or a day when banks are authorized or required by law to close in New York or Texas.

Capitalized Cost. The sum of all legal, printing, reproduction, closing and other normally capitalizable fees, disbursements, and other expenses actually incurred and paid by El Paso or the Trustee in connection with the acquisition of the Nuclear Fuel, including Trustee's Expenses, plus the sum of the Capitalized Daily Financing Charge.
Capitalized Daily Financing Charges. The sum of all Daily Financing Charges accrued pursuant to the Purchase Contract allocable to the Nuclear Fuel or any portion thereof during any stage of its Nuclear Fuel Cycle.

Closing Date. February 12, 1996, or such other date as may hereafter be agreed by the parties hereto.

Credit Agreement. The Credit Agreement dated as of February 12, 1996 among El Paso, the Trustee, the lenders from time to time party thereto and Credit Bank as said Credit Agreement may from time to time be supplemented, amended, waived or modified.

Credit Bank. Chemical Bank, a New York banking corporation, in its capacity as issuing bank, administrative agent and collateral agent under the Credit Agreement, and its successors or assigns under the Credit Agreement.

Daily Financing Charge. For any calendar day (whether or not a Business Day) during the term of the Purchase Contract the sum of: an accrual for each such day of all interest expenses, commitment, and other fees, on or with respect to any loans obtained by the Trustee pursuant to the Credit Agreement which are outstanding at the close of business on such day, minus or plus, respectively, any investment income or loss credited to the account established pursuant to Section 12.6 of the Trust
Agreement; provided that Daily Financing Charge shall not include an item which would constitute an element of Acquisition Cost.

**Disclosure Schedule.** Disclosure Schedule means the Disclosure Schedule attached as Schedule E to the Purchase Contract.

**DOE.** The United States Department of Energy or any body (governmental or private) succeeding to any of the functions of such agency as constituted at the date of the Purchase Contract.

**Effective Date.** "Effective Date" has the meaning set forth in Section 1.52 of the Fourth Amended Plan of Reorganization of El Paso, dated November 7, 1995, as confirmed by the United States Bankruptcy Court, Western District of Texas, Austin Division on January 9, 1996.

**El Paso.** El Paso Electric Company, a Texas corporation and, prior to the Effective Date, a debtor and debtor in possession under Chapter 11 of the United States Bankruptcy Code.

**Event of Default.** The term as used in Section 19 of the Purchase Contract or in Article VII of the Credit Agreement, as the case may be.
Fee Agreement. Fee Agreement, dated as of January __, 1996, between the Trustee and Trustor with respect to those fees and expenses incurred by the Trustee pursuant to the Trust Agreement and the transactions contemplated thereby which are payable or reimbursable by the Trustor.

Fuel Management. The design of, contracting for, fixing the price and terms of acquisition of, management, movement, removal, disengagement and other activities in connection with the utilization of the Nuclear Fuel, and sometimes referred to as "management," all of which shall be conducted according to the sole discretion of El Paso.

Fuel Schedule. An instrument in substantially the form of Schedule B to the Purchase Contract and made a part thereof.

Fuel Swap. Any swap, exchange or similar transaction described in the proviso to the definition of Nuclear Fuel.

Fuel Swap Proceeds. Means any amount received by El Paso or the Trustee, as the case may be, pursuant to a Fuel Swap.

GAAP. Means generally accepted accounting principles in use at the Closing Date, or, at the option of El Paso, other generally accepted accounting principles which are in use at the time of their determination; in determining generally accepted accounting principles, El Paso may, but shall not be required to,
conform to any accounting order, rule or regulation of any regulatory authority having jurisdiction over the electric generating, transmission and distribution operations of El Paso.

**Heat.** Any and all of the heat energy produced, emitted or generated by the Nuclear Fuel while engaged in a reactor core of a Unit in accordance with the provisions of the Purchase Contract.

**Heat Production.** The stage of the Nuclear Fuel Cycle in which the Nuclear Fuel is engaged in a reactor core and is being consumed, pursuant to the process of nuclear fission, in the production of steam for the generation of electric energy.

**Impositions.** All license, documentation and registration fees and all taxes, except taxes upon the net income of the Trustee in its individual capacity, but including without further limitation gross income, gross receipts, interest equalization, sales, use, occupation, franchise, personal property, stamp and other taxes, levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties or interest thereon imposed by any taxing authority or governmental subdivision upon or in respect of, or measured by, any payments under the Purchase Contract from El Paso to the Trustee or gross receipts from the sale of Heat or Nuclear Fuel or in respect of any property subject to the Purchase Contract or any transaction pursuant to the Purchase Contract or any right or

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interest held by virtue of the Purchase Contract or Beneficiary's interest therein.

**Insurance Requirements.** All terms of any insurance policy covering or applicable to the Nuclear Fuel or any portion thereof, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the DOE, the National Board of Fire Underwriters, or any other body exercising similar functions with respect to electric utility properties or any other body hereafter constituted exercising similar functions, which are applicable to or affecting the Plant, the Nuclear Fuel or any portion thereof or any operation, use or condition of the Plant, the Nuclear Fuel or any portion thereof.

**Investment.** With respect to any portion of the Nuclear Fuel, the sum of (i) the Acquisition Cost for such portion, plus (ii) the Capitalized Cost for such portion, or such lesser part of items (i) and (ii) paid by the Trustee pursuant to the Purchase Contract, as such sum shall be set forth from time to time with respect to such portion in the appropriate Schedule thereto, as amended from time to time by a Fuel Schedule in accordance with the Purchase Contract.

**Legal Requirements.** All material requirements having the force of law applicable to the Plant, a Unit, the Nuclear Fuel, or any transaction pursuant to the Purchase Contract,
compliance with which is at the time presently required and feasible.

**Lenders.** The "Lenders" as defined in the Credit Agreement.

**Lien.** Means with respect to any asset, any mortgage, pledge, lien, encumbrance, charge or adverse claim affecting title or resulting in a charge against real or personal property, or a security interest of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction).

**Lien of the Security Agreement.** Means the Lien created by the Security Agreement.

**Loan Documents.** Means the Credit Agreement and the Security Agreement.

**Nuclear Fuel.** The interest of El Paso or the Trustee in all unmined uranium ore in place, unmilled uranium ore, converted, and/or enriched uranium ore and byproducts therefrom,
fabricated Nuclear Fuel, including rods, assemblies, batches, regions and cores whether or not in place in a nuclear reactor and all other uranium products (excluding Spent Fuel) and services rendered or to be rendered in connection therewith that are the subject of certain Assignment Agreements; provided, that the definition of Nuclear Fuel shall not include any Nuclear Fuel which is loaned or otherwise provided by El Paso to third parties pursuant to swap, exchange or similar agreements which are customary in the industry, but will include Nuclear Fuel which is loaned or otherwise provided by third parties to El Paso pursuant to such agreements.

**Nuclear Fuel Cycle.** The various stages in the process by which the component parts of the Nuclear Fuel are mined, milled, converted, enriched, fabricated into rods, assemblies, batches, regions and cores utilizable for Heat Production, loaded into a reactor core and utilized, together with all incidental processes with respect to the Nuclear Fuel at any stage of the Nuclear Fuel Cycle.

**Nuclear Fuel Proceeds.** All proceeds from one or more of (i) borrowings under the Credit Agreement, or (ii) issuances of notes or obligations referred to in Section 2(d) of the Trust Agreement to the extent the proceeds therefrom are used by the Trustee in connection with the performance of the Purchase Contract or other agreements or arrangements entered into by the Trustee in connection therewith or (iii) investments (including
both principal and interest) pursuant to Section 12.6 of the Trust Agreement to the extent the principal of such investments represents proceeds from any of the aforesaid sources.

**Net Investment.** With respect to any portion of the Nuclear Fuel, the excess of the amount of the Investment in such portion over the aggregate amount of the Basic Heat Supply Charge, if any, theretofore paid by El Paso to the Trustee in respect of such portion. In addition, Net Investment shall be reduced by the amount of any payment made by El Paso to the Trustee for application pursuant to Section 3(a) (i) of the Purchase Contract.

**Palo Verde Nuclear Generating Station.** Means that certain 3,810 megawatt nuclear generating facility consisting of three generating units located near Phoenix, Arizona, in which El Paso, as owner or lessee, had a [15.8%] undivided interest as of the Closing Date. Palo Verde Nuclear Generating Station was previously known as the Arizona Nuclear Power Project.

**Permitted Contests.** Contests permitted by Section 14 of the Purchase Contract.

**Permitted Encumbrances.** Means as of any time any of the following:

(a) the Lien of the Security Agreement;
(b) Liens for taxes or assessments by governmental bodies not yet due or the payment of which is being contested in good faith by El Paso and for which El Paso shall have set aside on its books adequate reserves to the extent required by GAAP;

(c) Liens incidental to the mining, milling, fabrication, enrichment, conversion or transportation of Nuclear Fuel which are not delinquent or, whether or not delinquent, are being contested in good faith by El Paso and for which El Paso shall have set aside on its books adequate reserves for the payment thereof to the extent required by GAAP;

(d) irregularities in or defects of title relating to any Nuclear Fuel which do not materially impair the use of such Nuclear Fuel for the purposes for which such Nuclear Fuel is held by El Paso or the Trustee;

(e) Liens securing indebtedness incurred by a Person, other than El Paso, which indebtedness has been neither assumed nor guaranteed by El Paso nor on which El Paso customarily pays interest, existing on Nuclear Fuel which El Paso or the Trustee owns jointly or in common with such Person or such Person and others, if there is an effective bar against partition of such property which would preclude the sale of such property by such other Person or the holder of such Lien without the consent of El Paso;
(f) any attachment, judgment and other similar Lien with respect to Nuclear Fuel arising in connection with court proceedings (i) in an amount not in excess of the greater of $5,000,000, or (ii) the execution of which has been stayed or which has been appealed and secured, if necessary, by an appeal bond;

(g) the burdens of any law or governmental rule, regulations, order or permit requiring El Paso and the Trustee to maintain certain facilities or to perform certain acts as a condition of their acquisition or use of Nuclear Fuel;

(h) any duties or obligations of El Paso and the Trustee to any federal, state or local or other governmental authority with respect to any franchise, grant, license, permit or contract which affects any Nuclear Fuel;

(i) Liens in favor of a government or governmental entity securing (i) payments pursuant to a statute (other than taxes and assessments), or (ii) indebtedness incurred to finance all or part of the purchase price or cost of mining, milling fabrication, conversion, enrichment or transportation of Nuclear Fuel;

(j) any Lien of the Trustee contemplated by the Purchase Contract or the Trust Agreement; and
(k) any other Liens of whatever nature or kind which, in the reasonable opinion of El Paso, do not individually or in the aggregate, materially impair the Lien of the Security Agreement;

provided, that Permitted Encumbrances shall not include the Trustee's Liens.

**Person.** Means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

**Plant.** The plant site in Maricopa County, Arizona, of the Palo Verde Nuclear Generating Station.

**Plant Account.** An account to which the Trustee's Investment with respect to Nuclear Fuel may be allocated pending allocation by El Paso of such Investment among Units.

**Purchase Contract.** The Purchase Contract dated as of February 12, 1996, between El Paso and the Trustee as such Purchase Contract may from time to time be supplemented, amended, waived or modified.

**Restoration.** The repair, reconstruction or replacement of all or any portion of the Nuclear Fuel of a Unit which has
been damaged or destroyed or which has been affected by a Taking, as nearly as possible to the value, condition and character of such portion, and in its location, immediately prior to such damage, destruction or Taking, or the replacement of any Assembly of the Nuclear Fuel so damaged, destroyed or affected by a Taking, with an equivalent Assembly of Nuclear Fuel with only such alterations and additions as may be made at El Paso's election as will not diminish the Net Investment of the Nuclear Fuel so repaired, reconstructed or replaced.

**Security Agreement.** The Security Agreement and Assignment of Contracts dated as of February 12, 1996, between Texas Commerce Bank National Association, not in its individual capacity, but solely in its capacity as trustee under the Trust Agreement and Chemical Bank, a New York banking corporation, in its capacity as collateral agent for the secured parties.

**Spent Fuel.** Nuclear Fuel, which, through engagement in the reactor core of a Unit, has been consumed pursuant to the process of nuclear fission and is being stored in the fuel pit of a Unit or such other place as El Paso shall designate.

**Supplemental Instructions.** Instructions to the Trustee from the Trustor in substantially the form of Schedule B to the Trust Agreement, upon acceptance by the Trustee, as any such supplemental instructions may from time to time be supplemented, amended, waived or modified.

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Taking. A loss, during the term of the Purchase Contract, of the title, ownership, use or possession of the Nuclear Fuel, a Unit or any portion of either thereof, or any interest therein or right accruing thereto, as the result of or in connection with the exercise of the right of condemnation or eminent domain pursuant to any law, general or special, or by reason of the temporary requisition of the use of the Nuclear Fuel, a Unit or any portion of either thereof, by any governmental authority, civil or military.

Termination Event. Any of the events described in Section 17 of this Contract.

Trust. The Trust established by the provisions of the Trust Agreement.

Trust Agreement. That certain Trust Agreement, dated as of February 12, 1996, between the Trustee and Trustor, providing for the creation of the Rio Grande Resources Trust II, as such Trust Agreement may from time to time be supplemented, amended, waived or modified.

Trust Estate. Subject to Section 3 of the Trust Agreement, all estate, right, title and interest of the Trustee in and to the Trust Estate Assets and any other rights, assets or property owned or payments or proceeds (other than payments of the Trustee's Expenses or payments made in connection with any
indemnification of the Trustee) under any agreements, arrangements or transactions entered into pursuant to Supplemental Instructions.

**Trust Estate Assets.** Subject to Section 3 of the Trust Agreement: all estate, right, title and interest of the Trustee in and to the Purchase Contract, Assigned Agreements, the Loan Documents, all rights, assets or property owned, or payments or proceeds received, by or for the account of the Trustee under the Purchase Contract, the Assignment Agreements, the Loan Documents Agreement or an agreement entered into pursuant to Section 2 of the Trust Agreement; all rights to any such payments or proceeds; and any and all investments (including both principal and interest) of the Trustee pursuant to Section 12.6 of the Trust Agreement to the extent the principal of such investments represents proceeds from any of the aforesaid sources.

**Trustee.** Texas Commerce Bank National Association, and, to the extent permitted by Section 8 of the Trust Agreement, its successors and assigns.

**Trustee's Expenses.** The fees and expenses of the Trustee payable or reimbursable by the Trustor pursuant to the Fee Agreement.

**Trustee's Liens.** Means any Lien or disposition of title arising as a result of (i) claims against Texas Commerce
Bank National Association not related to transactions contemplated by the Purchase Contract and Trust Agreement, (ii) any act or omission of Texas Commerce Bank National Association, which is not related to the transactions contemplated by the Purchase Contract and Trust Agreement or is in violation of any of the terms of the Purchase Contract and Trust Agreement, (iii) claims against Texas Commerce Bank National Association with respect to taxes or expenses against which El Paso is not required to indemnify, and which the Trustee is otherwise required to pay or (iv) claims against Texas Commerce Bank National Association arising out of any transfer of all or any portion of its interests in the Nuclear Fuel or the Trust Estate other than a transfer pursuant to the terms of the Trust Agreement or pursuant to the exercise of the remedies set forth in Section 19(b) of the Purchase Contract;

**Trustor**. El Paso Electric Company, a Texas corporation, and its successors and assigns.

**Unit or Units**. Palo Verde Nuclear Generating Station, Units 1, 2, and 3 located in Maricopa County, Arizona, including fuel handling and storage facilities relating thereto.
These Supplemental Instructions are given pursuant to the Trust Agreement dated as of February 12, 1996 between El Paso Electric Company, as the Trustor, and Texas Commerce Bank National Association, as the Trustee.

WHEREAS, the Trust Agreement contemplates the delivery by the Trustor to and acceptance by the Trustee of Supplemental Instructions with respect to the execution and delivery of agreements, acceptance of assignments of agreements or rights, acquisition of properties and entering into certain transactions, in accordance with lawful requests of the Trustor; and

WHEREAS, the Trustor now desires to give Supplemental Instructions to the Trustee as herein set forth;

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NOW, THEREFORE, the Trustor hereby gives, and the Trustee by its signature hereeto hereby accepts, the following Supplemental Instructions: [Here insert specific instructions.]

Section 1. Definitions. For the purpose of these Supplemental Instructions, the capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Schedule A to the Trust Agreement. The following definitions are hereby added to said Schedule A: [Add any necessary new definitions].

Section 2. Authorization and Direction to Accept and/or Execute Documents or Rights. [Here insert specific authorizations and directions with respect to particular instruments, rights or transactions.]

Section 3. Use of Proceeds. [Here specifically set forth the order of application of any proceeds received by the Trustee pursuant to agreements or rights or payments obtained or received pursuant to these Supplemental Instructions.]

Section 4. Additional Instructions. [Here add any other necessary or appropriate instructions to the Trustee.]

Section 5. Confirmation of Trust. The Trustee hereby confirm by its execution hereof that the declaration of trust embodied in Section 3 of the Trust Agreement shall apply fully to

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all rights, estates properties, assets, payments or proceeds received or obtained by the Trustee pursuant to these Supplemental Instructions.

Section 6. **Other Provisions.** Except as herein expressly provided, all of the terms and provisions of the Trust Agreement shall as nearly as may be practicable apply to all rights and obligations obtained or incurred, respectively, by the Trustee pursuant to these Supplemental Instructions.
IN WITNESS WHEREOF, the Trustor and the Trustee have executed these Supplemental Instructions the day and year below written.

Dated: __

EL PASO ELECTRIC COMPANY

By

Name:
Title:
"Trustor"

ACCEPTED:

TEXAS COMMERCE BANK NATIONAL ASSOCIATION

By

Name:
Title:
"Trustee"
SECOND AMENDMENT TO PURCHASE CONTRACT

THIS SECOND AMENDMENT dated as of July 12, 2007 (the "Second Amendment"), to the PURCHASE CONTRACT dated as of February 12, 1996 (the "Purchase Contract"), is entered into between THE BANK OF NEW YORK TRUST COMPANY, NATIONAL ASSOCIATION, a limited purpose national banking association with trust powers, in its capacity as successor trustee of the Rio Grande Resources Trust II (the "Trustee"), (said Trustee being the successor to JPMorgan Chase Bank, National Association, formerly known as JPMorgan Chase Bank, successor by merger to The Chase Manhattan Bank, successor by merger to Chase Bank of Texas, National Association, successor by change of name to Texas Commerce Bank National Association, as trustee of the Rio Grande Resources Trust II (the "Prior Trustee")), and EL PASO ELECTRIC COMPANY, a Texas corporation ("El Paso").

RECITALS

A. El Paso and the Prior Trustee were parties to that certain Credit Agreement dated as of February 12, 1996 (the "Credit Agreement") among El Paso and the Prior Trustee as borrowers, Chase Manhattan Bank (successor by merger to Chemical Bank) as issuing bank, as administrative agent and as collateral agent for the financial institutions party thereto as lenders (such financial institutions, the "Lenders"), and the Lenders. Pursuant to the Credit Agreement, the Lenders agreed to extend credit in the form of loans and letters of credit to the Prior Trustee, in an aggregate amount not to exceed $60,000,000, (i) to finance the purchase of Nuclear Fuel by the Prior Trustee, (ii) to provide backup liquidity for commercial paper issued pursuant to a commercial paper program to be established by the Prior Trustee, and (iii) to pay interest and other amounts payable under the Credit Agreement by the Prior Trustee (the foregoing items (i), (ii) and (iii), the "Trust Credit Purposes"). Consequently, the Purchase Contract provided in Section 2(g) thereof that El Paso will not permit the total Net Investment of the Prior Trustee, at any one time, in all Nuclear Fuel to exceed $60,000,000.

B. Effective as of February 8, 1999, the Credit Agreement was amended and restated in its entirety, and the lenders thereunder agreed to extend credit in the form of loans and letters of credit to the Prior Trustee for Trust Credit Purposes in an aggregate amount not to exceed $70,000,000. Consequently, El Paso and the Prior Trustee amended Section 2(g) of the Purchase Contract (the "First Amendment") to provide that El Paso would not cause or permit the total Net Investment of the Prior Trustee, at any one time, in all Nuclear Fuel to exceed $70,000,000.

C. The Credit Agreement was amended and restated again in its entirety on January 28, 2002, December 17, 2004 and April 11, 2006. The
amended and restated credit agreement dated as of April 11, 2006 (the "2006 Credit Agreement") provided that the $70,000,000 available to the Prior Trustee for Trust Credit Purposes could be increased from time to time pursuant to Section 2.21 of the 2006 Credit Agreement. Subsequent to the execution of the 2006 Credit Agreement but prior to the date hereof, the Trustee succeeded the Prior Trustee as trustee under the Rio Grande Resources Trust II.

D. On May 30, 2007, El Paso delivered a written notice pursuant to Section 2.21 of the 2006 Credit Agreement to JPMorgan Chase Bank, N.A. (in its capacity as the administrative agent for the lenders under the 2006 Credit Agreement), requesting that the amount available to the Trustee in the form of loans and letters of credit for Trust Credit Purposes be increased from a total amount not to exceed $70,000,000 to a total amount not to exceed $120,000,000, such increase to be effective as of July 16, 2007.

E. As a result of the foregoing, El Paso and the Trustee desire to amend the Purchase Contract in the manner set forth below.

F. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Purchase Contract.

AGREEMENT

In consideration of the mutual agreements contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Amendment to Section 2(g) of the Purchase Contract. Section 2(g) of the Purchase Contract is hereby amended and restated to read in its entirety:

(g) El Paso shall not cause or permit the total Net Investment of the Trustee, at any one time, in all Nuclear Fuel to exceed $120,000,000.

SECTION 2. Conditions to Effectiveness. This Amendment shall become effective as of the date first written above upon its execution by both parties hereto.

SECTION 3. Effect of Amendment. Except as expressly set forth herein, this Amendment shall not by implication or otherwise alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Purchase Contract, all of which are ratified and affirmed in all respects and shall continue in full force and effect. This Amendment shall apply and be effective only with respect to the provision of the Purchase Contract specifically referred to herein.
SECTION 4. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile transmission shall be as effective as delivery of a manually executed counterpart hereof.

SECTION 5. **APPLICABLE LAW.** THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

SECTION 6. **Headings.** The headings of this amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized officers, all as of the date first above written.

THE BANK OF NEW YORK TRUST COMPANY, NATIONAL ASSOCIATION, not in its individual capacity but solely in its capacity as Trustee of the Rio Grande Resources Trust II

By: /s/ Kathryn Houston
Name: Kathryn M. Houston
Title: Vice President

EL PASO ELECTRIC COMPANY

By: /s/ Steven Busser
Name: Steven P. Busser
Title: V.P., Treasurer & Chief Risk Officer

APPROVED AS TO FORM
OFFICE OF THE GENERAL COUNSEL

-9/2/07-
BEFORE ME, the undersigned authority, on this day personally appeared Steven P. Busser, a V.P. Treasurer & Chief Risk Officer of El Paso Electric Company, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 12th day of July, 2007.

/s/ Hilda Vargas
Notary Public – State of Texas

BETIIEE ME, the undersigned authority, on this day personally appeared Kathryn Houston, a Vice President of The Bank of New York Trust Company, National Association, acting in its capacity as Trustee of the Rio Grande Resources Trust II, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 11th day of July, 2007.

/s/ Karen L Kupecki
Notary Public – State of Texas

My Commission Expires:
5/4/2011
AMENDMENT AGREEMENT

AMENDMENT AGREEMENT, dated as of February 11, 1999 (the "Amendment"), to the PURCHASE CONTRACT dated as of February 12, 1996 (the "Purchase Contract"), between CHASE BANK OF TEXAS, NATIONAL ASSOCIATION (formerly Texas Commerce Bank, National Association), a national banking association, not in its individual capacity, but solely in its capacity as trustee of the Rio Grande Resources Trust II (the "Trustee"), and EL PASO ELECTRIC COMPANY, a Texas corporation ("El Paso").

RECITALS

EL Paso and the Trustee are parties to that certain Credit Agreement, dated as of February 12, 1996 (the "Credit Agreement"), among El Paso and the Trustee as borrowers, the Chase Manhattan Bank ("Chase", successor by merger to Chemical Bank) as issuing bank, as administrative agent and as collateral agent for the financial institutions party thereto as lenders (such financial institutions, "Lenders"), and the Lenders. Pursuant to the Credit Agreement, the Lenders agreed to extend credit in the form of loans and letters of credit to the Trustee, in an aggregate face amount not greater than $60,000,000, (i) to finance the purchase of Nuclear Fuel by the Trustee, (ii) to provide backup liquidity for commercial paper issued pursuant to a commercial paper program to be established by the Trustee, and (iii) to pay interest and other amounts payable under the Credit Agreement by the Trustee (the foregoing items (i), (ii) and (iii), the "Trust Credit Purposes"). Consequently, the Purchase Contract provides in Section 2(g) thereof that El Paso will not permit the total Net Investment of the Trustee, at any one time, in all Nuclear Fuel to exceed $60,000,000.

Effective as of February 8, 1999, the Credit Agreement was amended and restated in its entirety (hereafter referred to as the "Amended and Restated Credit Agreement"), by and among El Paso, the Trustee, Chase (in the same capacities as under the Credit Agreement), Union Bank of California, N.A., as documentation agent, Barclays Bank PLC, New York Branch, as syndication agent, and the financial institutions party thereto as lenders (such financial institutions, also "Lenders"). Pursuant to the Amended and Restated Credit Agreement, the Lenders have agreed to extend credit in the form of loans and letters of credit to the Trustee, in an aggregate face amount not greater than $70,000,000, for the Trust Credit Purposes.

As a result of the foregoing, El Paso and the Trustee desire to amend the Purchase Contract as set forth herein below. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Purchase Contract.

Accordingly, in consideration of the mutual agreements contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree as follows:

::ODMA/PCDOCS/NEWYORK/92043/2
SECTION 1. **Amendment to Section 2(g) of the Purchase Contract.** Section 2(g) of the Purchase Contract is hereby amended and restated to read in its entirety:

(g) El Paso shall not cause or permit the total Net Investment of the Trustee, at any one time, in all Nuclear Fuel to exceed $70,000,000.

SECTION 2. **Conditions to Effectiveness.** This Amendment shall become effective as of the date first written above upon its execution by both parties hereto.

SECTION 3. **Effect of Amendment.** Except as expressly set forth herein, this Amendment shall not by implication or otherwise alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Purchase Contract, all of which are ratified and affirmed in all respects and shall continue in full force and effect. This Amendment shall apply and be effective only with respect to the provision of the Purchase Contract specifically referred to herein.

SECTION 4. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile transmission shall be as effective as delivery of a manually executed counterpart hereto.

SECTION 5. **APPLICABLE LAW.** THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

SECTION 6. **Headings.** The headings of this Amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized officers, all as of the date first above written.

CHASE BANK OF TEXAS NATIONAL ASSOCIATION, not in its individual capacity, but solely in its capacity as Trustee,

By:  
Name:  
Title:

EL PASO ELECTRIC COMPANY

By:  /s/ Gary R Hendrick  
Name:  Gary R. Hedrick  
Title:  Vice President
BEFORE ME, the undersigned authority, on this day personally appeared Gary R. Hedrick, a Vice President of El Paso Electric Company, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 4th day of February, 1999.

/s/ Hilda Vargas
Notary Public – State of Texas

My Commission Expires: June 26, 2001
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized officers, all as of the date first above written.

CHASE BANK OF TEXAS NATIONAL ASSOCIATION, not in its individual capacity, but solely in its capacity as Trustee,

By: /s/ Kathryn Houston
    Name: Kathryn Houston
    Title: Vice President

EL PASO ELECTRIC COMPANY

By: ____________________________
    Name: _______________________
    Title: _______________________
STATE OF TEXAS

COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared Kathryn Houston, a Vice President of Chase Bank of Texas, National Association, a banking corporation organized under the federal laws of the United States of America, acting in its capacity as Trustee of the Rio Grande Resources Trust II, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 2 day of February, 1999.

/s/ Ramon S. Olivas

Notary Public – State of Texas

My Commission Expires: 3-31-2001

Ramon S. Olivas
THIS INSTRUMENT GRANTS A SECURITY INTEREST BY A UTILITY

THIS INSTRUMENT CONTAINS AFTER ACQUIRED PROPERTY PROVISIONS

PURCHASE CONTRACT

BETWEEN

TEXAS COMMERCE BANK NATIONAL ASSOCIATION
not in its individual capacity
but solely as Trustee of
the Rio Grande Resources Trust II

Trustee

AND

EL PASO ELECTRIC COMPANY,

El Paso

____________________________

RIO GRANDE RESOURCES TRUST II

____________________________

Dated as of February 12, 1996

THIS CONTRACT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF CHEMICAL BANK PURSUANT TO A SECURITY AGREEMENT DATED AS OF FEBRUARY 12, 1996.

* But only if, contrary to the intention of the parties, it should be so construed. This instrument is filed as a utility security interest as a precautionary matter.
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THE TRANSACTION

A.

1. **Definitions**.

   Unless otherwise defined or unless the context otherwise requires, the capitalized terms used in this Contract have the respective meanings designated in Schedule A hereto.

2. **Purchase and Sale of Rights to Nuclear Fuel**.

   (a) El Paso is or may become a party to the Assigned Agreements, and wishes to transfer to the Trustee all of the rights and title of El Paso thereunder in and to or respecting Nuclear Fuel as specified in the Assignment Agreements. On the Closing Date, an Assignment Agreement with respect to the ANPP Participation Agreement shall be delivered to the Trustee,
evidencing and effecting the transfer to the Trustee of certain rights and title specified in such Assignment Agreement. To the extent that El Paso enters into one or more agreements relating to the Nuclear Fuel Cycle after the Closing Date, El Paso shall promptly deliver to the Trustee an Assignment Agreement with respect thereto and thereafter each such agreement shall be considered an Assigned Agreement hereunder.

(b) El Paso has heretofore made certain payments and incurred certain costs with respect to Nuclear Fuel pursuant to the Assigned Agreements. At the Closing Date, El Paso shall deliver to the Trustee a completed Fuel Schedule in the form of Schedule B attached hereto, describing in Annex I to said Fuel Schedule the amounts, if any, paid by El Paso pursuant to the Assigned Agreements and other costs incurred by El Paso with respect to Nuclear Fuel for which El Paso desires reimbursement from the Trustee and allocating such amounts to one or more Units or to a Plant Account. At the Closing Date, the Trustee shall (conditioned upon receipt by the Trustee of necessary funds available for such purpose) reimburse El Paso in the total amount, if any, so specified and in the manner set forth in Section 5.

(c) Subject to the terms and conditions hereof and of the Trust Agreement and Loan Documents, the Trustee shall, from time to time, but only if, when and to the extent requested by El Paso and in accordance with the provisions of the Assigned
Agreements and the procedure set forth in Section 5 of this Contract, and subject to the receipt by the Trustee of any necessary funds available for such purposes, (i) pay such amounts as shall become due and payable with respect to Nuclear Fuel under the Assigned Agreements, (ii) reimburse El Paso for payments made by El Paso with respect to Nuclear Fuel pursuant to the Assigned Agreements and (iii) reimburse El Paso for other costs incurred by it with respect to Nuclear Fuel.

Notwithstanding any of the foregoing, the Trustee may decline under this Section 2(c) to make any payment or to reimburse El Paso in respect of payments by El Paso to any person or entity which has not consented in writing to an Assignment Agreement or to a similar agreement between the Trustee and El Paso, the provisions of each of which written consent, Assignment Agreement and/or similar agreement shall have been satisfactory to counsel for the Trustee and to the Credit Bank and executed by the parties hereto prior to any such payment or reimbursement.

(d) The Trustee agrees that pursuant to the terms of the Assignment Agreements, El Paso shall have, subject to the provisions of Section 19(b) hereof, retained (and will retain) all rights, and the entire obligation, it had (or will have) under the Assigned Agreements to deal with the respective parties thereto in respect of all matters other than the right to receive and the obligation to make payments with respect to Nuclear Fuel pursuant thereto and the receipt and holding of title to the Nuclear Fuel covered thereby. Such rights and obligation of El
Paso shall include, without limitation, rights to make all inspections, consent to all modifications or variations, give any instructions or directions, give any necessary consents or waivers and negotiate any amendments or modifications to any of said contracts, provided, that no action by El Paso pursuant to any Assigned Agreement shall increase the obligation of the Trustee or the Trust beyond that expressly provided for herein without the prior written consent of the Trustee or shall materially lessen any benefit inuring to the Trustee pursuant to the Assignment Agreements or any similar agreements referred to in this Section 2. Except as otherwise expressly limited by the provisions of this Contract, El Paso shall, as hereinafter more fully provided, have full right and lawful authority to engage in Fuel Management.

(e) [Reserved]

(f) [Reserved]

(g) El Paso shall not cause or permit the total Net Investment of the Trustee, at any one time, in all Nuclear Fuel to exceed $60,000,000.

(h) The Trustee agrees, subject to the terms hereof, to sell and make available to El Paso, and El Paso agrees to take, or cause to be taken, and to purchase and pay for, whether
taken or not, any and all Nuclear Fuel, upon all of the terms and conditions contained in this Contract.

(i) El Paso may at any time allocate the Trustee's Investment among Units or to a Plant Account for later allocation among Units. Each amount allocated to the Plant Account shall be allocated by El Paso to particular Units as soon as practicable after El Paso has determined the Units to which each amount should be allocated.

(j) This Contract shall become effective as of February 12, 1996 and shall terminate as provided in Sections 17 through 19 hereof.

3. **Payment by El Paso**

(a) At any time during the term of this Contract:

(i) El Paso may elect from time to time to reduce the Investment of the Trustee in the Nuclear Fuel by paying to the Trustee the amount by which such Investment is to be reduced and concurrently delivering to the Trustee a revised Fuel Schedule in the form of Fuel Schedule B hereto giving effect to said reduction. Upon receipt of such payment and Fuel Schedule, the Trustee shall execute a Bill of Sale in the Form of Schedule C hereto to convey title to such Nuclear Fuel to El Paso; and
(ii) At any time when there is no Nuclear Fuel covered by a Fuel Schedule, the Trustee shall deliver to El Paso a written computation showing the amount of any Daily Financing Charges incurred by the Trustee to the date thereof and El Paso shall pay the amount of such Daily Financing Charges, plus any additional Daily Financing Charges incurred by the Trustee to the date of such payment.

(b) Notwithstanding any other provision of this Contract, El Paso shall timely pay to the Trustee such amounts sufficient to pay in full all amounts then due and payable by the Trustee under the Credit Agreement. The Trustee shall give three Business Days' prior notice to El Paso if the Trustee has insufficient funds on hand to pay amounts to be so paid under the Credit Agreement. On receipt of such notice by El Paso, El Paso shall (i) timely provide such funds as necessary to enable the Trustee to pay all amounts so due and payable under the Credit Agreement, or (ii) if and to the extent such funds are available under the Credit Agreement, instruct the Trustee to borrow all or a portion of such funds necessary to make the required payments under the Credit Agreement (with El Paso providing the balance, if any, of funds necessary to make such payments). The Trustee's failure to deliver the notice required by the second sentence of this Section 3(b) shall not affect El Paso's obligations under this Section 3(b).
(c) All sums payable by El Paso to the Trustee under this Contract shall be payable in immediately available funds at the office of the Trustee at 201 E. Main Street, El Paso, Texas, before 1 p.m. El Paso time on the date due, or to such other person or at such other address as the Trustee, from time to time, may designate.

(d) El Paso shall pay, from time to time, as provided in this Contract, or on demand of the Trustee, all Additional Sales Charges as and when due and payable. At El Paso's option, El Paso may in lieu of such payment deliver to the Trustee a Fuel Schedule in the form of Schedule B attached hereto directing that such Additional Sales Charges be added to the Investment of the Trustee (to the extent funds are available to the Trustee under the Credit Agreement or otherwise) and allocating said amount of Additional Sales Charges among Units or to the Plant Account.

(e) Spent Fuel shall be promptly reconveyed by the Trustee to El Paso by the execution of a Bill of Sale in the form of Schedule C hereto.

(f) El Paso shall promptly pay all Fuel Swap Proceeds to the Trustee for subsequent payment to the Credit Bank pursuant to the terms of the Trust Agreement.

(g) [Reserved]
(h) [Reserved]

(i) [Reserved]

(j) El Paso shall pay to the Trustee on the 25th day of each January, April, July and October, or if such day is not a Business Day, on the next following Business Day (each such date being herein called a "Basic Heat Supply Payment Date"), the Basic Heat Supply Charge shown on Annex I to the Schedule D for the preceding calendar quarter concurrently delivered to the Trustee in accordance with Section 3(k). The calculation of the Basic Heat Supply Charge shall conform with the following formula:

\[ BHSC = (NI - R) \times AF \]

(i) "BHSC" shall be the Basic Heat Supply Charge.

(ii) "NI" shall be Net Investment in each Unit at the end of such period.

(iii) "R" shall be the current estimation of the residual value of the applicable Nuclear Fuel presently in use and it is agreed that such residual value shall be the fair market value currently estimated to remain at the time of removal; provided that in no event shall "R" be a number less than zero.

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(iv) "AF" shall be an amortization factor based upon thermal output of applicable Nuclear Fuel during such period divided by the available thermal output estimated by El Paso as remaining in such Nuclear Fuel at the beginning of such period, including and adjusted for Nuclear Fuel loaded or removed during such period.

(k) At least 15 days before each Basic Heat Supply Payment Date, the Trustee shall deliver to El Paso a certificate in the form of Schedule D filled in as to Columns B and C and with respect to Column E, the "Total" amount of Capitalized Daily Financing Charges, without further allocation. Three Business days prior to such Basic Heat Supply Payment Date, El Paso shall deliver to the Trustee the certificate so received or a copy thereof duly completed as to the remaining Columns and information and as to Annex I.

On the Basic Heat Supply Payment Date, El Paso shall pay to the Trustee, or on the Trustee's written order, to the Credit Bank, the Basic Heat Supply Payment shown in Annex I for the quarterly period ended on the last day of the month preceding such Basic Heat Supply Payment Date.

(l) [Reserved]
4. **Payment Obligations of El Paso Absolute and Unconditional; Disclaimer of Warranties**.

(a) The obligation of El Paso to make all payments pursuant to this Contract shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstances of any character.

THE TRUSTEE, IN ITS INDIVIDUAL CAPACITY, MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, AS TO THE SAFETY, TITLE, CONDITION, QUALITY, QUANTITY, TEMPERATURE, FITNESS FOR USE, MERCHANTABILITY, CONFORMITY TO SPECIFICATION, OR ANY OTHER CHARACTERISTIC, OF THE NUCLEAR FUEL, OR WHETHER OR NOT ANY HEAT WHATSOEVER IS OR CAN BE PRODUCED BY THE NUCLEAR FUEL, OR AS TO WHETHER THE NUCLEAR FUEL OR THE OWNERSHIP THEREOF COMPLIES WITH ANY RULES, REGULATIONS OR REQUIREMENTS OF ANY KIND.

As between El Paso and the Trustee, EL PASO ASSUMES ALL RISKS AND WAIVES ANY AND ALL DEFENSES TO ITS OBLIGATION TO PAY
HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY DEFENSE RELATING TO:

(A) THE SAFETY, TITLE, CONDITION, QUALITY, QUANTITY, TEMPERATURE, FITNESS FOR USE, MERCHANTABILITY, CONFORMITY TO SPECIFICATION, OR ANY OTHER QUALITY OR CHARACTERISTIC OF THE NUCLEAR FUEL, OR WHETHER OR NOT ANY HEAT WHATSOEVER IS OR CAN BE PRODUCED BY THE NUCLEAR FUEL;

(B) ANY SET-OFF, COUNTERCLAIM, RECOUPMENT, DEFENSE OR OTHER RIGHT WHICH EL PASO MAY HAVE AGAINST THE TRUSTEE OR ANYONE ELSE, FOR ANY REASON WHATSOEVER;

(c) ANY DEFECT IN TITLE OR OWNERSHIP OF THE NUCLEAR FUEL;

(D) ANY LOSS, THEFT OR DESTRUCTION OF, OR DAMAGE TO, THE NUCLEAR FUEL, IN WHOLE OR IN PART, OR CESSATION OF THE USE OR POSSESSION OF THE NUCLEAR FUEL BY EL PASO FOR ANY REASON WHATSOEVER AND OF WHATEVER DURATION, OR ANY CONDEMNATION, CONFISCATION, REQUISITION, SEIZURE, PURCHASE, TAKING OR FORFEITURE OF THE NUCLEAR FUEL, IN WHOLE OR IN PART;

(E) ANY INABILITY OR ILLEGALITY WITH RESPECT TO THE OWNERSHIP OR THE USE OR POSSESSION OF THE NUCLEAR FUEL BY EL PASO OR THE OWNERSHIP THEREOF BY THE TRUSTEE;
(F) ANY INSOLVENCY, BANKRUPTCY, REORGANIZATION OR SIMILAR PROCEEDING BY OR AGAINST EL PASO OR THE TRUSTEE;

(G) ANY FAILURE TO OBTAIN, OR EXPIRATION, SUSPENSION OR OTHER TERMINATION OF, OR INTERRUPTION TO, ANY REQUIRED LICENSES, PERMITS, CONSENTS, AUTHORIZATIONS, APPROVALS OR OTHER LEGAL REQUIREMENTS;

(H) THE INVALIDITY OR UNENFORCEABILITY OF THIS CONTRACT OR ANY OTHER INFIRMITY HEREIN OR ANY LACK OF POWER OR AUTHORITY OF THE TRUSTEE OR EL PASO TO ENTER INTO THIS CONTRACT; OR

(I) ANY OTHER CIRCUMSTANCES OR HAPPENING WHATSOEVER WHETHER OR NOT SIMILAR TO ANY OF THE FOREGOING. EL PASO HEREBY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS WHICH IT MAY NOW HAVE OR WHICH AT ANY TIME HEREAFTER MAY BE CONFERRED UPON IT, BY STATUTE OR OTHERWISE, TO TERMINATE, CANCEL, QUIT, RESCIND OR SURRENDER THIS CONTRACT EXCEPT IN ACCORDANCE WITH THE EXPRESS TERMS HEREOF. If for any reason whatsoever this Contract shall be terminated in whole or in part by operation of law or otherwise, except as is specifically provided herein, El Paso nonetheless agrees to pay to the Trustee an amount equal to the amounts payable by El Paso pursuant to Section 18 hereof. Each payment made by El Paso pursuant to Section 3(j) hereof shall be final. Notwithstanding the foregoing, if an error has been made in the computation of an amount paid by

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El Paso pursuant to this Contract, which error has resulted in the payment by El Paso of an amount in excess of or less than the amount which
El Paso should have paid pursuant to said Section, El Paso or the Trustee, as the case may be, shall not be precluded by this Section 4 (a)
from recovering the amount of such excess or deficit from the appropriate party.

(b) It is specifically understood and agreed that the Trustee has not made nor has any obligation to make any warranties,
representations, covenants or undertakings as to the accounting treatment to be accorded El Paso, or as to the federal or any state income or
other tax consequences, if any, to El Paso, as a result of or by virtue of the transactions contemplated by this Contract and the other
agreements referred to herein.

5. Procedure for Progress and Other Payments.

(a) When El Paso desires the Trustee to make any payment (as provided by Sections 2(b), 2(c), 3(a), 3(b) and 3(d)), El Paso
shall notify the Trustee of the amount of such payment by telephone or in writing at least five Business Days prior to the payment date and
shall deliver to the Trustee a Fuel Schedule in the form of Schedule B hereto dated as of the payment date, duly completed in three
counterparts not later than 24 hours before the payment date.
(b) Not later than 12:00 (noon), New York time, on the date specified in said notice, the Trustee shall make the payment in immediately available funds specified in said Fuel Schedule to the parties specified in such Fuel Schedule; provided, however, that the Trustee shall not be required to make any payment pursuant to this Section in excess of the funds available to the Trustee for such purpose under the Credit Agreement or otherwise.

(c) El Paso shall have the right to disengage any portion of the Nuclear Fuel and to remove it from Heat Production; provided, however, that not more than six months after any Nuclear Fuel is disposed of or when more than six months shall have elapsed after the removal (without the same being returned) from the Plant, El Paso shall notify the Trustee in the first certificate in the form of Schedule D hereto required to be delivered after any such six-month period of the Net Investment of the Trustee in such Nuclear Fuel on the date of such certificate and shall pay to the Trustee an amount equal to the Basic Heat Supply Charge for the period ended on the date of such certificate together with an amount equal to the Net Investment of the Trustee after giving effect to such payment or charge in respect of such Nuclear Fuel removed or disposed; provided, further, that thereafter and so long as the Trustee shall have no Net Investment in such Nuclear Fuel, it shall be deleted from further forms of Schedule D delivered pursuant hereto. Upon the payment by El Paso to the Trustee of Basic Heat Supply Charge and Net Investment pursuant to this paragraph, the
Trustee shall promptly convey title to such Nuclear Fuel to El Paso by executing and delivering a Bill of Sale in the form of Schedule C hereto.

(d) Notwithstanding any other provision of this Contract, each delivery of a Fuel Schedule in the form of Schedule B hereto or a Bill of Sale in the form of Schedule C hereto shall be deemed to amend, accordingly, the certificate in the form of Schedule D hereto last delivered by El Paso to the Trustee.

6. **The Trustee's Agreement with Respect to Action under Related Agreements**

The Trustee agrees upon the written request of El Paso, (i) to exercise any rights which the Trustee may have, from time to time, under the Credit Agreement to borrow funds in order to carry out its obligations hereunder, and (ii) not, without the prior consent of El Paso, to agree to any amendment of the Credit Agreement or any Loan Document (as defined in the Credit Agreement).
B. LOCATION, CONDITION AND USE OF NUCLEAR FUEL

7. Location of Nuclear Fuel.

El Paso covenants with the Trustee that during the period the Trustee has title to the Nuclear Fuel pursuant to the terms of this Contract, the Nuclear Fuel location will be limited to: (1) the facility of any party involved in the Nuclear Fuel Cycle of any portion of the Nuclear Fuel, (2) transit during the Nuclear Fuel Cycle between such facilities, (3) the Plant, and (4) a storage facility.


(a) El Paso represents and warrants to the Trustee that any portion of Nuclear Fuel which becomes subject to this Contract will be free and clear of all Liens, except for Permitted Encumbrances. The Trustee, in its individual capacity, represents and warrants to El Paso that any portion of Nuclear Fuel which becomes subject to this Contract will be free and clear of all Trustee's Liens. EL PASO ACKNOWLEDGES AND AGREES THAT THE TYPE AND DESIGN OF THE NUCLEAR FUEL HAS NOT BEEN SELECTED BY THE TRUSTEE, THAT THE TRUSTEE HAS NOT SUPPLIED ANY SPECIFICATIONS WITH RESPECT TO THE PROCESSING OR FABRICATION OF ANY THEREOF AND THAT NEITHER THE TRUSTEE, AS THE TRUSTEE OR INDIVIDUALLY, THE TRUST, NOR ANY PERSON (EXCEPT EL PASO IN
CERTAIN CIRCUMSTANCES) ACTING ON ITS OR THEIR BEHALF (i) IS A MANUFACTURER OF, OR DEALER IN, NUCLEAR MATERIAL OF ANY KIND OR HAS ANY LICENSE TO USE OR POSSESS SUCH MATERIAL, (ii) HAS MADE ANY RECOMMENDATION, GIVEN ANY ADVICE OR TAKEN ANY OTHER ACTION WITH RESPECT TO (y) THE CHOICE OF ANY SUPPLIER, PROCESSOR, DESIGNER, FABRICATOR OR TRANSPORTER OF, OR ANY OTHER CONTRACTOR WITH RESPECT TO, THE NUCLEAR FUEL OR ANY PORTION THEREOF, OR (z) ANY ACTION TAKEN OR TO BE TAKEN WITH RESPECT TO THE NUCLEAR FUEL OR ANY PORTION THEREOF AT ANY STAGE OF THE NUCLEAR FUEL CYCLE, (iii) HAS AT ANY TIME HAD PHYSICAL POSSESSION OF ANY PORTION OF THE NUCLEAR FUEL OR MADE ANY INSPECTION THEREOF, OR (iv) HAS MADE ANY WARRANTY OR OTHER REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR REPRESENTATION THAT THE NUCLEAR FUEL (x) WILL NOT RESULT IN INJURY OR DAMAGE TO PERSONS OR PROPERTY, (y) HAS BEEN PROPERLY DESIGNED OR FABRICATED OR WILL ACCOMPLISH THE RESULTS WHICH EL PASO INTENDS THEREFOR, OR (z) IS SAFE IN ANY MANNER OR RESPECT. THE PROVISIONS OF THIS SECTION 8 (a) HAVE BEEN NEGOTIATED WITH THE INTENTION OF COMPLETELY EXCLUDING AND NEGATING ALL WARRANTIES BY THE TRUSTEE, AS THE TRUSTEE OR INDIVIDUALLY, THE TRUST OR ANY PERSON ACTING ON THEIR BEHALF, EXPRESS OR IMPLIED, RELATING TO THE NUCLEAR FUEL OR ANY PORTION THEREOF, WITH RESPECT TO MERCHANTABILITY, FITNESS OR OTHERWISE, WHETHER ARISING PURSUANT TO A UNIFORM COMMERCIAL CODE OR ANY OTHER PRESENT OR FUTURE LAW, OR OTHERWISE.
(b) The Trustee hereby authorizes El Paso, at El Paso's cost and expense, to assert all rights and claims, and to bring suits, actions and proceedings, in its own name or in the name of the Trustee, in respect of any seller's, manufacturer's, transporter's, designer's, processor's or fabricator's warranties or undertakings, express or implied, relating to any portion of the Nuclear Fuel. El Paso, subject to the provisions of the Trust Agreement, shall be entitled to retain all proceeds and recoveries received by it under this Section 8(b) and any proceeds or recoveries received by or on behalf of the Trustee shall, subject to the provisions of the Trust Agreement, be paid over to El Paso, unless an Event of Default shall have occurred and be continuing.

(c) El Paso has investigated the state of the title to and rights of ownership in the Nuclear Fuel subject to this Contract at the date hereof, and has approved the same for all purposes hereof. El Paso will from time to time after such date make (or cause to be made) such investigation of each portion of additional Nuclear Fuel as El Paso deems appropriate or necessary as such Nuclear Fuel becomes subject to this Contract, and will not permit any such portion to become subject to this Contract unless El Paso is similarly satisfied with and has similarly approved the same for all purposes thereof.

(d) El Paso, subject to the provisions of the Trust Agreement, shall have exclusive right to possession and use of
all Nuclear Fuel to which the Trustee has title hereunder, but El Paso will not do or approve to be done any act or thing (i) that is contrary to any Legal Requirement or Insurance Requirement or (ii) that may impair the value or usefulness of such Nuclear Fuel or any part thereof (other than as the normal usage thereof in Heat Production). El Paso shall cause such Nuclear Fuel to comply with all Legal Requirements, and the applicable provisions and conditions of all licenses, permits, consents, authorizations and approvals of any governmental authority issued to El Paso or its employees, servants or agents and in a manner that does not make void or voidable any insurance or governmental or other indemnification agreement with regard to liability arising out of the same (which would not have been void or voidable but for such action). El Paso shall likewise observe and comply with the requirements of all policies of insurance and indemnity agreements at any time in force with respect to such Nuclear Fuel. El Paso agrees that it will not, without written consent of the Trustee, enter into, or consent to, any change order or other amendment, modification, or supplement to any Assigned Agreement if such change order, amendment, or modification would terminate the Trustee's right to receive title to any Nuclear Fuel under any Assigned Agreement; provided that no such consent shall be required if (i) the Trustee's Investment in such Nuclear Fuel shall be zero or (ii) El Paso shall have delivered to the Trustee written notice to the effect (aa) that El Paso intends to reduce to zero the Trustee's Investment in such Nuclear Fuel and (bb) that El Paso will pay to the Trustee, on or before the 90th
day following the date of said notice and in accordance with the provisions of Section 3(a) (i) hereof, such amount as is necessary to reduce
said Investment to zero.

(c) The Trustee may, with the prior written consent of El Paso (which consent shall not be required if an Event of Default
shall have occurred and be continuing), enter into any agreement or modify any existing agreement with any party involved in the Nuclear
Fuel Cycle in respect of any Nuclear Fuel.

(f) The Nuclear Fuel (other than unmined uranium ore in place) is personal property and El Paso shall, at its expense, take
all such action as may be required to cause the Nuclear Fuel to retain its character as personal property. The Nuclear Fuel shall not become
part of any real property on which it or any portion thereof may from time to time be situated, notwithstanding the means by which it is
installed or attached thereto and notwithstanding any law or custom or the provision of any lease, mortgage or other instrument applicable to
any such real property.

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C.

TERMS AND CONDITIONS

9. Certificates and Opinions by El Paso; Further Assurance, Financial Information and Compliance Certificates.

(a) On the Closing Date and no later than April 30 in each year until the termination or expiration of this Contract, commencing with the year 1997, El Paso shall furnish to the Trustee a certificate of an officer of El Paso, as of the preceding December 31st (i) stating the location of the Nuclear Fuel, and such information regarding the condition of the Nuclear Fuel as the Trustee may reasonably request, (ii) stating that such officer has caused a review to be made by responsible personnel of El Paso with respect to compliance during such period by El Paso with Sections 7 and 8 of this Contract and that such review has not disclosed any material failure on the part of El Paso to comply with its obligations under said Sections, (iii) stating that El Paso is in compliance with Sections 10 and 12 of this Contract, and (iv) stating that no Event of Default or event which, with the lapse of time or notice or both, would constitute an Event of Default, has occurred and is continuing, or if an Event of Default has occurred and is continuing, or an event which, with the lapse of time or notice or both, would constitute an Event of Default has occurred and is continuing, specifying the nature thereof, the period of existence thereof and what action El Paso proposes to take with respect thereto.
(b) Concurrently with such certificates, El Paso shall furnish to the Trustee an opinion of its counsel, which opinion and
counsel shall be reasonably satisfactory to the Trustee, dated upon such dates and addressed to the Trustee, stating that:

(i) El Paso is a corporation validly existing and in good standing under the laws of the State of Texas and has all
requisite power and authority, corporate or otherwise, to conduct its business, to own its properties and to perform all of its
obligations under the Assignment Agreements and the Purchase Contract.

(ii) The performance by El Paso of its obligations to make payments under the Purchase Contract does not and will not
(A) violate any provision of any existing law, rule or regulation as presently implemented or interpreted, or, to the best knowledge of
such counsel of El Paso, any existing order, writ, judgment, injunction, decree, determination or award of the United States of
America or of the State of Texas, Arizona or New Mexico or of any court, agency, subdivision or authority thereof having
applicability to El Paso, or (B) result in a breach of or constitute a default under any indenture or loan or credit agreement or any
other agreement, lease or instrument known to such counsel of El Paso to which El Paso is a party or by which it or its properties may
be bound or affected.
(iii) No authorization, consent, approval or license of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality of the United States of America or the State of Texas, Arizona or New Mexico or any specifically granted exemption from any of the foregoing was or, under present law, is necessary for the performance by El Paso of its obligations to make payments under the Purchase Contract or the legality, validity or effectiveness of the Purchase Contract, except for authorization s by the Federal Energy Regulatory Commission and the New Mexico Public Utility Commission, which authorizations have been duly obtained.

(iv) Such counsel has reviewed the applicable law (including the federal laws of the United States) in effect in the States of Texas, Arizona and New Mexico and in the opinion of such counsel no action to continue the perfection of the Trustee's title to the Nuclear Fuel or rights transferred or to be transferred to the Trustee as contemplated by the Purchase Contract or the Assignment Agreements is required or, if any such action is required, describing such action.

(v) [Reserved]

(vi) [Reserved]
(c) El Paso hereby agrees, at its expense, to promptly execute and deliver to the Trustee such further certificates, statements, instruments, documents and assurances in recordable form, if appropriate, and take such further action as the Trustee may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Contract, to establish and protect the rights and remedies created or intended to be created in favor of the Trustee hereunder and under the Trust Agreement and to protect the interest and title of the Trustee in and to the Nuclear Fuel and this Contract.

(d) El Paso shall furnish the Trustee (i) on or before April 30th in each year until the termination or expiration of this Contract, commencing with the year 1996, a balance sheet of El Paso as of the preceding fiscal year end, together with a statement of income of El Paso for such fiscal year then ended, certified by El Paso's independent accountants, (ii) quarterly unaudited financial statements as they appear in El Paso's quarterly reports to shareholders, and (iii) such other information relating to the affairs of El Paso as the Trustee may from time to time reasonably request.

(e) The Trustee shall have the right to and shall make available any records maintained by the Trustee regarding the Trust and/or the Nuclear Fuel and the Trustee's rights under this Contract to any governmental authority requesting such records, or to El Paso, El Paso's independent accountants or the Credit

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Bank and the Lenders. The Trustee shall notify El Paso of any such request other than by banking authorities.

10. **Impositions.**

El Paso agrees that until this Contract is terminated, it will promptly pay all Impositions. El Paso further agrees at its expense to do all things required to be done by the Trustee in connection with the levy, assessment, billing or payment of such Impositions and is hereby authorized by the Trustee to act for and on behalf of the Trustee in any and all such respects, and to file, at the request and on behalf of the Trustee, all required returns and reports respecting Impositions. El Paso shall promptly provide the Trustee with a copy of all such returns and reports and with evidence of payment of all Impositions.

11. **Indemnification by El Paso.**

El Paso hereby agrees, whether or not any of the transactions contemplated by the Trust Agreement shall be consummated, to assume liability for and does hereby agree to indemnify, protect, save and keep harmless the Trustee, in its individual capacity, and its successors, assigns, trustees, officers and servants (collectively, for the purposes of this Section 11, the "Trustee Indemnitees") from and against, any liabilities, obligations, losses, damages, taxes, claims,
actions, suits, costs, expenses and disbursements (including legal fees and expenses) of any kind and nature whatsoever (for the purposes of this Section 11 collectively called "Expenses") which may be imposed on, incurred by or asserted at any time against one or more of Trustee Indemnitees in any way relating to or arising out of the acceptance or administration of the Trust, the action or inaction of any of the Trustee Indemnitees hereunder or under the Trust Agreement, the Loan Documents or any Assignment Agreement or such other instruments as may be entered into pursuant to the Trust Agreement, or relating in any way to the Nuclear Fuel, including (without limitation) strict liability or liability without fault or other liability of an owner or vendor, arising out of statute, judicial decision or otherwise, provided, however, that El Paso shall not be required to indemnify any Trustee Indemnitee for (i) income or franchise taxes on, based on, or measured by, any fees or compensation received by a Trustee Indemnitee in an individual capacity for services rendered in connection with the transactions contemplated by the Trust Agreement, (ii) any Expenses caused by the gross negligence or willful misconduct of a Trustee Indemnitee, (iii) any Expenses caused by Trustee's Liens, and (iv) any Expenses caused by breach of a representation, warranty or covenant of any Trustee Indemnitee contained in this Contract, the Trust Agreement, the Loan Documents and any certificate or document delivered by such Trustee Indemnitee in connection herewith or therewith. Subject to the provisions of clause (ii) of the proviso in the immediately preceding sentence, the

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indemnification by El Paso to the Trustee provided by this Section 11 shall include, to the full extent permitted by applicable law, an indemnity for Expenses incurred by the Trustee caused by Trustee's sole or contributory negligence. Any payment to any Trustee Indemnitee under this Section 11 shall be increased to such amount as will, after taking account of all (i) taxes imposed with respect to the accrual or receipt of such payment by such Trustee Indemnitee (as the same may be increased pursuant to this sentence) and (ii) any deductions or credits under any applicable tax law attributable to the Expenses or taxes for which payment has been made, equal the amount of the payment. The indemnities contained in this Section shall survive the termination of this Contract, the Trust Agreement, any Trust created under the Trust Agreement and the resignation or removal of any Trustee. In the event that any action, suit or proceeding is brought against any Trustee Indemnitee by reason of any aforementioned occurrence, condition or event, El Paso will, at El Paso's expense, resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by El Paso and acceptable to such Trustee Indemnitee.

12. **Insurance**

El Paso shall, at no cost to the Trustee, keep its insurable properties adequately insured at all times by financially sound and reputable insurers; maintain such other
insurance, to such extent and against such risks, including nuclear hazard, fire and other risks insured against by extended coverage, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance (including against nuclear energy hazards to the full limit of liability under Federal law) against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by it; and maintain such other insurance as may be required by law.

13. **Compliance with Legal and Insurance Requirements.**

El Paso at its expense will promptly (a) comply with all Legal Requirements and Insurance Requirements as to Nuclear Fuel owned by the Trustee and (b) procure, maintain and comply with all permits, licenses and other authorizations required for the ownership of such Nuclear Fuel or any portion thereof by the Trustee or El Paso.

14. **Permitted Contests.**

El Paso at its expense may contest by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition or lien therefor, or any Legal Requirement, respecting Nuclear Fuel, provided, however, as follows:
(a) in the case of a contest involving material Imposition, material lien or material Legal Requirement (as determined in each case by El Paso), El Paso shall provide prior notice to the Trustee, and

(b) neither the Trustee nor the Trust could be subject to any additional civil liability (other than interest, which El Paso agrees to pay) or any criminal liability, for failure to pay any such Imposition or to comply with such Legal Requirement.

El Paso agrees to indemnify, and hold the Trustee and the Trust harmless against all claims, demands, losses, judgments, decrees and costs, including attorneys' fees and expenses, in connection with any such contest and shall, promptly after the final determination of such contest, pay and discharge the amounts which shall be levied, assessed or proposed or determined to be payable therein, together with all penalties, fines, interest, costs and expenses thereon or in connection therewith.

15. **Damage or Destruction.**

If any material incident of damage to or destruction of any Nuclear Fuel then covered by any Fuel Schedule hereto should occur, El Paso upon actual knowledge thereof will promptly give
written notice thereof to the Trustee, generally describing the nature and extent of such damage or destruction.

16. **Taking.**

In case of a Taking or the commencement of any proceedings or negotiations that might result in any Taking, El Paso upon actual knowledge thereof will promptly give written notice thereof to the Trustee generally describing the nature and extent of such Taking or the nature of such proceedings or negotiations and the nature and extent of the Taking that might result therefrom, as the case may be. The Trustee, upon receipt of any award or payment on account of any Taking of Nuclear Fuel then covered by any Schedule hereto or any portion thereof shall give prompt notice to El Paso and the Credit Bank of such award or payment. Within ten (10) Business Days after receipt of the notice referred to in the preceding sentence, El Paso shall elect, by written notice to the Trustee, to apply the proceeds thereof to (i) the Restoration of the Nuclear Fuel, (ii) the reimbursement of El Paso for funds theretofore used for such Restoration, or (iii) the reduction, by the amount of such award or payment, of the Net Investment of the Trustee in such Nuclear Fuel in accordance with the provisions of Section 3(a) (i) hereof. In the event El Paso elects the options described in clauses (i) or (ii), the Trustee shall pay such award or payment to El Paso. In the event El Paso elects the option described in clause (iii), the Trustee shall pay such award or payment to the Credit Bank.
El Paso may elect to apply portions of any award or payment to each of, or a combination of, the options described in clauses (i), (ii) and (iii), and payments by the Trustee to El Paso and the Credit Bank shall be made accordingly.

17. **Events Upon Which Contract to Terminate**.

   (a) This Contract shall terminate in the manner and with the effect hereinafter set forth in Section 18 upon the happening of any of the following events (each, a "Termination Event"):

   (i) El Paso shall have delivered to the Trustee a certificate (signed by the President or any Vice President of El Paso) stating that El Paso desires to terminate this Contract effective on a date stated therein (which shall not be less than 60 days after receipt of such notice), and such date shall have occurred.

   (ii) The Trustee, in the opinion of its counsel (a copy of which opinion shall have been delivered to El Paso), by virtue of any interest in the Nuclear Fuel, the Trust, or otherwise, should be or become potentially liable, whether because of a change in laws or for any other reason, to respond in damages to any person or persons for injury, death or property damage in an amount for which the Trustee is not fully insured, covered, held harmless or otherwise
indemnified against or protected from hereunder or pursuant to any insurance policy or policies or indemnification issued by a person or persons satisfactory to the Trustee; and the Trustee shall have given notice of termination of this Contract to El Paso.

(iii) The Trustee is declared by the Securities and Exchange Commission to be, or with the passage of a specific period of time would become, an "electric utility company" or a "gas utility company" as defined in the Public Utility Holding Company Act of 1935, as amended, or the shareholders of the Trustee or any partner, officer or employee of the Trustee, shall become, or with the passage of a specific period of time would become, subject to regulation under said Act by reason of the transactions contemplated by this Contract.

(iv) The Trustee becomes, or is declared by the Public Utilities Commission of Texas, the New Mexico Public Utility Commission or the Arizona Corporation Commission to be, or with the passage of a specific period of time would become, a "public utility" as defined under Texas, New Mexico or Arizona law or the shareholders of the Trustee or any partner, officer or employee of the Trustee shall become, or with the passage of a specific period of time would become, subject to regulation under said law by reason of the transactions contemplated by this Contract.
(v) The Trustee becomes, or is declared by a governmental agency having jurisdiction to be, or with the passage of a specific period of time would become, a "public utility" as defined in the Federal Power Act, as amended, or the shareholders of the Trustee or any partner, officer or employee of the Trustee, shall be or with the passage of a specific period of time would become, subject to regulation under said Act by reason of the transactions contemplated by this Contract.

(vi) Any law or regulation or interpretation of any law or regulation shall be adopted or enforced by any governmental or regulatory authority (including, without limitation, DOE, the Arizona Corporation Commission, the Public Utilities Commission of Texas, the New Mexico Public Utility Commission, the Securities and Exchange Commission, the Federal Energy Regulatory Commission and the New York Stock Exchange), and as a result of such adoption or enforcement, approval of the transactions contemplated by this Contract shall be required and shall not have been obtained within any grace period after such adoption or enforcement; or as a result of any such adoption or enforcement this Contract or any transaction contemplated hereby shall be or become, or with the passage of a specific period of time would become, unlawful or the performance of this Contract or any term thereof shall be rendered impracticable in any material way, unlawful or unenforceable.

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and the Trustee shall have given notice of termination of this Contract to El Paso.

(vii) A "nuclear incident" (as defined in the Atomic Energy Act of 1954, as amended) involving or connected in any way with the Nuclear Fuel, any Unit or any portion of either thereof shall have occurred and the Trustee shall have given notice to El Paso that the Trustee believes such "nuclear incident" may give rise to an aggregate liability (whether of El Paso or the Trustee), or to damage, destruction or personal injury, in excess of the insurance and indemnification available.

(viii) An Event of Default (as defined in the Credit Agreement) which is not an Event of Default under Section 19(a) of this Contract shall have occurred and be continuing.

(b) Promptly after either the Trustee or El Paso shall actually learn of the happening of any of the events listed in Section 17 (a), such person shall give written notice thereof to the other party hereto (unless the happening of the event itself shall cause such notice to be given), identifying the happening of such event or events.
18. **Procedure for Termination of Contract**

(a) Immediately upon the happening of any Termination Event, this Contract shall cease and terminate, except with respect to obligations and liabilities of El Paso, actual or contingent, which arose under this Contract on or prior to the date of termination and except for El Paso’s obligations set forth in Sections 3 and 4 and 10 through 16 and in this Section, all of which obligations shall continue until discharged as provided for below. The notice of the happening of such events, required by Section 17(b), shall (x) acknowledge that this Contract has terminated, subject to the continuing obligations of El Paso mentioned above, (y) state that on a settlement date which shall not be more than 150 days after the giving of such notice, which settlement date shall be specified therein, El Paso shall be obligated to pay the Trustee an amount equal to the Net Investment of the Trustee with respect to Nuclear Fuel then covered by any Fuel Schedule hereto on such settlement date, plus any other amounts due the Trustee hereunder plus such further amount, if any, as shall be sufficient to enable the Trustee to pay in full: (A) all obligations under the Credit Agreement and notes issued thereunder; and (B) all other obligations and liabilities of the Trustee related to this Contract and the Trust Agreement, and (z) state that on such settlement date, the Trustee shall be obligated to deliver to El Paso a Bill of Sale in the form of Schedule C hereto conveying the entire interest and ownership of the Nuclear Fuel from the Trustee to El Paso.
Upon the delivery of such notice, the Trustee and El Paso shall become obligated to make the payment and to deliver the documentation referred to herein on such settlement date to the same extent as if each had acknowledged in writing its obligation so to do. Such payment and delivery of documentation shall be made in accordance with this Section 18. Any other provision of this Contract to the contrary notwithstanding, if this Contract is terminated as a result of the happening of an event set forth in Section 17(a) (viii) hereof, then the settlement date referred to in this Section 18 shall be ten (10) Business Days after El Paso (i) obtains actual knowledge of such termination or (ii) receives notice of such termination pursuant to Section 17 (b) hereof, whichever is earlier. El Paso's obligations will not be discharged until all of its liabilities hereunder are satisfied.

(b) Upon the settlement date specified in the notice delivered by the Trustee or El Paso, El Paso shall pay to the Trustee at the office of the Credit Bank at 270 Park Avenue, New York, New York 10017 or to such other person at such other place designated by the Trustee the payments specified in Section 18(a) hereof in immediately available funds, and the Trustee shall transfer the title to and ownership interest in the Nuclear Fuel to El Paso. El Paso shall pay all expenses in connection with such transfer, including all escrow fees, search and recording and filing fees, attorneys' fees and all applicable federal, state and local sales, use and other taxes which may be incurred or imposed by reason of the transfer then being made by the
Trustee, or by reason of the delivery of an instrument or instruments to transfer title.

(c) Notwithstanding any other provisions of this Contract, whenever El Paso has the right or obligation to purchase the Nuclear Fuel or any portion thereof or any other property pursuant to any provision of this Contract other than Section 18(a), then, subject to the Trust Agreement, El Paso may cause such purchase to be effected by, and the Trustee shall transfer title to and ownership of the subject matter of such purchase to, any other person lawfully entitled to receive the same and specified by El Paso in a written notice to the Trustee given at least 15 days prior to the date of such purchase, provided, that nothing specified in this subsection (c) shall in any way impair or affect the obligations of El Paso under this Contract in connection with such purchase and provided, further, that at the time of any such transfer to such other person, El Paso shall deliver to the Trustee the undertaking of El Paso indemnifying and holding the Trustee harmless from and against any loss, claim, damage, or liability incurred by him by reason of such transfer in the same manner and to the same extent as if the Trustee had made such transfer to El Paso.

(d) Upon the purchase by El Paso or any other person pursuant to this Contract of the interest of the Trustee or any other person in the Nuclear Fuel or any portion thereof or in any insurance proceeds or condemnation awards (or the right to
receive the same) relating thereto, the Trustee need not transfer any better title thereto or ownership interest therein than existed on the respective dates when the various items of property so sold first became subject to this Contract.

19. **Events of Default and Remedies**

(a) Any of the following events of default by El Paso shall constitute an "Event of Default" and give rise to the rights on the part of the Trustee described in Section 19(b):

(i) default in the payment of any amount payable by El Paso hereunder for 30 days after such payment is due; or

(ii) failure to perform or observe any other term, covenant or agreement contained in this Contract or in any other agreement between El Paso and the Trustee on El Paso's part to be performed or observed, which such failure shall remain unremedied for 30 days after written notice thereof shall have been given to El Paso by the Trustee; or

(iii) any representation or warranty made by El Paso herein, in the Assignment Agreements or in any document or certificate furnished to the Trustee or any other party in connection herewith or therewith or pursuant hereto or
thereto shall prove at any time to be incorrect as of the date made in any material respect; or

(iv) the institution of any proceeding by or against El Paso seeking to adjudicate it a bankrupt or insolvent or seeking reorganization, arrangement, adjustment, liquidation or compensation of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking appointment of a receiver, trustee, or similar official or for any substantial part of its property and, if instituted against El Paso, consent thereto by El Paso or failure by El Paso for 60 days to stay such proceeding, or the taking of any action by El Paso to authorize any of the actions set forth above; or

(v) the termination of existence or business failure of, or the making of an assignment for the benefit of creditors by El Paso; or

(vi) admission in writing by El Paso of its inability to pay its debts; or

(vii) this Contract or the Trust Agreement shall terminate or cease to be in full force and effect for any reason (other than pursuant to Section 17 hereof).
(b) Upon the occurrence and during the continuance of any Event of Default, the Trustee may in its discretion do any one or more of the following:

(i) proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by El Paso of the applicable provisions of this Contract, or to recover damages for the breach thereof; or

(ii) without limiting the generality of clause (i) above, the Trustee may, at its option, in addition to all other rights and remedies provided hereunder or under applicable law, without regard to whether any or all of such other rights and remedies have been or are to be exercised, in its own name or the name of El Paso, demand, sue upon or otherwise enforce the Assigned Agreements with full power as though the Trustee were the party named in the Assigned Agreements, and amend, revise, release or otherwise change the same as may seem proper to the Trustee in its sole discretion and exercise all other rights of El Paso under the Assigned Agreements in such manner as it may determine. The exercise by the Trustee of the rights and remedies granted it in this clause (ii) shall not be considered a waiver of any Event of Default.

(iii) without limiting the generality of Clauses (i) or (ii) above, upon the occurrence and during the
continuance of an Event of Default, El Paso agrees that the Trustee may (but shall not be obliged to), at its sole election, perform for El Paso under any and all Assigned Agreements.

(iv) terminate this Contract.

(c) In addition to the remedies of the Trustee provided in Section 19(b) above, the Trustee shall be entitled to recover from El Paso all losses, damages and expenses sustained by the Trustee by reason of such default and to all other remedies provided by law.


Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(a) if to El Paso, to El Paso Electric Company, 303 North Oregon Street, El Paso, Texas 79901, Attention of: General Counsel (Telecopy No. (915) 543 5710)); and

(b) if to the Trustee, to Texas Commerce Bank National Association, Texas Commerce Bank Building, 201 East Main, El Paso, Texas 79901, Attention of Sarah Wilson (Telecopy No. (915) 546-6701).
All notices and other communications given to any party hereto in accordance with the provisions of this Contract shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by telecopy or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section or in accordance with the latest unrevoked direction from such party given in accordance with this Section.

21. **Allocation of Amounts**.

Whenever, under this Contract, computations or allocations are required to be made involving a cost, price, payment, charge, factor, discount, burn-up residual value, or any other amount relating to the Nuclear Fuel, such cost, price, payment, charge, factor, discount, burn-up or any other amount shall be determined by El Paso. El Paso shall inform the Trustee in writing of the basis of such allocations.

22. **Amendments**.

Except as otherwise provided for herein, this Contract may not be amended, modified or terminated, nor may any obligation hereunder be waived, orally, and no amendment, modification, termination or waiver shall be effective for any
23. **Severability**.

Any provision of this Contract that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, El Paso hereby waives any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

24. **Warranties and Representations of El Paso**.

Except as set forth in the Disclosure Schedule, El Paso hereby warrants and represents to the Trustee, individually and otherwise, as follows:

(a) El Paso is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Texas and has all requisite power and authority, corporate or otherwise, to conduct its business, to own its properties and to
execute and deliver, and to perform all of its obligations under this Contract and the Assignment Agreements.

(b) The execution and delivery by El Paso of this Contract and the Assignment Agreements and the performance of its obligations to make payments under this Contract and the Assignment Agreements have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of the stockholders of El Paso, (ii) violate any provision of the charter or bylaws of El Paso, or of any existing law, rule or regulation (including, without limitation, Regulation X of the Board of Governors of the Federal Reserve System), or to the best of knowledge of responsible officers of El Paso, any existing order, writ, judgment, injunction, decree, determination or award of the United States of America or of the State of Texas, Arizona or New Mexico or of any court, agency, subdivision or authority thereof having applicability to El Paso or of the charter or by-laws of El Paso, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which El Paso is a party or by which it or its properties may be bound or affected.

(c) This Contract and the Assignment Agreements each constitutes a legal, valid and binding obligation of El Paso enforceable against El Paso in accordance with its terms.
(d) There are no actions, suits or proceedings pending or, to the knowledge of El Paso, threatened against or affecting El Paso or the properties of El Paso before any court or governmental department or commission which, if adversely determined, could reasonably be expected, individually or in the aggregate, to have a material adverse effect on the ability of El Paso to carry out its obligations under this Contract or the Assignment Agreements.

(e) Neither El Paso nor any of its subsidiaries, if any, is a party to any indenture, loan or credit agreement or any lease or other agreement or instrument or subject to any charter or corporate restriction which could reasonably be expected to result in a material adverse effect on the ability of El Paso to carry out its obligations under this Contract or the Assignment Agreements.

(f) No event has occurred and is continuing which constitutes an Event of Default under this Contract or which would constitute an Event of Default thereunder but for the requirement that notice be given or time elapse or both.

(g) The execution, delivery and performance by El Paso of this Contract, the Assignment Agreements and all other agreements and instruments to be executed by El Paso pursuant to or as contemplated by the provisions hereof or thereof do not require the consent or approval of, the giving of notice to, the
registration with, or the taking of any other action with or by or in respect of, any federal, state or other governmental authority or agency, except (i) as set forth in the opinions of counsel for El Paso dated the Closing Date and referred to in Section 4.02(a) of the Credit Agreement and (ii) any notices and reports, if any, that have been effectively filed for the purposes thereof, or that are not yet due, a list of which is delivered concurrently herewith to the Trustee. In the event any such consent, approval, notice, registration or action shall from time to time be required, El Paso agrees to notify the Trustee and the Credit Bank thereof and to promptly secure such consents, approvals, and registrations, give such notices and take such actions.

25. **Successor Trustee**.

El Paso agrees that in the case of the appointment of any successor trustee pursuant to the terms of the Trust Agreement, such successor trustee shall, upon written notice by such successor trustee to El Paso, succeed to all rights, powers and title of the predecessor trustee hereunder, including the right to indemnification, other than as may relate to past indemnification or earned fees and shall be deemed to be the Trustee and owner of the Nuclear Fuel for all purposes hereof, without in any way altering the terms of this Contract or El Paso's rights and obligations hereunder. Upon the appointment of a successor trustee under the Trust Agreement, the predecessor
trustee shall have no further obligations, rights or duties under this Contract, including the right to indemnification, other than as may relate to past indemnification or earned fees. One such appointment and designation of a successor trustee shall not exhaust the right to appoint and designate further successor trustees pursuant to the Trust Agreement, but such right may be exercised from time to time as long as this Contract shall be in effect. The Trustee or any successor trustee may, but shall not be obligated to, appoint an agent and designate one or more officers of such agent as attorney-in-fact to execute and deliver any and all notices, consents and approvals or other documents necessary or desirable to be executed in connection with this Contract or with the Nuclear Fuel.

26. [Reserved]

27. [Reserved]

28. Miscellaneous.

El Paso understands and agrees that the duties and obligations of the Trustee hereunder shall be subject to the terms of the Trust Agreement. The terms and provisions of this Contract supersede all prior negotiations and oral understandings, if any, between the Trustee and El, Paso with respect to the transactions contemplated hereby. The captions in this Contract are for convenience or reference only and shall not
be used to interpret any of the terms or provisions hereof. This contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Texas, including all matters of construction, validity and performance.

29. **Inspection of Books and Records.**

   Upon reasonable notice by El Paso to the Trustee, authorized representatives of El Paso (or, upon El Paso's request, of regulatory authorities having jurisdiction over El Paso) or its designee shall have the right to examine during normal business hours the books of account and records of the Trustee pertaining to the transactions contemplated hereby.

30. [Reserved.]

31. **Failure of Performance by the Trustee.**

   If the Trustee shall fail to perform any act which he is obligated to perform under the Credit Agreement and such failure shall continue for five Business Days following notice thereof from El Paso to the Trustee, El Paso shall be entitled and is hereby irrevocably appointed (so long as no Event of Default shall have occurred hereunder and be continuing), as agent and attorney-in-fact of the Trustee, to perform such act on behalf of the Trustee.
32. **Incorporated Schedules**.

Schedules A through E attached hereto are by this reference incorporated and made a part hereof.
IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed, as of the day and year first above written.

TEXAS COMMERCE BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as the Trustee of the Rio Grande Resources Trust II

By: /s/ [ILLEGIBLE]
   Name:
   Title:

EL PASO ELECTRIC COMPANY

By: ____________________________
   Name:
   Title:

XXZ95A04.WPN (2/9/96 12:02am)
IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed, as of the day and year first above written.

TEXAS COMMERCE BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as the Trustee of the Rio Grande Resources Trust II

By:

Name:
Title:

EL PASO ELECTRIC COMPANY

By: /s/ John E. Droubay
Name: John E. Droubay
Title: VP & Treasurer
STATE OF NEW YORK  
COUNTY OF NEW YORK  

BEFORE ME, the undersigned authority, on this day personally appeared Sarah Wilson, Vice President of Texas Commerce Bank National Association, a banking corporation organized under the federal laws of the United States of America, acting in its capacity as Trustee of the Rio Grande Resources Trust II, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 9th day of February, 1996.

[SEAL]

CORINNE M. RAICHT
Notary Public, State of New York
No. 4985516
Qualified in Westchester County
Qualified in New York County
Commission Expires Aug. 19, 1997

Notary Public – State of New York

/s/ Corinne Raicht
Corinne Raicht

My Commission Expires:
August 19, 1997
Acquisition Cost. The purchase price paid in order to acquire any portion of the Nuclear Fuel, including any progress payments made thereon, together with costs of milling, conversion, enrichment, fabrication, installation, delivery, containerization, transportation, storage, processing and any other direct costs with respect to acquiring or preparing such portion of the Nuclear Fuel for use in or management thereof through any stage of the Nuclear Fuel Cycle, but excluding therefrom all Capitalized Cost with respect thereto.

Additional Sales Charge. Additional Sales Charges are (i) all amounts that El Paso agrees to pay the Trustee as the result of charges (other than Basic Heat Supply Charges, Acquisition Cost and payments made by El Paso pursuant to Sections 3(a) and 3(b) of the Purchase Contract) incurred by the Trustee in connection with the Nuclear Fuel or a portion thereof (except amounts payable upon termination of the Purchase Contract and amounts payable pursuant to Section 18 of such Contract) and (ii) the Trustee's Expenses.

Edison Company, Public Service Company of New Mexico, El Paso, Southern California Public Power Authority and Department of Water and Power of the City of Los Angeles. The ANPP Participation Agreement is sometimes referred to as the Palo Verde Nuclear Generating Station Participation Agreement.

**Assembly.** Any one of the separate fuel assemblies constituting a portion of the Nuclear Fuel.

**Assigned Agreements.** The agreements and contracts and exhibits and appendices thereto between and among El Paso, or others on behalf of El Paso, and various entities engaged in the Nuclear Fuel Cycle which are the subject of the various Assignment Agreements, including the ANPP Participation Agreement and any additional such agreements entered into after the Closing Date, as such Assigned Agreements may from time to time be supplemented, amended, waived or modified in accordance with the terms thereof.

**Assignment Agreements.** All of the several Assignment Agreements, as of the date entered into (including those entered into subsequent to the Closing Date) between the Trustee and El Paso, together with the annexed consents thereto assigning certain rights of El Paso to the Trustee.
Basic Heat Supply Charge. The Basic Heat Supply Charge shall be calculated pursuant to the provisions of Section 3(j) of the Purchase Contract.

Basic Heat Supply Payment Date has the meaning set forth in Section 3(j) of the Purchase Contract.


Bill of Sale. A bill of sale in substantially the form of Schedule C to the Purchase Contract, by which title to all or any portion of the Nuclear Fuel is transferred from the Trustee to El Paso.

Business Day. Any day other than Saturday, Sunday or a day when banks are authorized or required by law to close in New York or Texas.

Capitalized Cost. The sum of all legal, printing, reproduction, closing and other normally capitalizable fees, disbursements, and other expenses actually incurred and paid by El Paso or the Trustee in connection with the acquisition of the Nuclear Fuel, including Trustee's Expenses, plus the sum of the Capitalized Daily Financing Charge.
**Capitalized Daily Financing Charges.** The sum of all Daily Financing Charges accrued pursuant to the Purchase Contract allocable to the Nuclear Fuel or any portion thereof during any stage of its Nuclear Fuel Cycle.

**Closing Date.** February 12, 1996, or such other date as may hereafter be agreed by the parties hereto.

**Credit Agreement.** The Credit Agreement dated as of February 12, 1996 among El Paso, the Trustee, the lenders from time to time party thereto and Credit Bank as said Credit Agreement may from time to time be supplemented, amended, waived or modified.

**Credit Bank.** Chemical Bank, a New York banking corporation, in its capacity as issuing bank, administrative agent and collateral agent under the Credit Agreement, and its successors or assigns under the Credit Agreement.

**Daily Financing Charge.** For any calendar day (whether or not a Business Day) during the term of the Purchase Contract the sum of: an accrual for each such day of all interest expenses, commitment, and other fees, on or with respect to any loans obtained by the Trustee pursuant to the Credit Agreement which are outstanding at the close of business on such day, minus or plus, respectively, any investment income or loss credited to the account established pursuant to Section 12.6 of the Trust
Agreement; provided that Daily Financing Charge shall not include an item which would constitute an element of Acquisition Cost.

Disclosure Schedule. Disclosure Schedule means the Disclosure Schedule attached as Schedule E to the Purchase Contract.

DOE. The United States Department of Energy or any body (governmental or private) succeeding to any of the functions of such agency as constituted at the date of the Purchase Contract.

Effective Date. "Effective Date" has the meaning set forth in Section 1.52 of the Fourth Amended Plan of Reorganization of El Paso, dated November 7, 1995, as confirmed by the United States Bankruptcy Court, Western District of Texas, Austin Division on January 9, 1996.

El Paso. El Paso Electric Company, a Texas corporation and, prior to the Effective Date, a debtor and debtor in possession under Chapter 11 of the United States Bankruptcy Code.

Event of Default. The term as used in Section 19 of the Purchase Contract or in Article VII of the Credit Agreement, as the case may be.
Fee Agreement. Fee Agreement, dated as of February __, 1996, between the Trustee and Trustor with respect to those fees and expenses incurred by the Trustee pursuant to the Trust Agreement and the transactions contemplated thereby which are payable or reimbursable by the Trustor.

Fuel Management. The design of, contracting for, fixing the price and terms of acquisition of, management, movement, removal, disengagement and other activities in connection with the utilization of the Nuclear Fuel, and sometimes referred to as "management," all of which shall be conducted according to the sole discretion of El Paso.

Fuel Schedule. An instrument in substantially the form of Schedule B to the Purchase Contract and made a part thereof.

Fuel Swap. Any swap, exchange or similar transaction described in the proviso to the definition of Nuclear Fuel.

Fuel Swap Proceeds. Means any amount received by El Paso or the Trustee, as the case may be, pursuant to a Fuel Swap.

GAAP. Means generally accepted accounting principles in use at the Closing Date, or, at the option of El Paso, other generally accepted accounting principles which are in use at the time of their determination; in determining generally accepted accounting principles, El Paso may, but shall not be required to,
conform to any accounting order, rule or regulation of any regulatory authority having jurisdiction over the electric generating, transmission and distribution operations of El Paso.

**Heat.** Any and all of the heat energy produced, emitted or generated by the Nuclear Fuel while engaged in a reactor core of a Unit in accordance with the provisions of the Purchase Contract.

**Heat Production.** The stage of the Nuclear Fuel Cycle in which the Nuclear Fuel is engaged in a reactor core and is being consumed, pursuant to the process of nuclear fission, in the production of steam for the generation of electric energy.

**Impositions.** All license, documentation and registration fees and all taxes, except taxes upon the net income of the Trustee in its individual capacity, but including without further limitation gross income, gross receipts, interest equalization, sales, use, occupation, franchise, personal property, stamp and other taxes, levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties or interest thereon imposed by any taxing authority or governmental subdivision upon or in respect of, or measured by, any payments under the Purchase Contract from El Paso to the Trustee or gross receipts from the sale of Heat or Nuclear Fuel or in respect of any property subject to the Purchase Contract or any transaction pursuant to the Purchase Contract or any right or
interest held by virtue of the Purchase Contract or Beneficiary's interest therein.

**Insurance Requirements.** All terms of any insurance policy covering or applicable to the Nuclear Fuel or any portion thereof, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the DOE, the National Board of Fire Underwriters, or any other body exercising similar functions with respect to electric utility properties or any other body hereafter constituted exercising similar functions, which are applicable to or affecting the Plant, the Nuclear Fuel or any portion thereof or any operation, use or condition of the Plant, the Nuclear Fuel or any portion thereof.

**Investment.** With respect to any portion of the Nuclear Fuel, the sum of (i) the Acquisition Cost for such portion, plus (ii) the Capitalized Cost for such portion, or such lesser part of items (i) and (ii) paid by the Trustee pursuant to the Purchase Contract, as such sum shall be set forth from time to time with respect to such portion in the appropriate Schedule thereto, as amended from time to time by a Fuel Schedule in accordance with the Purchase Contract.

**Legal Requirements.** All material requirements having the force of law applicable to the Plant, a Unit, the Nuclear Fuel, or any transaction pursuant to the Purchase Contract,
compliance with which is at the time presently required and feasible.

**Lenders**. The "Lenders" as defined in the Credit Agreement.

**Lien**. Means with respect to any asset, any mortgage, pledge, lien, encumbrance, charge or adverse claim affecting title or resulting in a charge against real or personal property, or a security interest of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction).

**Lien of the Security Agreement**. Means the Lien created by the Security Agreement.

**Loan Documents**. Means the Credit Agreement and the Security Agreement.

**Nuclear Fuel**. The interest of El Paso or the Trustee in all unmined uranium ore in place, unmilled uranium ore, converted, and/or enriched uranium ore and byproducts therefrom,
fabricated Nuclear Fuel, including rods, assemblies, batches, regions and cores whether or not in place in a nuclear reactor and all other uranium products (excluding Spent Fuel) and services rendered or to be rendered in connection therewith that are the subject of certain Assignment Agreements; provided, that the definition of Nuclear Fuel shall not include any Nuclear Fuel which is loaned or otherwise provided by El Paso to third parties pursuant to swap, exchange or similar agreements which are customary in the industry, but will include Nuclear Fuel which is loaned or otherwise provided by third parties to El Paso pursuant to such agreements.

**Nuclear Fuel Cycle.** The various stages in the process by which the component parts of the Nuclear Fuel are mined, milled, converted, enriched, fabricated into rods, assemblies, batches, regions and cores utilizable for Heat Production, loaded into a reactor core and utilized, together with all incidental processes with respect to the Nuclear Fuel at any stage of the Nuclear Fuel Cycle.

**Nuclear Fuel Proceeds.** All proceeds from one or more of (i) borrowings under the Credit Agreement, or (ii) issuances of notes or obligations referred to in Section 2(d) of the Trust Agreement to the extent the proceeds therefrom are used by the Trustee in connection with the performance of the Purchase Contract or other agreements or arrangements entered into by the Trustee in connection therewith or (iii) investments (including
both principal and interest) pursuant to Section 12.6 of the Trust Agreement to the extent the principal of such investments represents proceeds from any of the aforesaid sources.

**Net Investment.** With respect to any portion of the Nuclear Fuel, the excess of the amount of the Investment in such portion over the aggregate amount of the Basic Heat Supply Charge, if any, theretofore paid by El Paso to the Trustee in respect of such portion. In addition, Net Investment shall be reduced by the amount of any payment made by El Paso to the Trustee for application pursuant to Section 3(a) (i) of the Purchase Contract.

**Palo Verde Nuclear Generating Station.** Means that certain 3,810 megawatt nuclear generating facility consisting of three generating units located near Phoenix, Arizona, in which El Paso, as owner or lessee, had a 15.8% undivided interest as of the Closing Date. Palo Verde Nuclear Generating Station was previously known as the Arizona Nuclear Power Project.

**Permitted Contests.** Contests permitted by Section 14 of the Purchase Contract.

**Permitted Encumbrances.** Means as of any time any of the following:

(a) the Lien of the Security Agreement;
(b) Liens for taxes or assessments by governmental bodies not yet due or the payment of which is being contested in good faith by El Paso and for which El Paso shall have set aside on its books adequate reserves to the extent required by GAAP;

(c) Liens incidental to the mining, milling, fabrication, enrichment, conversion or transportation of Nuclear Fuel which are not delinquent or, whether or not delinquent, are being contested in good faith by El Paso and for which El Paso shall have set aside on its books adequate reserves for the payment thereof to the extent required by GAAP;

(d) Irregularities in or defects of title relating to any Nuclear Fuel which do not materially impair the use of such Nuclear Fuel for the purposes for which such Nuclear Fuel is held by El Paso or the Trustee;

(e) Liens securing indebtedness incurred by a Person, other than El Paso, which indebtedness has been neither assumed nor guaranteed by El Paso nor on which El Paso customarily pays interest, existing on Nuclear Fuel which El Paso or the Trustee owns jointly or in common with such Person or such Person and others, if there is an effective bar against partition of such property which would preclude the sale of such property by such other Person or the holder of such Lien without the consent of El Paso;
(f) any attachment, judgment, and other similar Lien with respect to Nuclear Fuel arising in connection with court proceedings (i) in an amount not in excess of the greater of $5,000,000, or (ii) the execution of which has been stayed or which has been appealed and secured, if necessary, by an appeal bond;

(g) the burdens of any law or governmental rule, regulations, order or permit requiring El Paso and the Trustee to maintain certain facilities or to perform certain acts as a condition of their acquisition or use of Nuclear Fuel;

(h) any duties or obligations of El Paso and the Trustee to any federal, state or local or other governmental authority with respect to any franchise, grant, license, permit or contract which affects any Nuclear Fuel;

(i) Liens in favor of a government or governmental entity securing (i) payments pursuant to a statute (other than taxes and assessments), or (ii) indebtedness incurred to finance all or part of the purchase price or cost of mining, milling fabrication, conversion, enrichment or transportation of Nuclear Fuel;

(j) any Lien of the Trustee contemplated by the Purchase Contract or the Trust Agreement; and
(k) any other Liens of whatever nature or kind which, in the reasonable opinion of El Paso, do not individually or in the aggregate, materially impair the Lien of the Security Agreement;

provided, that Permitted Encumbrances shall not include the Trustee's Liens.

**Person.** Means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

**Plant.** The plant site in Maricopa County, Arizona, of the Palo Verde Nuclear Generating Station.

**Plant Account.** An account to which the Trustee's Investment with respect to Nuclear Fuel may be allocated pending allocation by El Paso of such Investment among Units.

**Purchase Contract.** The Purchase Contract dated as of February 12, 1996, between El Paso and the Trustee as such Purchase Contract may from time to time be supplemented, amended, waived or modified.

**Restoration.** The repair, reconstruction or replacement of all or any portion of the Nuclear Fuel of a Unit which has
been damaged or destroyed or which has been affected by a Taking, as nearly as possible to the value, condition and character of such portion, and in its location, immediately prior to such damage, destruction or Taking, or the replacement of any Assembly of the Nuclear Fuel so damaged, destroyed or affected by a Taking, with an equivalent Assembly of Nuclear Fuel with only such alterations and additions as may be made at El Paso's election as will not diminish the Net Investment of the Nuclear Fuel so repaired, reconstructed or replaced.

Security Agreement. The Security Agreement and Assignment of Contracts dated as of February 12, 1996, between Texas Commerce Bank National Association, not in its individual capacity, but solely in its capacity as trustee under the Trust Agreement and Chemical Bank, a New York banking corporation, in its capacity as collateral agent for the secured parties.

Spent Fuel. Nuclear Fuel, which, through engagement in the reactor core of a Unit, has been consumed pursuant to the process of nuclear fission and is being stored in the fuel pit of a Unit or such other place as El Paso shall designate.

Supplemental Instructions. Instructions to the Trustee from the Trustor in substantially the form of Schedule B to the Trust Agreement, upon acceptance by the Trustee, as any such supplemental instructions may from time to time be supplemented, amended, waived or modified.

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Taking. A loss, during the term of the Purchase Contract, of the title, ownership, use or possession of the Nuclear Fuel, a Unit or any portion of either thereof, or any interest therein or right accruing thereto, as the result of or in connection with the exercise of the right of condemnation or eminent domain pursuant to any law, general or special, or by reason of the temporary requisition of the use of the Nuclear Fuel, a Unit or any portion of either thereof, by any governmental authority, civil or military.

Termination Event. Any of the events described in Section 17 of this Contract.

Trust. The Trust established by the provisions of the Trust Agreement.

Trust Agreement. That certain Trust Agreement, dated as of February 12, 1996, between the Trustee and Trustor, providing for the creation of the Rio Grande Resources Trust II, as such Trust Agreement may from time to time be supplemented, amended, waived or modified.

Trust Estate. Subject to Section 3 of the Trust Agreement, all estate, right, title and interest of the Trustee in and to the Trust Estate Assets and any other rights, assets or property owned or payments or proceeds (other than payments of the Trustee's Expenses or payments made in connection with any
indemnification of the Trustee) under any agreements, arrangements or transactions entered into pursuant to Supplemental Instructions.

**Trust Estate Assets.** Subject to Section 3 of the Trust Agreement: all estate, right, title and interest of the Trustee in and to the Purchase Contract, Assigned Agreements, the Loan Documents, all rights, assets or property owned, or payments or proceeds received, by or for the account of the Trustee under the Purchase Contract, the Assignment Agreements, the Loan Documents Agreement or an agreement entered into pursuant to Section 2 of the Trust Agreement; all rights to any such payments or proceeds; and any and all investments (including both principal and interest) of the Trustee pursuant to Section 12.6 of the Trust Agreement to the extent the principal of such investments represents proceeds from any of the aforesaid sources.

**Trustee.** Texas Commerce Bank National Association, and, to the extent permitted by Section 8 of the Trust Agreement, its successors and assigns.

**Trustee's Expenses.** The fees and expenses of the Trustee payable or reimbursable by the Trustor pursuant to the Fee Agreement.

**Trustee's Liens.** Means any Lien or disposition of title arising as a result of (i) claims against Texas Commerce
Bank National Association not related to transactions contemplated by the Purchase Contract and Trust Agreement, (ii) any act or omission of Texas Commerce Bank National Association, which is not related to the transactions contemplated by the Purchase Contract and Trust Agreement or is in violation of any of the terms of the Purchase Contract and Trust Agreement, (iii) claims against Texas Commerce Bank National Association with respect to taxes or expenses against which El Paso is not required to indemnify, and which the Trustee is otherwise required to pay or (iv) claims against Texas Commerce Bank National Association arising out of any transfer of all or any portion of its interests in the Nuclear Fuel or the Trust Estate other than a transfer pursuant to the terms of the Trust Agreement or pursuant to the exercise of the remedies set forth in Section 19(b) of the Purchase Contract;


Unit or Units. Palo Verde Nuclear Generating Station, Units 1, 2, and 3 located in Maricopa County, Arizona, including fuel handling and storage facilities relating thereto.
FUEL SCHEDULE NO. ______, dated as of ________________, _____, between Texas Commerce Bank National Association, not in its individual capacity but solely as the Trustee pursuant to the Trust Agreement defined in the Contract (as hereinafter defined) (the "Trustee"), and El Paso Electric Company, a Texas corporation ("El Paso").

W I T N E S S E T H:

WHEREAS, the Trustee and El Paso have heretofore entered into that certain Purchase Contract dated as of February ___, 1996 (herein as heretofore modified, supplemented or amended, called the "Contract"), the defined terms therein being used herein with the same meaning, which Contract provides in certain Sections thereof for Fuel Schedules, amending Schedule D, to be executed and delivered from time to time; and

WHEREAS, the Trustee and El Paso have heretofore entered into Assignment Agreements;

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration and in compliance with
the requirements of the Contract, the Trustee and El Paso hereby agree as follows:

1. El Paso requests that the Trustee reimburse El Paso for or make payments to certain parties in the amounts specified in Annex I hereto.

2. Schedule D is hereby modified, supplemented or amended so as to include the descriptions and amounts specified in Annex I hereto.

3. (a) The Nuclear Fuel described in Annex I hereto and not heretofore listed in Schedule D to the Contract complies with all requirements of the Contract and all applicable Legal Requirements. All payments or reimbursements requested hereby comply with the provisions of the Assigned Agreements. El Paso has made (or has caused to be made) or shall make (or shall cause to be made) all necessary recordings, filings and publications in respect of Nuclear Fuel listed on Annex I hereto and owned by the Trustee (including financing statements and continuation statements under any applicable law or Uniform Commercial Code) in the public offices in which such recordings and filings should be made to perfect and transfer title in such Nuclear Fuel to the Trustee and has paid or shall pay all fees, taxes and charges payable in connection with any such recordings, filings and publications.
(b) El Paso warrants to the Trustee that the property described in Annex I hereto (except unmined ore in place, if any) is, and is intended, while owned by the Trustee, to be and remain personal property, is not, has not been and will not, while owned by the Trustee, be affixed to any land; and all such property which is owned by the Trustee is and will be free and clear of all claims, liens, security interests and other encumbrances occurring as a result of the contracts and agreements specified in the Assignment Agreements, except for Permitted Encumbrances.

4. Except as expressly modified and amended by this Fuel Schedule, the Contract is ratified and confirmed in all respects including, without limitation, the obligation of El Paso to pay all Basic Heat Supply Payments and any Additional Sales Charges and other amounts to be paid by El Paso under the Contract.
IN WITNESS WHEREOF, the Trustee and El Paso have caused this Fuel Schedule to be duly executed as of the date first above written.

TEXAS COMMERCE BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as the Trustee of the Rio Grande Resources Trust II

By

Name:
Title:

B-4
<table>
<thead>
<tr>
<th>Description of Property</th>
<th>Net Investment</th>
<th>Account *</th>
</tr>
</thead>
</table>

*Insert Unit No. or "Plant"*
Texas Commerce Bank National Association, not in its individual capacity but solely as the Trustee (the "Trustee") pursuant to the Trust Agreement, dated as of February 12, 1996 between the Trustee and El Paso Electric Company, as Trustor, for a valuable consideration, hereby conveys, transfers, sells and sets over all of the right, title, interest and claim of the Trustee in the personal property consisting of Nuclear Fuel described in Annex I hereto and by this Bill of Sale does hereby grant, bargain, sell, transfer and deliver all of the Trustee's right, title, interest and claim in and to such property to EL PASO ELECTRIC COMPANY, a Texas corporation ("El Paso"), to have and to hold, to itself and its successors and assigns, forever. Further, the Trustee hereby assigns to El Paso all warranties and claims to which the Trustee is entitled under the following agreements between the Trustee and El Paso, and the contracts and agreements referred to therein, with respect to said Nuclear Fuel: [List applicable Assigned Agreements].

The Trustee warrants and agrees that said Nuclear Fuel is free of all liens, encumbrances, charges, exceptions and
restrictions created by act or omission of the Trustee except any thereof for the discharge of which El Paso is responsible under that certain Purchase Contract dated as of February 12, 1996, between the Trustee and El Paso.

IN WITNESS WHEREOF, the Trustee has caused this Bill of Sale to be executed.

Dated: ________________, 19___.

TEXAS COMMERCE BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as the Trustee of the Rio Grande Resources Trust II

By:

Name:
Title:
ANNEX I (Schedule C)

Description of Property
SCHEDULE D (Basic Heat Supply Charges)

Quarterly Net Investment Schedule
(To be filled in by the Trustee and El Paso Electric Company)

Costs Attributable to Quarterly Period ended ______________ __, ______

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<tr>
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<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F</td>
<td>G</td>
</tr>
</tbody>
</table>

Loaded:

Unit 1

Unit 2

Unit 3

Unloaded

Total $ $ $ $ $ $ $ 

Notes:

Column C derived from Schedule B
Column F derived from Annex I
Annex I (Schedule D)

Calculation of Basic Heat Supply Charge
(To be filled in by El Paso Electric Company)

Quarterly Period ended _____________ , ___

<table>
<thead>
<tr>
<th>Unit</th>
<th>Month</th>
<th>Net Investment at Beginning of Month</th>
<th>Plus Transfers Between Fuel Status</th>
<th>Plus Capitalized Daily Financing Charges</th>
<th>Sub-Total</th>
<th>Multiplied by Amortization Factor</th>
<th>Basic Heat Supply Charge</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F</td>
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</tbody>
</table>

Total Quarterly Basic Heat Supply Charge

D-2
SCHEDULE E

DISCLOSURE SCHEDULE

E-1
Schedule 24(d)

Legal Proceedings

1. **EL PASO ELECTRIC COMPANY v. CENTRAL AND SOUTH WEST CORPORATION**, In the District Court of El Paso County, Texas, 205th Judicial District, Case No. 95-7153.

In May 1993, the Company entered into an agreement and plan of merger (the "Merger Agreement") with Central and South West Corporation ("CSW"), pursuant to which the Company would have been acquired by CSW. On June 1995, CSW terminated the Merger Agreement. In response to CSW's termination of the Merger Agreement, the Company filed a complaint against CSW in the 205th Judicial District Court of El Paso County, Texas, alleging breach of contract, breach of duty of good faith and fair dealing, breach of fiduciary duty, business disparagement, tortious interference with contract and fraud in the inducement. The Company is seeking an unspecified amount of damages, punitive, damages, attorney's fees and costs. Pursuant to the Plan, the first $20 million in proceeds, if any, to the Company from this litigation will be distributed to the holders of preferred stock and common stock of the Company prior to the reorganization. On June 15, 1995, CSW filed an adversary proceeding against the Company in the Bankruptcy Court seeking to recover termination fees of $25.0 million and approximately $3.7 million in attorneys' fees and expenses that CSW claims it advanced on behalf of the Company in certain regulatory proceedings. The Company is attempting to transfer the litigation to the United States District Court for the Western District of Texas in El Paso. The parties have commenced discovery, and the Company cannot predict the outcome of the litigation with CSW.

2. **Litigation with the City of Las Cruces**

The City of Las Cruces has two actions pending against the Company in federal district court in New Mexico, one seeking to recover franchise fees despite the expiration of the Company's Las Cruces franchise on March 18, 1994 and one seeking a declaratory judgment that the City of Las Cruces can proceed with a condemnation action against the Company.

The franchise fee claim is pending as *City of Las Cruces v. El Paso Electric Co.* , pursuant to which the City of Las Cruces is seeking to enforce what it claims are the Company's continued payment obligations under an allegedly implied continuation of the municipal franchise ordinance that expired by its own terms on March 18, 1994.

Alternatively, the City of Las Cruces is seeking the reasonable value of the Company's use, occupation and rental
of the City of Las Cruces' rights of way or damages for trespass. On August 25, 1995, the court denied the Company's motion to dismiss the complaint.

On April 7, 1995, the City of Las Cruces filed its Complaint for Declaratory Judgement against the Company in the District for Dona Ana County, New Mexico, seeking a declaratory judgment that the City of Las Cruces has a right of eminent domain to condemn the electric distribution system and related facilities owned and operated by the Company within the city limits that provide or assist in the provision of electricity within the municipal boundaries of the City of Las Cruces. On May 3, 1995, the Company removed the case to the United States District Court for the District of New Mexico, where it is pending as City of Las Cruces, New Mexico v. El Paso Electric Co. (the "Declaratory Judgment Suit"). On October 25, 1995, the federal magistrate hearing the cases entered an order denying the Company's motion for summary judgment in the Declaratory Judgment Suit. On November 1, 1995 the Board of Commissioners of Dona Ana, New Mexico, filed a motion to intervene in the Declaratory Judgment Suit to ensure that the concerns of non-municipal county customers and residents are fully developed.

The City of Las Cruces has taken several actions in an effort to acquire portions of the Company's distribution system and certain related facilities. The City of Las Cruces has taken steps to obtain a supply of power and an operator for its municipal utility in the event it is successful in its condemnation efforts. On June 6, 1994, the Las Cruces City Council approved a resolution selecting Southwestern Public Service Company ("SPS") to provide operation and maintenance services for the proposed City of Las Cruces electric distribution system, substations and associated transmission facilities and authorizing the staff of the City of Las Cruces to negotiate a contract with SPS related to such services. In August 1994, SPS and the City of Las Cruces entered into a fifteen-year contract granting SPS the right to provide all of the electric power and energy required by the City of Las Cruces during the term of the contract. The City of Las Cruces also has offered to purchase the Company's assets serving the City of Las Cruces for $43 million. In addition, the City of Las Cruces announced that, in October 1995, it sold approximately $73 million in revenue bonds to provide funding to finance the acquisition by condemnation or negotiated purchase of the Company's electrical distribution assets within and adjacent to the City of Las Cruces city limits. The Company has filed a lawsuit in the Dona Ana County District Court challenging the legality of the sale of the revenue bonds. In addition, the Company has filed a complaint before the
New Mexico Public Utility Commission ("NMPUC") Case 2684 seeking among other things, a stay against the ability of the City of Las Cruces to use any of the proceeds associated with the sale of revenue bonds to purchase any part of the Company's system in the City of Las Cruces or elsewhere in the State of New Mexico, until such time as the City receives proper authorization from the NMPUC as to its ability to purchase the system. A stay has been granted by the NMPUC and presently remains in effect.

3. **Water Cases**

**San Juan River System**. The Four Corners Participants are among the defendants in a suit filed by the State of New Mexico in March 1975 in state district court in New Mexico against the United States of America, the City of Farmington, New Mexico, the Secretary of the Interior, as trustee for the Navajo Nation and other Indian tribes, and certain other defendants. The suit is pending as *State of New Mexico ex rel. S.E. Reynolds, New Mexico State Engineer v. United States of America, et al.*, in the Eleventh Judicial District Court, County of San Juan, State of New Mexico. The suit seeks adjudication of the water rights of the San Juan River Stream System in New Mexico, which supplies the water used at Four Corners. No trial date has been set in this matter and the case has been inactive for several years. An agreement reached with the Navajo Nation in 1985, however, provides that if Four Corners loses a portion of its rights in the adjudication, the Navajo Nation will provide, at a cost to be determined at that time, sufficient water from its allocation to offset the loss. The ultimate outcome of this case and the materiality thereof cannot be determined at this time.

**Gila River System**. In connection with the construction and operation of Palo Verde, Arizona Public Service Company ("APS") entered into contracts with certain municipalities granting APS the right to purchase effluent for cooling purposes at Palo Verde. In early 1986, a summons was served on APS that required all water claimants in the Lower Gila River Watershed in Arizona to assert any claims to water in an action pending in Maricopa County Superior Court, titled *In re The General Adjudication of All Rights to Use Water in the Gila River System and Source*. Palo Verde is located within the geographic area subject to the summons and the rights of the Palo Verde Participants to the use of groundwater and effluent at Palo Verde is potentially at issue in the action. APS, as operating agent, filed claims that dispute the court's jurisdiction over the Palo Verde Participants' groundwater rights and their contractual rights to effluent relating to Palo Verde and, alternatively, seek confirmation of such rights. On
December 10, 1992, the Arizona Supreme Court heard oral argument on certain issues in this matter that are pending on interlocutory appeal. Issues important to the Palo Verde Participants' claims were remanded to the trial court for further action and the trial court certified its decision for interlocutory appeal to the Arizona Supreme Court. On September 28, 1994, the Arizona Supreme Court granted review of the June 30, 1994 trial court decision. No trial date has been set in this matter. The ultimate outcome of this case and the materiality thereof cannot be determined at this time.

4. **Four Corners**

The Company owns a 7% ownership interest in Units 4 and 5 of Four Corners located in northwestern New Mexico on land leased from the Navajo Nation. In July 1995, the Navajo Nation enacted the Navajo Nation Air Pollution Prevention and Control Act, the Navajo Nation Safe Drinking Water Act and the Navajo Nation Pesticide Act (collectively, the "Acts"). By letter dated October 12, 1995, the Four Corners Participants requested that the United States Secretary of the Interior resolve their dispute with the Navajo Nation regarding whether the Acts apply to operation of Four Corners. The Four Corners Participants subsequently filed a law suit in the District Court of the Navajo Nation, Window Rock District, seeking, among other things, a declaratory judgment that (i) the Four Corners leases and federal easements preclude the application of the Acts to the operation of Four Corners; and (ii) the Navajo Nation and its agencies and courts lack adjudicatory jurisdiction to determine the enforceability of the Acts as applied to Four Corners. On October 18, 1995, the Navajo Nation and the Four Corners Participants agreed to indefinitely stay the proceedings referenced above so that the parties may attempt to resolve the dispute without litigation. The Company is unable to predict the outcome of this matter.

5. **Federal Tax Indemnification**

One of the owner participants in the sale/leaseback transactions related to Unit 2 of Palo Verde has notified the Company that the Internal Revenue Service ("IRS") has raised issues, primarily related to investment tax credit claims by the owner participant, regarding the income tax treatment of the sale/leaseback transactions. The Company estimates that the total amount of potential claims for indemnification from all owner participants related to the issues raised by the IRS could approximate $10 million, exclusive of any applicable interest, if the IRS prevails. This matter is at a preliminary stage and, although the Company believes the owner participant has meritorious
defenses to the IRS position, the Company cannot predict the outcome of the matter or the Company's liability for any resulting claim for indemnification. If the IRS ultimately is successful and the owner participant incurs additional tax liability or other loss, the owner participant may have a claim against the Company for indemnification pursuant to the Participation Agreement and Lease in the sale/leaseback transaction. Such claim for indemnification would be assumed pursuant to settlement agreements that become effective at the effective date of the Company's Plan of Reorganization or would be subject to limitations and defenses under the Bankruptcy Code if the Plan does not become effective.

6. Environmental Litigation

Please see Schedule 3.17 of the Credit Agreement for a discussion of relevant environmental litigation.
Schedule 24(e)

Except as set forth in the Registration Statement, the Plan of Reorganization or the Disclosure Statement, as defined in the Credit Agreement.
### Pending Regulatory Approvals
Under Fourth Amended Plan
of El Paso Electric Company

<table>
<thead>
<tr>
<th>Docket/Case No.</th>
<th>FERC § 204 Application</th>
<th>NRC License Amendment Request</th>
<th>NMPUC Securities Application</th>
<th>NMPUC Reacquisition Application</th>
<th>PUHCA</th>
<th>PUCT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Docket No. ES96-4-000</td>
<td>Docket Nos. STN50-529/530</td>
<td>Case No. 2676</td>
<td>Case No. 2672</td>
<td>File No. 70-8735</td>
<td>Docket No. 12700</td>
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</tr>
<tr>
<td>Purpose</td>
<td>EPE seeks FERC authorization to issue the securities and to assume the obligations contemplated by the Plan. EPE also seeks FERC approval to (i) assume liability in connection with certain modifications to existing pollution control revenue bonds and (ii) enter into a nuclear fuel financing and working capital credit facility.</td>
<td>Applicants seek a license amendment from NRC to authorize EPE's reacquisition of the Palo Verde Units 2 &amp; 3 leased assets as contemplated by the Plan.</td>
<td>EPE seeks NMPUC approval for the issuance of securities under the Plan and for the assumption of obligations on financing arrangements contemplated by the Plan, including modifications to existing pollution control bonds and the nuclear fuel financing and working capital credit facility. The Securities Application also seeks prior approval of the NMPUC to form a public utility holding company and a variance from the NMPUC's rules governing the regulatory oversight of public utility holding companies.</td>
<td>EPE seeks NMPUC approval of its reacquisition of the Palo Verde leased assets.</td>
<td>Fidelity, represented by Reid &amp; Priest, has applied for an exemption under PUHCA as a company that is &quot;temporarily a holding company.&quot; Alternatively, Fidelity seeks an exemption under PUHCA on the basis that it is only incidentally a holding company, being primarily engaged in another non-utility business and not deriving any material part of its income from public utility subsidiary companies.</td>
<td>Texas rate case. On August 30, 1995, PUCT entered an Agreed Order implementing certain provisions of the Unopposed Stipulation and Settlement Agreement. The Agreed Order establishes Texas retail rates consistent with the Stipulation and acknowledges the 10-year rate freeze. The Agreed Order by its terms will become effective upon the Effective Date of the Plan consistent with the terms of the Stipulation and without further action by the PUCT.</td>
</tr>
<tr>
<td>Order Date</td>
<td>December 4, 1995</td>
<td>December 8, 1995</td>
<td>January 8, 1996</td>
<td>January 8, 1996</td>
<td>January 5, 1996</td>
<td>(Effective date)</td>
</tr>
<tr>
<td>Appeal Deadlines and Status</td>
<td>FERC § 204 Application</td>
<td>NRC License Amendment Request</td>
<td>NMPUC Securities Application</td>
<td>NMPUC Reacquisition Application</td>
<td>PUHCA</td>
<td>PUCT</td>
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<tr>
<td>(cont’d on next page)</td>
<td>Application filed on October 11, 1995.</td>
<td>Application filed on October 3, 1995.</td>
<td>Application filed on October 6, 1995.</td>
<td>Application filed on September 19, 1995.</td>
<td>Notice of Application published by SEC on November 17, 1995.</td>
<td>Once the Agreed Order becomes effective on the Effective date of the Plan, it will become administratively final and nonappealable if no motion for rehearing is filed within 20 days after the date on which a party or party's attorney is notified of the PUCT decision. (If the notice of the PUCT decision is by mail, the party or party's attorney is presumed to have been notified on the date the notice is mailed.)</td>
</tr>
<tr>
<td>FERC approved § 204 application at November 29, 1995 meeting.</td>
<td>On November 8, 1995, a proposed favorable determination on safety issues regarding EPE's reacquisition of the Palo Verde leased assets was published in the Federal Register.</td>
<td>Technical conferences were held on November 6, 7 and 29, 1995.</td>
<td>Hearing commenced on December 20, 1995.</td>
<td>Hearing completed on November 29, 1995.</td>
<td>The SEC issued its decision, granting a three-year temporary exemption, on January 5, 1996.</td>
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</table>

Application filed on October 11, 1995.

Application filed on October 3, 1995.

Application filed on October 6, 1995.

<table>
<thead>
<tr>
<th>Appeal Deadlines and Status (cont'd)</th>
<th>FERC § 204 Application</th>
<th>NRC License Amendment Request</th>
<th>NMPUC Securities Application</th>
<th>NMPUC Reacquisition Application</th>
<th>PUHCA</th>
<th>PUCT</th>
</tr>
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<tbody>
<tr>
<td>On January 3, 1996, Las Cruces filed a motion for rehearing and request for stay.</td>
<td>On or about November 21, 1995, Staff concluded consistent with EPE that no NRC approval from an environmental standpoint would be required, and published this finding in the Federal Register.</td>
<td>On December 27, 1995, a Recommended Decision was issued. Exceptions to the Recommended Decision were filed by Las Cruces on January 3, 1996. Responses to exceptions were filed on January 5, 1996. On January 8, 1996, the NMPUC issued an order granting the Securities Application. The period for seeking review of the December 8, 1995 order has expired.</td>
<td>On December 15, 1995, a Recommended Decision was issued by the Hearings Examiner. The Recommended Decision was favorable to EPE and EPE did not file exceptions. EPE's motion for expedited exceptions was granted and exceptions to the Recommended Decision were due no later than December 26, 1995. No exceptions were filed. On January 8, 1996, the NMPUC issued an order granting the Reacquisition Application. The period for seeking review of the December 8, 1995 order has expired.</td>
<td>Appeals must be filed within 60 days. An appeal could be filed either with the Court of Appeals for the 10th Circuit or the Court of Appeals for the D.C. Circuit</td>
<td>Replies to motions for rehearing must be filed within 30 days after the date on which a party or party's attorney is notified of the PUCT decision.</td>
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<tr>
<td>FERC denied Las Cruces motion for a stay, thus permitting EPE to proceed with the transactions authorized by the December 4, 1995 Order. FERC also issued a &quot;tolling order,&quot; which provides it additional time within which to decide the request for rehearing. A petition for judicial review must be filed in a U.S. Court of Appeals within 60 days of the Commission's order denying the request for rehearing.</td>
<td>On November 30, 1995, Staff advised counsel for EPE that it agreed with EPE that no pre-licensing antitrust review would be required. On December 8, 1995, the NRC unconditionally approved the license amendment request, effective immediately. The period for seeking review of the December 8, 1995 order expired on February 8, 1996.</td>
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<td>If motions for rehearing are timely filed, then the PUCT must rule within 45 days after the date on which a party or party's attorney is notified of the decision, or the motions are overruled by operation of law and the decision becomes administratively final. (Time for filing motion for rehearing, reply to motion for rehearing, or ruling on motion for rehearing can be extended by the PUCT but not by more than 90 days after the date on which a party or party's attorney is notified of the PUCT decision.) A petition for judicial review must be filed within 30 days after the date on which the decision is administratively final. If no such petition is filed, the decision becomes nonappealable.</td>
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<td>Pending Regulatory Approvals Under Fourth Amended Plan of El Paso Electric Company</td>
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<td>Intervenors</td>
<td>City of Las Cruces</td>
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<td>NMPUC - General Counsel</td>
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<td>Attorney General of New Mexico</td>
<td>Attorney General of New Mexico</td>
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<td>New Mexico Industrial Electrical Consumers</td>
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<td>The Department of Defense</td>
<td>International Brotherhood of Electrical Workers</td>
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</tbody>
</table>
BEFORE ME, the undersigned authority, on this day personally appeared John E. Droubay, Vice President and Treasurer of El Paso Electric Company, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 9th day of February, 1996.

CORINNE M. RAICHT
Notary Public, State of New York
No. 4985516
Qualified in Westchester County
Qualified in New York County
Commission Expires Aug. 19, 1997

Notary Public – State of New York

/s/ Corinne Raicht
Corinne Raicht

My Commission Expires:
August 19, 1997
PARTIES: ARIZONA PUBLIC SERVICE COMPANY, corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", TUCSON GAS AND ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Tucson", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM", EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso" and ARIZONA ELECTRIC POWER COOPERATIVE, INC., a corporation existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "AEPCO".

DATED: As of January 1, 1974.

WHEREAS, Arizona, Salt River Project, Tucson, PNM and El Paso are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement dated as of August 23, 1973 (the "Agreement"); and

WHEREAS, concurrently herewith Arizona, Salt River Project and Tucson have jointly assigned and transferred to AEPCO an undivided 2.4% interest in the Arizona Nuclear Power Project and in the Project Agreements and a 2.4% Generation Entitlement Share under the Agreement, and AEPCO has become, and assumed and agreed fully to perform and discharge all of the obligations of, a Participant under the Agreement to the extent of the interests and Generation Entitlement Share assigned and transferred to it;

WHEREAS, the parties hereto, constituting all of the Participants under the Agreement as of the date hereof, desire to amend and/or supplement certain portions of the Agreement;
NOW, THEREFORE, in consideration of the covenants and conditions set forth in the Agreement and hereinafter, the parties hereto agree as follows:

1. Section 3.3 of the Agreement is hereby amended to read hereafter as follows:

"3.3 ANPP: The Arizona Nuclear Power Project, which shall, after January 1, 1974, be known and referred to as the Palo Verde Nuclear Generating Station (the "Palo Verde Station")."

2. Section 3.28 of the Agreement is hereby amended to read hereafter as follows:

"3.28 Generation Entitlement Share: The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:

<table>
<thead>
<tr>
<th>Participant</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>28.1 percent</td>
</tr>
<tr>
<td>Salt River Project</td>
<td>28.1 percent</td>
</tr>
<tr>
<td>Tucson</td>
<td>15.4 percent</td>
</tr>
<tr>
<td>PNM</td>
<td>10.2 percent</td>
</tr>
<tr>
<td>El Paso</td>
<td>15.6 percent</td>
</tr>
<tr>
<td>AEPCO</td>
<td>2.4 percent</td>
</tr>
</tbody>
</table>

3. Section 15.3 of the Agreement is hereby amended to read hereafter as follows:

"15.3 Without the prior written consent of any other Participant, each Participant shall have the right to transfer or assign all or part of its Generation Entitlement Share, together with an equal interest in the ownership of ANPP and in the Project Agreements, to any person, partnership, corporation or governmental corporation or agency engaged in the generation, transmission or distribution of Energy."

4. Section 38.1.5 of the Agreement is hereby amended to read hereafter as follows:

"38.1.5 El Paso Electric Company
c/c Secretary
P.O. Box 982
El Paso, Texas 79999."

5. Section 38 of the Agreement is hereby supplemented by the addition of the following section:

---

2
6. Appendices A and B are amended and/or supplemented, as appropriate, to read or appear hereafter as set forth in Amended Appendices A and B attached hereto.

7. Sections E.9.1 and E.9.2 of Appendix E are amended to read hereafter as follows:

"E.9.1 The Capital A & G Ratio shall be the percentage computed by dividing (i) the amounts equal to (A) the sum of (a) the total amounts charged to FPC Accounts 920 and 921 multiplied by the Construction Ratio computed in accordance with Section E.8 hereof, and (b) the product of the portion of labor charges included in (a) above multiplied by the sum of the Payroll Tax Ratio, the Benefits Ratio and the Compensation Insurance Ratio and (B) the portion of administrative and general expenses charged to FPC Accounts 920 and 921 allocable to contract construction for ANPP by (ii) the total labor in construction accounts (exclusive of overheads).

"E.9.2 The following example sets forth the method to be employed by the Operating Agent to determine the Capital A & G Ratio:

EXAMPLE COMPUTATION OF CAPITAL A & G RATIO
(Based on the Operating Agent's 1972 Experience)

<table>
<thead>
<tr>
<th>Administrative and General Salaries charged to FPC Account 920</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$2,522,177</td>
<td>$2,522,177</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FPC Account 921</td>
<td>_______</td>
<td>936,388</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$2,522,177</td>
<td>$3,458,565</td>
</tr>
</tbody>
</table>

Line 7 multiplied by Construction Ratio @ 45.165% (See Example in Section E.8.4) | $1,139,141 | $1,562,061 |
Payroll Taxes @ 3.746% (See Example in Section E.4.2) on labor charges shown on line 9 above. .......... 42,672

Pensions and Benefits @ 12.811% (See Example in Section E.5.2) on labor charges shown on line 9 above. .......... 145,935

Compensation Insurance @ 1.204% (See Example in Section E.7.2) on labor charges shown on line 9 above. .......... 13,715

Total administrative and general expense allocable to Construction. ...... $1,764,385

Less that portion allocable to Contract Construction for ANPP. . . -0-

Total A & G Expense plus pensions and benefits allocable to Construction. ...... $1,764,383

Construction Labor Base. ......... $14,200,724

Capital A & G Ratio for 1972
$1,764,383 ÷ $14,200,724. ....... 12.425% "

8. Except as explicitly set forth in this Amendment No. 1, the Agreement shall remain in full force and effect.

WHEREFORE, the parties have executed this Amendment No. 1 as of the date first set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:
/s/Gerald J. Griffin By /s/Thomas G. Woods, Jr.
Assistant Secretary Vice President

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

/s/F. E. Smith By /s/Karl F. Abel
Secretary President

TUCSON GAS AND ELECTRIC COMPANY

ATTEST:
/s/[ILLEGIBLE] By /s/N. M. Lovell
Secretary Senior Vice President
STATE OF ARIZONA

) ss.

County of Maricopa

On this 25th day of June, 1974, before me, the undersigned Notary Public, personally appeared THOMAS G. WOODS, JR. and GERALD I. GRIFFIN who acknowledged themselves to be the VICE PRESIDENT and Assistant Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such VICE PRESIDENT and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Sylvia E. Noe
Notary Public

My Commission Expires: Sept. 9, 1974
On this 12th day of June, 1974, before me, the undersigned Notary Public, personally appeared KARL F. ABEL and F. E. Smith who acknowledged themselves to be the President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/James V. Stone  
Notary Public  
JAMES V. STONE  
My Commission Expires June 14, 1977

My Commission Expires:

On this 19th day of June, 1974, before me, the undersigned Notary Public, personally appeared N. M. Lovell and [ILLEGIBLE] who acknowledged themselves to be the Senior Vice President and Secretary of TUCSON GAS AND ELECTRIC COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such SENIOR VICE PRESIDENT and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Constance O. Ferguson  
Notary Public

My Commission Expires:  
My Commission Expires Sept. 1, 1976
On this 24th day of June, 1974, before me, the undersigned Notary Public, personally appeared C. D. Bedford and Bernice A. Lopez who acknowledged themselves to be the Vice President and Asst. Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Asst. Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]
Notary Public

My Commission Expires:

March 4, 1975

STATE OF TEXAS )
) ss.
County of El Paso )

On this 25th day of June, 1974, before me, the undersigned Notary Public, personally appeared R. E. York and [ILLEGIBLE] who acknowledged themselves to be the Senior Vice President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such SENIOR VICE PRESIDENT and Secretary.
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/R.G. Crocker
Notary Public

My Commission Expires:

/s/ R. G. Crocker Notary Public
in and for the County of El Paso, Texas
My Commission Expires June 1, 1975

STATE OF ARIZONA

) ss.
County of Cochise

On this 25th day of June, 1974, before me, the undersigned Notary Public, personally appeared J. A. Kartchner and Dexter M. Smith who acknowledged themselves to be the President and General Manager of ARIZONA ELECTRIC POWER COOPERATIVE, INC., an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and General Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
My Commission Expires:

[ILLEGIBLE]
Notary Public

My Commission Expires April 24, 1976
APPENDIX A

DESCRIPTION OF ARIZONA NUCLEAR POWER PROJECT

I. Three (3) Combustion Engineering "System 80" pressurized water reactor nuclear steam supply systems. Each NSSS is comprised of a reactor vessel containing 241 fuel assemblies with approximately 100 tons of enriched uranium, two steam generators, four reactor coolant pumps and various additional systems and subsystems. The thermal rating of each NSSS is 3817 MWt.

II. Three (3) GE TC6F-43, 1800 R/MIN tandem-compound, six flow, reheat turbine generators including turbines, generators, moisture separator-reheaters, exciters, controls, and auxiliary subsystems. The direct-driven generator is conductor cooled and rated at 1,554 MVA at 24,000 V, 3 phase, 60 Hz, 1.5 in Hg ABS back pressure, and approximately 1,363 MWe maximum gross output.

III. Three (3) 146 ft. inside diameter, steel-lined, prestressed concrete cylindrical containment buildings with hemispherical domes designed for 60 psig. Each containment building houses the reactor systems.

IV. Auxiliary systems and equipment including engineered safeguards systems, reactor auxiliary systems, turbine-generator auxiliary systems associated with I, II and III.

V. Three (3) cooling tower systems, including closed cycle circulating water systems, make-up water systems and essential spray ponds.
VI. Three (3) radioactive waste treatment systems, including liquid, gaseous, and solid waste subsystems, controls, instrumentation, storage, handling and shipment facilities.

VII. An administration building, three (3) auxiliary buildings, three (3) turbine buildings, warehouse, visitor center, and other support buildings to be located adjacent to said units.

VIII. All facilities and equipment to provide interconnection between each turbine generator and the High Voltage Switchyard, including startup transformers and a standby equipment and systems.

IX. Three (3) emergency diesel-generator systems, including three diesel generator buildings which contain two diesel generators each, fuel oil systems, storage tanks, emergency buses and control and instrumentation systems.

X. Station internal and external communication systems, including associated interconnections and computer data links.

XI. The Plant Site described in Appendix B.

XII. Access roads, railroad spurs, security fencing and surveillance systems and guard facilities, including associated radioactive monitoring systems or equipment.

XIII. Water treatment facilities and transport systems, including rights-of-way, for supply of waste water effluent from the 91st Avenue sewage treatment plant serving the Phoenix metropolitan area.

A-2
ASSIGNMENT OF INTERESTS

PARTIES: ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation ("Arizona"); SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district ("Salt River Project"); TUCSON GAS AND ELECTRIC COMPANY, an Arizona corporation ("Tucson"); and ARIZONA ELECTRIC POWER COOPERATIVE, INC., an Arizona corporation ("AEPCO").

DATED: As of January 1, 1974.

WHEREAS, Arizona, Salt River Project and Tucson are parties to the Arizona Nuclear Power Project Participation Agreement dated as of August 23, 1973 (the "Agreement"); and

WHEREAS, all of the parties to the Agreement and AEPCO are concurrently herewith executing an Amendment No. 1 to the Agreement, in part, providing for a change of the name of the project from the Arizona Nuclear Power Project ("ANPP") to the Palo Verde Nuclear Generating Station (the "Palo Verde Station") and permitting assignments of interest therein, in the Project Agreements thereunder and of Generation Entitlement Shares thereunder of less than 5%; and

WHEREAS, Arizona, Salt River Project and Tucson desire to assign and transfer to AEPCO, and AEPCO wishes to accept an assignment and transfer of, and undivided 2.4% interest in the Palo Verde Nuclear Generating Station (the "Palo Verde Station") and in the Project Agreements under the Agreement, and a 2.4% Generation Entitlement Share under the Agreement; and

WHEREAS, AEPCO wishes to obtain all of the benefits of a Participant under the Agreement, and, for that purpose, to assume and agree fully to perform and discharge all of the obligations of a Participant under the Agreement to the extent required by its interests in the Palo Verde Station and the Project Agreements and by its Generation Entitlement Share,

NOW, THEREFORE, in consideration of the mutual agreements, covenants and conditions set forth herein, the parties hereto agree as follows:

1. Assignment. Arizona, Salt River Project and Tucson each hereby assigns and transfers to AEPCO an undivided interest in the Palo Verde Station and the Project Agreements, and a Generation Entitlement Share, as set forth hereafter:
The Palo Verde Nuclear Generating Station site is located in Maricopa County, Arizona, approximately 36 miles west of the
City of Phoenix and approximately 16 miles west of the City of Buckeye. The Plant Site is described as follows:

The West Half (W 1/2 of the Northwest Quarter (NW 1/4) and the West Half (W 1/2) and the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-six (26), all of Section Twenty-seven (27) except the Northwest Quarter (NW 1/4) thereof, the Southeast Quarter (SE 1/4) of Section Twenty-eight (28), the East Half (E 1/2) of Section Thirty-three (33), all of Section Thirty-four (34) and the West Half (W 1/2) of Section Thirty-five (35), all in Township One (1) North, Range Six (6) West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; and

The West Half (W 1/2) of the West Half (W 1/2) of Section Two (2), all of Section Three (3), the East Half of Section Four (4), the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section Nine (9), all of Section Ten (10) except the West Half (W 1/2) of the Northwest Quarter (NW 1/4) and the East Half (E 1/2) of the Southeast Quarter (SE 1/4) thereof, all in Township One (1) South, Range six (6) West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.
Arizona - 1.0%
Salt River Project - 1.0%
Tucson - 0.4%

2. **Assumption.** As of the date hereof, AEPCO assumes and agrees fully to perform and discharge all of the respective obligations of Arizona, Salt River Project and Tucson under the Agreement to the extent required by reason of the interests and Generation Entitlement Shares assigned and transferred hereby.

3. **Reimbursement for Costs.** AEPCO agrees to reimburse Arizona, Salt River Project and Tucson not later than December 31, 1974 for that portion of the Construction Costs incurred and paid by each of Arizona, Salt River Project and Tucson, which is attributable to the interests assigned and transferred hereby, together with interest on the respective amounts to be reimbursed computed from the various dates of payments by Arizona, Salt River Project and Tucson of such Construction Costs to the date of such reimbursement pursuant hereto at the rates of 8.46% per annum (in the cases of Arizona and Tucson) and 6.5% per annum (in the case of Salt River Project).

4. **Option.** At any time prior to the issuance by the United States Atomic Energy Commission of a construction permit for the first Generating Unit at Palo Verde Station, AEPCO shall have an option to resell to each of Arizona, Salt River Project and Tucson, not less than all of the respective interests and Generation Entitlement Shares assigned and transferred hereby. Such option shall be exercised only by written notice thereof delivered in person or sent by registered or certified mail, postage prepaid, to Arizona, Salt River Project and Tucson at their respective addresses set forth in Section 38 of the Agreement prior to the issuance by the United States Atomic Energy Commission of the construction permit for such Generating Unit at Palo Verde Station. Upon the proper exercise of such option, Arizona, Salt River Project and Tucson shall be obligated to repurchase from AEPCO not less than all of the respective interests and Generation Entitlement Shares assigned and transferred hereby at a purchase price, in the case of each purchaser, payable within one year following receipt of notice of exercise of the option, equal to the amount of Construction Costs (and the interest thereon) reimbursed and paid by AEPCO to each such purchaser pursuant to Section 3 hereof plus that portion of all Construction Costs incurred and paid directly by AEPCO under the Agreement attributable to the respective interests assigned and transferred pursuant to Section 1 hereof, with interest on the purchase price to be paid by each such purchaser at a rate equal to the annual rate of interest then being paid by AEPCO on monies borrowed by it for the purposes of making the reimbursements required by Section 3 hereof and paying Construction Costs under the Agreement. Such interest shall be computed from the date(s) of the
reimbursements required by Section 3 hereof (as to those portions of the purchase price attributable to reimbursed Construction Costs) and from the date(s) of direct payments by AEPCO of Construction Costs (as to those portions of the purchase price attributable thereto) to the date(s) of payment by each of the respective purchasers. As of the date of payment of the purchase price by each such purchaser as specified herein, the respective interests in the Palo Verde Station, the Project Agreements and the Generation Entitlement Shares assigned and transferred pursuant to Section 1 hereof shall be reassigned and retransferred without further action to the respective purchasers. After the date upon which the option is exercised, AEPCO shall have no liability for any Construction Costs or any other costs under the Agreement and Arizona, Salt River Project and Tucson shall assume responsibility for all such Construction Costs and other costs under the Agreement in proportion to their respective interests in the Palo Verde Station and Project Agreements and their respective Generation Entitlement Shares following such reassignment and retransfer.

5. **Compensation for Nonuse of Capacity.** In the event that following the exercise of the option set forth in Section 4 hereof and for a period of three years following the first Date of Commercial Operation of any Palo Verde Station Generating Unit, either Arizona, Salt River Project or Tucson does not require all or any portion of the Generation Entitlement Shares reassigned and retransferred pursuant to such option to meet their respective load or reserve requirements, AEPCO shall be required to compensate Arizona, Salt River Project and/or Tucson, as the case may be, for that portion of their respective fixed charges in connection with the Palo Verde Station attributable to the portion of the Generation Entitlement Shares not required by each such party during any period or periods when such Generation Entitlement Share is not required to meet such load or reserve requirements, provided that any such compensation shall be paid for a minimum of each calendar month for each such period. To the extent compensation is paid by AEPCO hereunder, power and energy shall be made available to AEPCO in proportion to the compensation so paid.

6. **Terms.** The terms "Palo Verde Station", "Construction Costs", "Generation Entitlement Share", "Date of Commercial Operation", "Generating Unit", "Project Agreements", and "Participant" as used herein shall have the respective meanings set forth in the Agreement.

7. **Binding Effect.** This Assignment of Interests and the terms contained herein shall bind and inure to the benefit of the respective successors, assigns, trustees and/or representatives of the parties hereto.
8. Governing Law. This Assignment of Interest shall be governed by and construed in accordance with the laws of the State of Arizona.

WHEREFORE, the parties have executed this Assignment of Interests as of the date first set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST: /s/Gerald J. Griffin
Assistant Secretary

By /s/Thomas G. Woods, Jr.
Vice President

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN: /s/Karl F. Abel
President

/s/F. E. Smith
Secretary

TUCSON GAS AND ELECTRIC COMPANY

ATTEST: /s/N. M. Lovell
Senior Vice President

[ILLEGIBLE]
Secretary

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

ATTEST: /s/Dexter M. Smith
General Manager

By /s/J. A. Kartchner
President

-4-
On this 25th day of June, 1974, before me, the undersigned Notary Public, personally appeared THOMAS G. WOODS, JR. and GERALD I. GRIFFIN who acknowledged themselves to be the VICE PRESIDENT and Assistant Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such VICE PRESIDENT and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]
Notary Public

My Commission Expires:

My Commission Expires Aug. 30, 1977

STATE OF ARIZONA )
) ss.
County of Maricopa )

On this 12th day of June, 1974, before me, the undersigned Notary Public, personally appeared KARL F. ABEL and F. E. SMITH who acknowledged themselves to be the President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

/s/ James V. Stone
Notary Public
JAMES V. STONE
My commission Expires June 14, 1977

-5-
STATE OF ARIZONA  )
                  ) ss.
County of Pima    )

On this 19th day of June, 1974, before me, the undersigned Notary Public, personally appeared N. M. Lovell and [ILLEGIBLE] who acknowledged themselves to be the Senior Vice President and Secretary of TUCSON GAS AND ELECTRIC COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Senior Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

    /s/Constance O. Ferguson
    Notary Public

My Commission Expires:  
My Commission Expires Sept. 1, 1976

STATE OF ARIZONA  )
                  ) ss.
County of Cochise )

On this 25th day of June, 1974, before me, the undersigned Notary Public, personally appeared J. A. Kartchner and Dexter M. Smith who acknowledged themselves to be the President and General Manager of ARIZONA ELECTRIC POWER COOPERATIVE, INC., an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and General Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

          [ILLEGIBLE]
    Notary Public

My Commission Expires:  
My Commission Expires April 24, 1976

-6-
EXHIBIT 10.01-02
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

PARTIES: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM", EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso", and ARIZONA ELECTRIC POWER COOPERATIVE, INC., a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "AEPCO".

DATED: As of August 28, 1975.

WHEREAS, Arizona, Salt River Project, Tucson Gas and Electric Company ("Tucson"), PNM and El Paso entered into a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973 (the "Participation Agreement");

WHEREAS, Amendment No 1 of the Participation Agreement amended the Participation Agreement to reflect, among other things, the assignment and transfer to AEPCO by Arizona, Salt River Project and Tucson, collectively, of an undivided 2.4% interest in Palo Verde Nuclear Generating Station ("Palo Verde Station") and in the Project Agreement and a 2.4% Generation Entitlement Share under the Participation Agreement;

WHEREAS, pursuant to the Tucson-Edison Palo Verde Station Assignment Agreement, dated August 28, 1975, by and between Tucson and Edison (the "Assignment Agreement"), Tucson, pursuant to Section 15.3 of the Participation Agreement, assigned and transferred to Edison its undivided 15.4;
STATE OF TEXAS )
) ss.
County of El Paso )

On this 24th day of May, 1976, before me, the undersigned Notary Public, personally appeared R.E. York and R. G. Crocker who acknowledged themselves to be the Vice President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Harry A. Hampson
Notary Public

My Commission Expires:

HARRY A. HAMPSON, Notary Public
In and for the County of El Paso, Texas
My Commission Expires June 1, 1977

STATE OF ARIZONA )
) ss.
County of Cochise )

On this 11th day of May, 1976, before me, the undersigned Notary Public, personally appeared J.A. Kartchner and Dexter M. Smith who acknowledged themselves to be the President and General Manager of ARIZONA ELECTRIC POWER COOPERATIVE, INC., an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and General Manager.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Ruth J. Hernandez
Notary Public

My Commission Expires:

April, 1980
STATE OF ARIZONA

County of Maricopa

On this 12th day of April, 1976, before me, the undersigned Notary Public, personally appeared THOMAS G. WOODS, JR. and GERALD J. GRIFFIN who acknowledged themselves to be the Vice President and Assistant Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Sylvia E. Nie
Notary Public

My Commission Expires:

September 9, 1978

STATE OF ARIZONA

County of Maricopa

On this 19th day of April, 1976, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. RICE who acknowledged themselves to be the Vice President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Dona Smith
Notary Public

My Commission Expires:

May 3, 1979
Interest in Palo Verde Station and in the Project Agreements and Tucson's 15.4% Generation Entitlement Share under the Participation Agreement, as amended by Amendment No. 1, and Edison, pursuant to Section 15.5 of the Participation Agreement, has accepted said assignment and transfer and has become and assumed the status and obligations of a Participant in the Palo Verde Station to the extent of Tucson's interest therein; and

WHEREAS, pursuant to a resolution adopted unanimously on or about March 5, 1975, the Administrative Committee approved the recommendation of the Project Manager to change the Scheduled Dates of Firm Operation for Palo Verde Station, Units 1, 2 and 3, and authorized and directed the Project Manager to revise the Construction Schedule accordingly;

NOW, THEREFORE, in consideration of the premises and of the covenants and conditions set forth in the Participation Agreement, as amended by Amendment No. 1, the parties hereto agree as follows:

1. In order to reflect the assignment by Tucson to Edison as aforesaid, the Participation Agreement, as amended by Amendment No. 1, is hereby amended as follows:

1.1 Section 3.28 of the Participation Agreement, as amended, is hereby amended to read as follows:

"3.28 Generation Entitlement Share: The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.28.1</td>
<td>Arizona</td>
<td>28.1 percent</td>
</tr>
<tr>
<td>3.28.2</td>
<td>Salt River Project</td>
<td>28.1 percent</td>
</tr>
<tr>
<td>3.28.3</td>
<td>Edison</td>
<td>15.4 percent</td>
</tr>
<tr>
<td>3.28.4</td>
<td>PNM</td>
<td>10.2 percent</td>
</tr>
<tr>
<td>3.28.5</td>
<td>El Paso</td>
<td>15.8 percent</td>
</tr>
<tr>
<td>3.28.6</td>
<td>AEPCO</td>
<td>2.4 percent</td>
</tr>
</tbody>
</table>

1.2 Section 38.1.3 of the Participant Agreement is hereby amended to read as follows:

"38.1.3 Southern California Edison Company
c/o Secretary
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770"
1.3 All references to Tucson in the Participation Agreement, as amended, including all rights, obligations and interests of Tucson thereunder, shall be deemed to be references to, and rights, obligations and interests of Edison.

2. In order to reflect the resolution adopted by the Administrative Committee on or about March 5, 1975, Appendix C – Construction Schedule attached to the Participation Agreement is hereby replaced with Appendix C (Revised) – Construction Schedule attached hereto.

3. The Participation Agreement, as amended by Amendment No. 1 and this Amendment No. 2, shall remain in full force and effect.

WHEREFORE, the parties have executed this Amendment No. 2 as of the date first set forth above.

ARIZONA PUBLIC SERVICE COMPANY

/s/Gerald J. Griffin
Assistant Secretary

Vice President

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN: /s/John R. Lassen
/s/Paul D. Rice
Secretary

Vice President

SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST: /s/J. T. Head, Jr.
/s/R. D. Gorman
Assistant Secretary

Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST: /s/C. D. Belford
/s/Bernice B. Lopez
Assistant Secretary

Vice President

-3-
EL PASO ELECTRIC COMPANY

ATTEST:

/s/R. G. Crocker
Secretary

By /s/R. E. York
Vice President

ARIZONA ELECTRIC POWER
COOPERATIVE INC.

ATTEST:

/s/Dexter M. Smith
General Manager

By /s/J. A. Kartchner
President
On this 7th day of May, 1976, before me, the undersigned Notary Public, personally appeared J. T. HEAD, JR. and R. D. Gorman who acknowledged themselves to be the Vice President and Assistant Secretary of SOUTHERN CALIFORNIA EDISON COMPANY, an California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Dona Mary Wilcomb  
Notary Public

My Commission Expires:  
June 18, 1977

On this 7th day of May, 1976, before me, the undersigned Notary Public, personally appeared C. D. Belford and Bernice B. Lopez who acknowledged themselves to be the Vice President and Assistant Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/Wilma L. Rock  
Notary Public

My Commission Expires:  
March 4, 1979
## APPENDIX C (REVISED)
### CONSTRUCTION SCHEDULE
### ARIZONA NUCLEAR POWER PROJECT

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Unit 1</th>
<th>Unit 2</th>
<th>Unit 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selection of siting and environmental consultants and initiation of siting and environmental studies</td>
<td>6/29/72</td>
<td>6/29/72</td>
<td>6/29/72</td>
</tr>
<tr>
<td>Contract with engineer-constructor</td>
<td>1/15/73</td>
<td>1/15/73</td>
<td>1/15/73</td>
</tr>
<tr>
<td>Invitation for bids for supply of nuclear steam supply systems</td>
<td>2/27/73</td>
<td>2/27/73</td>
<td>2/27/73</td>
</tr>
<tr>
<td>Nuclear plant site selection</td>
<td>9/1/73</td>
<td>9/1/73</td>
<td>9/1/73</td>
</tr>
<tr>
<td>Contracts for nuclear steam supply systems and initial supply of Nuclear Fuel</td>
<td>8/20/73</td>
<td>8/20/73</td>
<td>8/20/73</td>
</tr>
<tr>
<td>Begin preliminary engineering</td>
<td>8/20/73</td>
<td>8/20/73</td>
<td>8/20/73</td>
</tr>
<tr>
<td>Contract for supply of turbine-generators</td>
<td>3/21/74</td>
<td>3/21/74</td>
<td>3/21/74</td>
</tr>
<tr>
<td>Submit applications to USAEC for construction permits</td>
<td>7/11/74</td>
<td>7/11/74</td>
<td>7/11/74</td>
</tr>
<tr>
<td>Submit applications to the Arizona Power Plant and Transmission Line Siting Committee for a Certificate of Environmental Compatibility</td>
<td>10/28/75</td>
<td>10/28/75</td>
<td>10/28/75</td>
</tr>
<tr>
<td>Obtain all authorizations required to commence construction and begin final design and engineering</td>
<td>5/1/76</td>
<td>5/1/76</td>
<td>5/1/76</td>
</tr>
<tr>
<td>Complete final design and engineering and submit applications to USNRC for operating licenses</td>
<td>11/1/78</td>
<td>11/1/78</td>
<td>11/1/78</td>
</tr>
<tr>
<td>Issuance of operating license and begin loading and start-up testing</td>
<td>11/1/81</td>
<td>11/1/83</td>
<td>11/1/85</td>
</tr>
<tr>
<td>Scheduled Date of Commercial Operation</td>
<td>5/1/82</td>
<td>5/1/84</td>
<td>5/1/86</td>
</tr>
</tbody>
</table>
PARTIES: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM", and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso".

As of July 22 1976

WHEREAS, pursuant to the Assignment of Interests, dated as of January 1, 1974, Arizona, Salt River Project and Tucson Gas and Electric Company ("Tucson"), each assigned and transferred to Arizona Electric Power Cooperative, Inc. ("AEPCO") an undivided interest in Palo Verde Station and the Project Agreements, and a Generation Entitlement Share, as set forth hereafter:

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Arizona</td>
<td>1.0</td>
</tr>
<tr>
<td>Salt River</td>
<td>1.0</td>
</tr>
<tr>
<td>Tucson</td>
<td>0.4</td>
</tr>
</tbody>
</table>

which assignment and transfer is reflected in Amendment No. 1, dated as of January 1, 1974 ("Amendment No. 1") of the Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973 ("Participation Agreement");

WHEREAS, pursuant to the Tucson-Edison Palo Verde Station Assignment Agreement, dated August 28, 1975, Tucson assigned and transferred its undivided 15.4% interest in Palo Verde Station and in the Project Agreements and its 15.4% Generation Entitlement Share under the Participation Agreement, as amended by Amendment No. 1, together with all of its rights and obligations under said Assignment of Interests,
dated as of January 1, 1974, to Edison, which assignment and transfer was reflected in Amendment No. 2, dated as of August 28, 1975 ("Amendment No. 2"), of the Participation Agreement; and

WHEREAS, pursuant to the Assignment and Transfer dated as of July 22, 1976 between AEPCO and Arizona and Edison and the Assignment and Transfer dated as of July 22, 1976, between AEPCO and Salt River Project, AEPCO has assigned and transferred its undivided 2.4% interest in the Palo Verde Station and the Project Agreements and its 2.4% Generation Entitlement Share under the Participation Agreement, as amended by Amendment Nos. 1 and 2, to Arizona, Salt River Project and Edison as set forth hereinafter:

<p>| | |</p>
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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>1.0 %</td>
</tr>
<tr>
<td>Salt River Project</td>
<td>1.0 %</td>
</tr>
<tr>
<td>Edison</td>
<td>0.4 %</td>
</tr>
</tbody>
</table>

and Arizona, Salt River Project and Edison each to the extent of its respective interest so assigned and transferred has accepted said assignment and transfer and assumed the rights and obligations of AEPCO in the Palo Verde Station under the Participation Agreement, as amended by Amendment Nos. 1 and 2.

NOW THEREFORE, in consideration of the premises and of the covenants and conditions set forth herein and in the Participation Agreement, as amended by Amendment Nos. 1 and 2, the parties hereto agree as follows:

1. In order to reflect the assignment by AEPCO to Arizona, Salt River Project and Edison as aforementioned, the Participation Agreement, as amended by Amendment Nos. 1 and 2, is hereby further amended as follows:

1.1 Section 3.28 of the Participation Agreement as amended, is hereby amended to read as follows:

"3.28 Generation Entitlement Share:
The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3.28.1 Arizona</td>
<td>29.1 percent</td>
</tr>
<tr>
<td>3.28.2 Salt River Project</td>
<td>29.1 percent</td>
</tr>
<tr>
<td>3.28.3 Edison</td>
<td>15.8 percent</td>
</tr>
<tr>
<td>3.28.4 PNM</td>
<td>10.2 percent</td>
</tr>
<tr>
<td>3.28.5 El Paso Electric</td>
<td>15.8 percent</td>
</tr>
</tbody>
</table>

1.2 Section 38.1.6 of the Participation Agreement, as amended, is hereby deleted.

-2-
2. All references to AEPCO in the Participation Agreement, as amended by Amendment Nos. 1 and 2, and all Project Agreements, including all rights, obligations and interests of AEPCO thereunder, shall be deemed to be references to, and rights, obligations and interests of Arizona, Salt River Project and Edison, respectively, to the extent of their acceptance of AEPCO's undivided 2.4% interest in the Palo Verde Station.

3. The Participation Agreement, as amended by Amendment Nos. 1 and 2 and this Amendment No. 3, shall remain in full force and effect.

WHEREFORE, the parties have executed this Amendment No. 3 as of the date set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:

/s/[ILLEGIBLE]
Its /s/Wm. I. Quinsler. Secretary

By /s/[ILLEGIBLE]
Its Vice President-[ILLEGIBLE]

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

/s/Paul D. Rice
Its Secretary

By /s/Karl F. Abel
Its President
SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:
/s/[ILLEGIBLE]
Its Assistant Secretary

By
/s/[ILLEGIBLE]
Its Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:
/s/[ILLEGIBLE]
Its [ILLEGIBLE]

By
/s/C. D. Bedford
Its Vice President

EL PASO ELECTRIC COMPANY

ATTEST:
/s/R. G. Crocker
Its Secretary

By
/s/R. E. York
Its Senior Vice President
STATE OF ARIZONA )
                   ) ss.
County of Maricopa )

On this 9th day of March, 1977, before me, the undersigned Notary Public, personally appeared Edwin E. Van Bront and Wm. J. Quinsler, who acknowledged themselves to be the Vice President and Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/[ILLEGIBLE]  
Notary Public

My Commission Expires:

STATE OF ARIZONA )
                   ) ss.
County of Maricopa )

On this 11th day of March, 1977, before me, the undersigned Notary Public, personally appeared Karl F. Abel and Paul D. Rice, who acknowledged themselves to be the President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/[ILLEGIBLE]  
Notary Public

My Commission Expires:

[ILLEGIBLE]
STATE OF CALIFORNIA

County of Los Angeles

On this 4th day of April, 1977, before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] and [ILLEGIBLE] who acknowledged themselves to be the Vice President and Secretary of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/[ILLEGIBLE]
Notary Public

My Commission Expires:
7/11/79

STATE OF NEW MEXICO

County of Bernalillo

On this 25th day of April, 1977, before me, the undersigned Notary Public, personally appeared /s/ C. D. Bedford and [ILLEGIBLE], who acknowledged themselves to be the Vice President and Asst. Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/[ILLEGIBLE]
Notary Public

My Commission Expires:
Jan. 4, 1981
On this 13th day of April, 1977, before me, the undersigned Notary Public, personally appeared R. E. York and R. G. Crocker, who acknowledged themselves to be the Senior Vice President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Senior Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/James E. Brown
Notary Public
James E. Brown, Notary Public
In and for the County of El Paso, Texas
My Commission Expires June 1, 1977

My Commission Expires:

June 1, 1977
AMENDMENT NO. 4 OF
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

PARTIES:

ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona," SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project," SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison," PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM," and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso."


WHEREAS, Arizona, Salt River Project, Edison, PNM and El Paso are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973, as amended by Amendment No. 1, dated as
of January 1, 1974, Amendment No. 2, dated as of August 28, 1975, and Amendment No. 3, dated as of July 22, 1976 (hereinafter as so amended "Participation Agreement"): 

WHEREAS, the Participants recognize that under certain circumstances it may be desirable that a Participant other than the Project Manager or Operating Agent acquire for the benefit of such Participant, and all other Participants as well, the fee title or other lesser property rights or interests in and to lands required for or useful in the construction, operation or maintenance of ANPP; 

THEREFORE, in consideration of the premises and the mutual covenants and obligations of parties as hereinafter set forth, the parties hereto agree that the Participation Agreement be and hereby is amended as follows:

1. Section 7.4 is amended to read as follows:

"7.4 Each Participant shall provide to the extent possible all assistance required by the Project Manager in the performance of its obligations hereunder and such Participant shall be reimbursed for its costs and expenses incurred in providing such assistance on such terms and conditions as may be agreed upon by such Participant and the Project Manager. Each Participant shall, within sixty (60) days after the execution of this Participation Agreement, submit to the Project Manager any special requirement it may have regarding accounting, records, or information in order that all
required records may be maintained in the same manner throughout the construction and final completion of ANPP. The Project Manager shall use its best efforts to accommodate said special requirements. Where acquisition or immediate possession of rights-of-way, easements or real property are necessary, and the Project Manager and a Participant determine that such acquisition may best be accomplished by the Participant, the Project Manager shall request assistance of the Participant in writing and the assistance shall be provided in conformance with the terms of this paragraph."

2. The Participation Agreement, as amended by this Amendment No. 4, shall remain in full force and effect.

WHEREFORE, the parties have executed this Amendment No. 4 as of the date first set forth above.

ARIZONA PUBLIC SERVICE COMPANY

By /s/ [ILLEGIBLE]  
Its Executive Vice President

ATTEST:

/s/ [ILLEGIBLE]  
Its Assistant Secretary

SALT RIVER PROJECT AGRICULTURE IMPROVEMENT AND POWER DISTRICT

By  
Its

ATTEST AND COUNTERSIGN:

/s/ [ILLEGIBLE]  
Its
SOUTHERN CALIFORNIA EDISON COMPANY

By /s/ [ILLEGIBLE]
Its Vice President

ATTEST:

/s/ [ILLEGIBLE]
Its Assistant Secretary

PUBLIC SERVICE COMPANY OF NEW MEXICO

By /s/ C. D. Bedford
Its Vice President

/s/ B. B. Lopez
Its Assistant Secretary

EL PASO ELECTRIC COMPANY

By /s/ [ILLEGIBLE]
Its Senior Vice President

ATTEST:

/s/ Theta S. Fields
Its Secretary

STATE OF ARIZONA

) ss.

County of Maricopa

On this /s/[ILLEGIBLE] day of December, 1977, before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] and [ILLEGIBLE], who acknowledged themselves to be the [ILLEGIBLE] and [ILLEGIBLE] of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name

- 4 -
of the company by themselves as such [ILLEGIBLE] and [ILLEGIBLE].

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/[ILLEGIBLE]
Notary Public

My commission expires:


STATE OF ARIZONA
County of Maricopa

On this ___ day of __________, 1977, before me, the undersigned Notary Public, personally appeared
______________________________ and ________________________ who acknowledged themselves to be the
______________________________ and ________________________ of SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being
authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves
as such ____________________ and ____________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

________________________
Notary Public

My commission expires:

_________________________________________________________

STATE OF CALIFORNIA
County of Los Angeles

On this _____ day of __________________, 1977, before me, the undersigned Notary Public, personally appeared
______________________________ and ________________________ who acknowledged themselves to be the
______________________________ and ________________________ of SOUTHERN CALIFORNIA EDISON
COMPANY, a California corporation, and that they as

- 5 -
such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such __________________ and __________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

_____________________

STATE OF NEW MEXICO
)
)
ss.
County of Bernalillo
)

On this 6th day of January, 1978, before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] and [ILLEGIBLE], who acknowledged themselves to be the Vice President and Assistant Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]
Notary Public

My commission expires:

Jan. 4, 1981

STATE OF TEXAS
)
)
ss.
County of El Paso
)

On this 6th day of January, 1978, before me, the undersigned Notary Public, personally appeared R. E. York and ____________________________, who acknowledged themselves to be the Senior Vice President

- 6 -
and ______________________________ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______________________________ and __________________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Cecelia R. Shea
Notary Public
Cecelia R. Shea, Notary Public
in and for the County of El Paso County, Texas

My commission expires 3-31-79
AMENDMENT NO. 5 OF
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT
DATED DECEMBER 5, 1979

APS Contract No: 2741-419.443

Execution Copy
AMENDMENT NO. 5 OF
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

PARTIES:

The Parties to this Amendment No. 5 are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM" and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso".

EFFECTIVE DATE: December 5, 1979

WHEREAS, because of the quantity and characteristics of the Power and Energy required for the testing of various components and systems for the startup of each Generating Unit before and during its Startup Period and at other times after its Date of Firm Operation, the Participants have concluded that whenever such Power and Energy requirements for any Generating Unit cannot be furnished by one of the other Generating Units, Participants shall supply or have supplied such Power and Energy requirements in accordance with their respective Generation Entitlement Shares.

THEREFORE, in consideration of the promises and the mutual covenants and obligations of parties as hereinafter set forth, the Parties hereto agree that the Participation Agreement be and hereby is amended as follows:

1. Section 3.27 is deleted in its entirety and a new Section 3.27 is added to read as follows:

"3.27 General Service Requirements: The Power and Energy, including without limitation Testing and Startup Power and Energy, required during any period and supplied from one or more Generating Units for testing, startup, or operation of all process and auxiliary equipment and systems used or useful in connection with the operation and maintenance of all Generating Units."

2. Following Section 3.54, a new Section 3.54A shall be added to read as follows:

"3.54A Testing and Startup Power and Energy: The amount of Power and Energy required for the purposes of testing of any
component or system of any Generating Unit before, during, or after its Startup Period."

3. Following Section 3.54A, a new Section 3.54B shall be added to read as follows:

"3.54B Transmission Agreements: Transmission Agreements which may be entered into between and among the Parties and third parties for the explicit purpose of defining transmission arrangements and charges for the delivery of each Participant's Generation Entitlement Share and/or Testing and Startup Power and Energy."

4. Section 5 is amended (i) to change the caption to read:

"5. Power and Energy Entitlements and Requirements :"

and (ii) by the addition of a new Section 5.8 which reads as follows:

"5.8 Each of the Participants shall, in accordance with any applicable Transmission Agreements or other agreements for the delivery or supply of ANPP Testing and Startup Power and Energy, deliver or have delivered to the 500 KV bus at the ANPP High Voltage Switchyard its share, equal to its Generation Entitlement Share, of all or a portion of the Testing and Startup Power and Energy requirements of any Generating Unit which the Project Manager or the Operating Agent shall have determined, in accordance with policies, criteria, and procedures approved by the Engineering and Operating Committee pursuant to Section 6.3.2.5 hereof, cannot or should not be supplied by any other Generating Unit and shall have scheduled for delivery in accor-"
dance with procedures approved by the Engineering and Operating Committee pursuant to Section 6.3.2.7. The costs of Testing and Startup Power and Energy delivered by each Participant shall be borne by such Participant consistent with any applicable Transmission Agreements or other agreements for the delivery or supply of ANPP Testing and Startup Power and Energy and shall be accounted for by such Participant in such manner as it deems appropriate."

5. Section 6.3.1 is deleted in its entirety and a new Section 6.3.1 is added to read as follows:

"6.3.1 Provide liaison between Participants and the Project Manager with regard to the Construction Work, including without limitation the scheduling and delivery by the Participants of Testing and Startup Power and Energy."

6. Section 6.3.2.5 is deleted in its entirety and a new Section 6.3.2.5 is added to read as follows:

"6.3.2.5 The policies, criteria, and procedures for determining Available Generating Capability, General Service Requirements, Maximum Generating Capability, Minimum Generating Capability, Net Energy Generation, and Zero Net Load, for allocating the General Service Requirements among the Generating Units and for determining the amounts of Testing and Startup Power and Energy to be provided by the Participants."

7. Section 6.3.2.7 is deleted in its entirety and a new Section 6.3.2.7 is added to read as follows:

"6.3.2.7 The procedures for scheduling deliveries of Power and Energy to the Participants, scheduling deliveries of
Testing and Startup Power and Energy from the Participants, and for forecasting and estimating requirements for and scheduling deliveries of Nuclear Fuel, water, and Materials and Supplies.

8. Section 6.3.2.11 is deleted in its entirety and a new Section 6.3.2.11 is added to read as follows:

"6.3.2.11 The practices and procedures for keeping each Participant advised of (i) the Available Generating Capability of each Generating Unit, (ii) the deliver of Power and Energy from ANPP in accordance with the Participants' schedules, and (iii) the Testing and Startup Power and Energy requirements to be provided by the Participants pursuant to schedules. Such practices and procedures shall provide for modifying said schedules to meet the needs of day-to-day or hour-by-hour operation, including emergencies on a Participant's system."

9. Section 7.3.19 is deleted in its entirety and a new Section 7.3.19 is added to read as follows:

"7.3.19 Provide the Participants with all necessary and required records and information pertaining to the performance of Construction Work, including progress reports at such regular intervals as the Administrative Committee or the Engineering and Operating Committee shall determine, and the amount and scheduling of delivery by the Participants of Testing and Startup Power and Energy prior to the Date of Firm Operation of the first Generating Unit."

10. Section 7.3.33 is deleted in its entirety and a new Section
7.3.33 is added to read as follows:

"7.3.33 Coordinate with the Operating Agent all arrangements (i) for shipment, transfer, receipt, inspection, storage and loading of Nuclear Fuel at the Nuclear Plant Site, (ii) for the preoperational testing and acceptance by the Operating Agent of components and systems of ANPP, (iii) for preoperational radiological, meteorological, and other environmental monitoring programs which are to be continued after the Date of Firm Operation of the first Generating Unit, (iv) for the startup, operational testing, and operation of each Generating Unit prior to its Date of Fire Operation, (v) for the scheduling and delivery of Testing and Startup Power and Energy required after the Date of Firm Operation of the first Generating Unit and (vi) for the preservation and organization of all quality assurance records accumulated in the performance of Construction Work and for the on-going quality assurance and surveillance programs to be conducted during ANPP operation."

11. Section 8.3.18 is deleted in its entirety and a new Section 8.3.18 is added to read as follows:

"8.3.18 Determine, in accordance with policies, criteria and procedures established by the Engineering and Operating Committee pursuant to Section 6.3.2.5 hereof, and keep the system dis- patcher of each Participant advised of (i) the Maximum Generating Capability, Minimum Generating Capability, and the Available Generating Capability of each Generating Unit and (ii) the Testing and Startup Power and Energy to be provided by the
12. Section D.1.6 of Appendix D of the Participation Agreement is deleted in its entirety and a new Section D.1.6 is added to read as follows:

"D.1.6 Applicable costs of materials, supplies, tools, machinery, equipment, apparatus, construction Power and Energy (excluding Testing and Startup Power and Energy supplied by the Participants pursuant to Section 5.8 of the Participation Agreement), including installation of any facilities necessary therefor, determined in accordance with the established charges, rates, rules, regulations, and practices of the utility furnishing such construction Power, Energy, and facilities, construction water in connection with Construction Work, including rental charges, and Emergency Spare Parts."

13. Section E.1. of Appendix E of the Participation Agreement is amended to read as follows:

"E.1. Operation And Maintenance Expenses: In determining ANPP operating expenses, the Operating Agent shall include the following expenses to the extent that they are chargeable to ANPP in accordance with Accounting Practice, including Arizona's normal time-off allowances and Materials and Supplies stores load, but excluding the costs of Testing and Startup Power and Energy provided by the Participants:"

14. Sections E.1. through E.9. of Appendix E of the Participation Agreement shall remain as written.
15. Except as provided herein, the Participation Agreement, as amended by this Amendment No. 5, shall remain in full force and effect.

WHEREFORE, the parties have executed this Amendment No. 5 as of the date first set forth above.

ARIZONA PUBLIC SERVICE COMPANY

By [ILLEGIBLE]
Its Vice President

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:
[ILLEGIBLE]
Its Secretary

By [ILLEGIBLE]
Its Vice President

SOUTHERN CALIFORNIA EDISON COMPANY

By [ILLEGIBLE]
Its Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST AND COUNTERSIGN:
[ILLEGIBLE]
Its Secretary

By [ILLEGIBLE]
Its Vice President
ATTEST AND COUNTERSIGN:

[ILLEGIBLE]

Its Secretary

By [ILLEGIBLE]

Its Vice President

-9-
On this 17th day of December, 1979 before me, the undersigned Notary Public, personally appeared Russell D. Hulse who acknowledged himself to be the Vice President of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLIGIBLE]
Notary Public

My commission expires:

November 13, 1982
STATE OF ARIZONA

) ss.

County of Maricopa )

On this 15th day of January, 1980 before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. RICE who acknowledged himself to be the Vice President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Don E. Smith
Notary Public

My commission expires:

[SEAL]

My Commission Expires May 5, 1983
STATE OF CALIFORNIA
County of Los Angeles

On this 18th day of April, 1980 before me, the undersigned Notary Public, personally appeared G. J. Bjorklund who acknowledged himself to be the Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Dona Mary Wilcomb
Notary Public

My commission expires:

June 18, 1981
STATE OF NEW MEXICO

) ss.

County of Bernalillo

On this 3rd day of March, 1980 before me, the undersigned Notary Public, personally appeared C. C. Bedford and __________ who acknowledged himself to be the __Vice President___ and ______________ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such __Vice President___ and ____________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]

Notary Public

My commission expires:

8-5-80

-13-
STATE OF TEXAS

County of El Paso

On this 20th day of March, 1980 before me, the undersigned Notary Public, personally appeared R. E. York and Theta S. Fields who acknowledged themselves to be the Senior Vice President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Senior Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Cecelia R. Shea
Notary Public

My commission expires:

6-30-81

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AMENDMENT NO. 6 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

1. PARTIES:
   The Parties to this Amendment No. 6 (hereinafter referred to as the "Participants") are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona", SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project", SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison", PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM" and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso".

2. EFFECTIVE DATE: October 16, 1981

3. RECITALS:
3.1 Arizona, Salt River Project, Edison, PNM and El Paso are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973, as amended by Amendment No. 1, dated as of January 1, 1974, Amendment No. 2, dated as of August 28, 1975, Amendment No. 3, dated as of July 22, 1976, Amendment No. 4, dated as of December 15, 1977, and Amendment No. 5, dated as of December 5, 1979 (hereinafter as so amended "Participation Agreement").

3.2 The Participants desire to provide for an assured supply of Uranium Concentrates ad to allow each Participant which so chooses to provide all or a portion of its Generation Entitlement Share of Additional Uranium Concentrates.

3.3 The Participants recognize that the method for supply of Uranium Concentrates provided by Appendix K to the Participation Agreement will require changes in fuel accounting procedures in Appendix F to the Participation Agreement.

4. **AGREEMENT**:

The Participants agree that the Participation Agreement be and is hereby amended as follows:

4.1 A new Section 3.1A shall be added to read as follows:
"3.1A Additional Uranium Concentrates: The quantity of Uranium Concentrates required in any year for the operation of all Generating Units at their respective Target Capacities (except during scheduled outages) less the sum of (i) the quantities of Uranium Concentrates committed under the Agreement, dated March 14, 1979, between The Anaconda Company and Arizona Public Service Company acting for itself as a Participant and as agent for all other Participants, as it may be amended pursuant to the letter, dated July 30, 1981, from H. L. Storey to Russell D. Hulse, and all other contracts executed by the Operating Agent on behalf of all Participants pursuant to Section K.2.2.2 of Appendix K hereof and (ii) the quantities of Uranium Concentrates furnished by the Palo Verde Uranium Venture established by the Palo Verde Uranium Venture Agreement, dated as of January 7, 1977, as amended."

4.2 A new Section 3.21A shall be added to read as follows:

-3-
"3.21A Estimated Monthly Requirements: The estimated monthly quantities of Uranium Concentrates required to be delivered to a conversion facility in any year in accordance with the operating schedules for all Generating Units and fuel management plan(s) in effect at the time that the estimate is made, including the schedule, by months, for delivery of such Uranium Concentrates to a conversion facility."

4.3 A new Section 3.52A shall be added to read as follows:

"3.52A Short Term Requirements: The summation at any time of the Estimated Monthly Requirements for each of the 36 months following the month in which the summation is made."

4.4 A new Section 3.55A shall be added to read as follows:

"3.55A Uranium Concentrates: Natural uranium conforming to specifications established by an operator of a domestic conversion facility designated by the Operating Agent for conversion without any surcharges."
4.5 Section 6.2.7.2 shall be amended to read as follows:

"6.2.7.2 Any contract for nuclear steam supply systems, any Nuclear Fuel Agreement, and any contract with engineers or consultants related to the foregoing, but excluding any Nuclear Fuel Agreements for the supply of Uranium Concentrates to which all Participants are not parties."

4.6 Section 6.6 shall be amended to read as follows:

"6.6 Any action or determination of a committee must be unanimous except as otherwise provided in Section 35 or Appendix K hereof."

4.7 Section 7.3.1.2 shall be amended to read as follows:

"7.3.1.2 Contracts for nuclear steam supply systems, and any Nuclear Fuel Agreement, including any agreement for the fabrication of the initial supply of Fuel Assemblies, and the purchase of uranium and enrichment and conversion services necessary for such fabrication, including contracts with engineers or consultants related to the foregoing,
But excluding any Nuclear Fuel Agreements for the supply of Uranium Concentrates to which all Participants are not parties."

4.8 Section 8.3.4 shall be amended to read as follows:

"8.3.4 Administer, perform and enforce any Nuclear Fuel Agreements executed by the Project Manager pursuant to Section 7.3.2 hereof or by the Operating Agent pursuant to Appendix K hereof and, subject to the provisions of Section 6.2.7 hereof, execute, administer, perform and enforce all other Nuclear Fuel Agreements."

4.9 A new Appendix K shall be added which will read as shown in Attachment A to this Amendment No. 6.

The Participation Agreement, as amended by this Amendment No. 6, shall remain in full force and effect.

5. **EXECUTION**: This Amendment No. 6 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 6 may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon,
and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 6 to be executed as of the Effective Date set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:
Gerald J. Griffith
Its Assistant Secretary

By
Russell D. Hulse
Its Vice President

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By

Its

SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

By

Its

-7-
and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 6 to be executed as of the Effective Date set forth above.

ATTEST:

By

Its

ARIZONA PUBLIC SERVICE COMPANY

By

Its

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By

Its

SOUTHERN CALIFORNIA EDISON COMPANY

By

[ILLEGIBLE]

Its

Vice President
and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 6 to be executed as of the Effective Date set forth above.

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<td>R. E. York</td>
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<td>Senior Vice President</td>
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STATE OF ARIZONA

County of Maricopa

On this 26th day of October, 1981, before me, the undersigned Notary Public, personally appeared Russell D. Hulse and Gerald J. Griffin who acknowledged themselves to be the Vice President and Asst. Secretary of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Russell D. Hulse and Gerald J. Griffin.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Emily
Notary Public

My commission expires:

My Commission Expires April 4, 1982
STATE OF ARIZONA

) ss.

County of Maricopa )

On this 21st day of October, 1981, before me, the undersigned Notary Public, personally appeared Karl F. Abel and Paul D. Rice who acknowledged themselves to be the President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[ILLEGIBLE]
Notary Public

My commission expires: [SEAL]

My Commission Expires May 3, 1983

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STATE OF CALIFORNIA )
) ss.
County of Los Angeles )

On this 21st day of October, 1981, before me, the undersigned Notary Public, personally appeared R. D. Gorman and G. J. Bjorklund who acknowledged themselves to be the Asst. Secretary and Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such R. D. Gorman and G. J. Bjorklund.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Agnes Crabtree _______________________
Notary Public

My commission expires:

August 27, 1982

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STATE OF NEW MEXICO

County of Bernalillo

On this 21st day of October, 1981, before me, the undersigned Notary Public, personally appeared C. D. Bedford and D. E. Peckham who acknowledged themselves to be the Sector Vice President and Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Sector Vice Pres. and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Meredith Thompson
Notary Public

My commission expires: August 5, 1984
STATE OF TEXAS

) ss.
County of El Paso

On this 22nd day of October, 1981, before me, the undersigned Notary Public, personally appeared R. E. York and Theta S. Fields who acknowledged themselves to be the Senior Vice President and Secretary of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such Sr. Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Cecelia R. Shea
Notary Public

My commission expires:

July 3, 1985

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APPENDIX K

URANIUM CONCENTRATES ACQUISITION PROGRAM

K.1 **Purpose**: This Appendix K sets forth the responsibilities and authority of the Operating Agent and each of the Participants to arrange for an adequate supply of Uranium Concentrates when needed to permit the timely fabrication of Fuel Assemblies required for operation of the Generating Units. It is intended that the arrangements for securing such supply of Uranium Concentrates shall provide the maximum flexibility for each Participant, should it elect to do so, to obtain and furnish to the Operating Agent all or part of its Generation Entitlement Share of the requisite Additional Uranium Concentrates from such sources and on such terms and conditions as such Participant in its own discretion and circumstances deems prudent. At the same time, it is intended to grant to the Operating Agent the requisite responsibility and authority to act for and on behalf of each Participant with its consent as provided herein to assure that the Short Term Requirements and delivery schedules of Uranium Concentrates are satisfied and the operation of any of the Generating Units is not curtailed or jeopardized due to a failure in the timely supply of Uranium Concentrates.

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K.2 Responsibilities and Authorities of the Operating Agent.

K.2.1 On or before November 30 of each year, and at such other times as the Operating Agent deems appropriate, the Operating Agent shall provide to the Participants a Uranium Concentrates report which shall include:

K.2.1.1 The amount of Uranium Concentrates received and to be received during the current year.

K.2.1.2 The current status of the Uranium Concentrates inventory.

K.2.1.3 An analysis of the Short Term Requirements for Uranium Concentrates, including the designation of the conversion facility(ies) to which Uranium Concentrates are to be delivered and the required schedules by months for the deliveries.

K.2.1.4 A forecast of the annual requirements for Uranium Concentrates during each of the subsequent fourth through thirteenth years consistent with current inventory, conversion and enrichment contracts schedule commitments.

K.2.1.5 A summary of all current commitments or undertakings made by the Operating Agent.

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and each other Participant for the supply of Uranium Concentrates for the periods covered by Sections K.2.1.3 and K.2.1.4 hereof, including without limitation data and evaluations relevant to the security of supply for each such commitment or undertaking.

K.2.1.6 The projected prices or costs of Uranium Concentrates to be delivered under each current commitment or undertaking.

K.2.1.7 The evaluation of the Operating Agent, together with any current evaluation from any consultants, respecting the availability of Uranium Concentrates in the future and projected market prices therefor.

K.2.1.8 Such other information as the Operating Agent deems relevant or, to the extent available, as may be requested by any Participant.

K.2.2 The Operating Agent has the responsibility to insure that the Uranium Concentrates necessary for the operation of all of the Generating Units are available when required. In order to meet this responsibility, the Operating Agent shall make all reasonable efforts to maintain an assured source(s) of supply sufficient to
meet current Short Term Requirements for Uranium Concentrates in accordance with a delivery schedule of Uranium Concentrates established pursuant to the procedures in Section 6.3.2.7 of the Participation Agreement.

K.2.2.1 In the event the Operating Agent determines at any time that the then existing commitments made on behalf of all Participants for the supply of Uranium Concentrates are not sufficient for any reason to provide an assured source of supply of such commitments' share of Uranium Concentrates required to meet the then current Short Term Requirements, written notice shall be provided to the Participants outlining the deficiency. Any Participant, within 45 days of the receipt of such notice, may elect to supply all or part of its Generation Entitlement Share of such deficiency by giving written notice of its election to the Operating Agent; provided that if the Operating Agent elects to supply all or any part of the Operating Agent's Generation Entitlement Share of such deficiency from a source other than an offer or proposal accepted by it pursuant to
Sections K.2.3 to K.2.9 hereof, inclusive, then each other Participant shall have the right to elect to supply all or any part of its Generation Entitlement Share of such deficiency from such source in proportion to its Generation Entitlement Share to the total Generation Entitlement Share of all the Participants who elect to utilize such source.

K.2.2.2 The Operating Agent is authorized ad directed to solicit, negotiate and execute, on behalf of all Participants who have not elected to supply all of their respective shares of the deficiency noticed in Section K.2.2.1 hereof, such contracts for the purchase of Uranium Concentrates as may be required to make up the balance of such deficiency in the assured source of supply required to meet Short Term Requirements, including such additional quantities Uranium Concentrates to be delivered during or subsequent to the period covered by the Short Term Requirements if the Operating Agent determines that it is necessary to purchase such additional quantities in order to obtain Uranium Concentrates
to make up any such deficiency.

K.2.2.3 Notwithstanding Section 6.2.7.2 of the Participation Agreement, the authority and direction granted ad given to the Operating Agent under Section K.2.2.2 hereof shall constitute the sole authorization and direction required to obligate all of the Participants on behalf of which the Operating Agent is acting, and no further authorization or approval of any such contract by the Administrative Committee shall be required except that, if any Participant has any direct or indirect interest in the Uranium Concentrates to be purchased under any such contract, unanimous approval of the purchase by the Administrative Committee will be required. A copy of any such contract upon its execution by the Operating Agent shall be promptly furnished to each Participant.

K.2.3 In addition to the efforts which the Operating Agent is obligated to make pursuant to Section K.2.2 hereof to maintain an assured source(s) of supply to meet current Short Term Requirements, the Operating Agent shall also make reasonable efforts to solicit and negotiate viable
offers and proposals for the supply of Uranium Concentrates during all or part of the period covered by Section K. 2.1.4 hereof for and on behalf of any Participant who shall not have elected pursuant to Section K.3.2 hereof to furnish all of its Generation Entitlement Share of Uranium Concentrates as may be required during said period. The Operating Agent shall from time to time notify all Participants of such offers or proposals as it may receive which it deems are viable alternatives for the supply of Uranium Concentrates to ANPP which have not been accepted or executed in compliance with Section K.2.2 hereof, including without limitation offers or proposals of any of the following categories:

K.2.3.1 Offers for immediate spot purchases of a fixed quantity of Uranium Concentrates.

K.2.3.2 Offers for deliveries of specified quantities of Uranium Concentrates over any period of time.

K.2.3.3 Proposals providing for rights to purchase Uranium Concentrates from any developed or undeveloped sources which would require advance funding.

K.2.3.4 Proposals for the acquisition of an ownership
interest by participation in a joint venture or otherwise in mined or unmined uranium reserves.

With respect to each such offer or proposal, the Operating Agent shall provide the other Participants with its evaluation thereof, its recommendations, if any, and a statement of its intent as a Participant to reject or to accept and participate with other Participants in such offer or proposal.

K.2.4 Within the earlier of 45 days after the Operating Agent's notification of any offer or proposal similar in nature to the categories described in Section K.2.3 hereof or seven days prior to the expiration date, if any, of such offer or proposal, each Participant shall advise the Operating Agent of the Participant's (i) rejection of the offer or proposal, (ii) acceptance of the offer or proposal and the extent of its intended participation therein with any other Participants, or (iii) with respect to any proposal similar in nature to the categories described in Section K.2.3.3 or K.2.3.4 hereof its desire that the Operating Agent proceed with further specific negotiations, studies or analyses. A failure by any Participant to
so advise the Operating Agent within the time specified shall be deemed a rejection by such Participant of the offer or proposal submitted.

K.2.5 Upon receipt of the advice from all Participants with respect to any offer or proposal similar in nature to the categories described in Section K.2.3 hereof, the Operating Agent shall take such action as may be appropriate to comply therewith, provided that in no event shall any Participant be bound by any contract resulting therefrom without its written consent.

K.2.6 In the event any two or more Participants shall decide to accept and participate in any offer or proposal similar in nature to the categories described in Section K.2.3 hereof, their respective shares therein shall be as they may agree or, in the absence of such agreement, equal to the ratio of their respective Generation Entitlement Shares to the sum of the Generation Entitlement Shares of all Participants accepting and participating in such offer or proposal.

K.2.7 If the Operating Agent accepts and participates in any offer or proposal similar in nature to the categories described in Section K.2.3 hereof, it shall negotiate and execute a contract

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in connection therewith for and on behalf of all other Participants that may accept and participate therein. In the event the Operating Agent shall not accept and participate in any such offer or proposal which is accepted by one or more other Participants, then the Operating Agent shall, as directed by the accepting Participant(s), either finalize and execute a contract on behalf of such accepting Participant(s) or turn the matter over to such accepting Participant(s) for such action as it (they) may elect.

K.2.8 In the event one or more Participants desires to pursue further studies and analyses of any proposal ("sharing-Participants") similar in nature to the categories described in Section K.2.3.3 or K.2.3.4 hereof, then the costs of any such studies or analyses shall be shared by the sharing-Participants in the proportion of their respective Generation Entitlement Shares to the total of the Generation Entitlement Share of all sharing-Participants unless all such sharing-Participants shall otherwise agree. If the Operating Agent is not a sharing Participant, then the sharing Participants shall designate a Participant to interact and negotiate
with the originator of the proposal on behalf of all sharing-Participants. Any sharing Participant may, upon completion of such studies or analyses, accept such proposal, with such modifications as may have been negotiated with the originator of the proposal, provided that unless the sharing-Participants shall otherwise agree, (i) such sharing-Participant shall have promptly given written notice of its acceptance of such proposal or modified proposal and the terms thereof and (ii) for a period of 45 days after receipt of such written notice each other sharing-Participant shall have the option to participate in the accepted proposal or modified proposal in any amount not greater than the ratio of its share in the costs of such studies and analyses to the total shares of all sharing-Participants who shall have accepted or shall have exercised their respective options to participate in such accepted proposal or modified proposal, which option shall be exercised by delivery within such 45-day period of written notice of its exercise to all other sharing-Participants.

K.2.9 In the event (i) any Participant shall have rejected one or more of such offers or proposals
and shall not have committed to furnish its Generation Entitlement Share of the Uranium Concentrates pursuant to Section K.3.2 hereof and (ii) one year prior to a date that Uranium Concentrates are required to be delivered pursuant to procedures in Section 6.3.2.7 of the Participation Agreement the Operating Agent determines that the quantity of Uranium Concentrates to be delivered on such date for an on behalf of such Participant from any and all sources is less than such Participant's Generation Entitlement Share of the total quantity of Uranium Concentrates required to be delivered on such date, then the Operating Agent is authorized to and shall, after giving written notice 10 days in advance to such Participant, purchase on behalf of such Participant that quantity of Uranium Concentrates required to provide such Participant's full Generation Entitlement Share of such total quantity required to be delivered on such date (hereinafter "insufficient Uranium Concentrates") on any terms and conditions as may be available or required to obtain delivery of the insufficient-Uranium Concentrates on such date. Additionally, any such Participant shall be obligated to reimburse
each other Participant for its fixed charges on its investment in any Uranium Concentrates inventory used to provide substitute Uranium Concentrates and penalty costs, if any, and such Participant's right to schedule Power and associated Energy shall be subject to restriction to the same extent and manner provided in Section K.3.7 hereof with respect to those Participants who shall have committed to provide Additional Uranium Concentrates. For purposes of this Appendix K, "penalties" shall include without limitation any charges imposed under any Nuclear Fuel Agreement for conversion, enrichment and fabrication of Nuclear Fuel arising from a failure to deliver Nuclear Fuel as required thereunder and any other costs incurred to implement the then current fuel management plan.

K.3 Responsibilities and Authorities of the Participants.

K.3.1 Each Participant shall advance Operating Funds to the Operating Account in the manner specified in Appendix F to the Participation Agreement (i) for its Generation Entitlement Share of all payments due under the agreement with The Anaconda Company identified in Section 3.1A added by Amendment No. 6 of the Participation Agreement.
Agreement, (ii) for its proportionate share of all payments due under each contract to purchase Uranium Concentrates executed by the Operating Agent pursuant to Section K.2.2 hereof and (iii) its proportionate share of all payments made under each contract for Uranium Concentrates executed and administered by the Operating Agent under Section K.2.7 hereof.

K.3.2 Each Participant shall have the right to furnish all or part of its Generation Entitlement Share of Additional Uranium Concentrates upon the terms set forth in this Section K.3. The acceptance and participation of any Participant in an offer similar in nature to the categories described in Sections K.2.3.1 and K.2.3.2 hereof shall constitute an exercise by such Participant of such right. In addition, any Participant may exercise such right at any time by giving to the Operating Agent its written commitment to furnish all or a stated portion of its share of the Additional Uranium Concentrates required for operation of the Generating Units in any year or years from any source as such Participant may elect, including without limitation any proposal similar in nature to the categories described in Sections K.2.3.3 and K.2.3.4 hereof.
which such Participant has accepted in whole or in part.

K.3.3 If the quantities or delivery dates of Uranium Concentrates change due to fuel management decisions of the Operating Agent, operating circumstances or changes in government policies or practices governing enrichment services or the recycle of Recovered Materials as defined in Appendix F to the Participation Agreement, then each Participant who shall have exercised its rights to furnish all or any portion of its share of Additional Uranium Concentrates shall be responsible for supplying its share of any resulting increase in the requirements of Additional Uranium Concentrates or for inventorying and storing its share of any resulting decrease in such requirements not delivered to a conversion facility for the account of ANPP. In the event the responsibilities of any Participant under this Section K.3.3 arise in connection with a contract executed by the Operating Agent pursuant to Section K.2.7 hereof, the Operating Agent shall make on behalf of such Participant such arrangements as may be required to enable such Participant to meet such responsibilities.

K.3.4 On or before March 1 of each year, each Participant
shall provide the Operating Agent with information regarding the manner by which such Participant intends to provide all or any portion of its share of the Additional Uranium Concentrates for delivery to a conversion facility during such year and any of the subsequent three years. On or before September 30 of each year, each Participant shall also provide to the Operating Agent a summary of all of its commitments to provide Additional Uranium Concentrates, schedules or the delivery thereof, and other information as may be requested by the Operating Agent.

K.3.5 In the event that any Participant, which has committed to supply Additional Uranium Concentrates, shall consider in its discretion that its ability to deliver such concentrates on the schedules established by the Operating Agent pursuant to Section K.2.1.3 hereof may be in jeopardy, such Participant's shall promptly notify the Operating Agent of the nature and basis of such Participant's concerns and of any remedial actions under consideration.

K.3.6 In the event that, one year prior to a scheduled delivery date of Uranium Concentrates, the Operating Agent reasonably concludes that any

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Participant's ability to provide Uranium Concentrates as committed pursuant to Section K.2.2.1 or K.3.2 hereof is in doubt, and the failure of such Participant to provide such Uranium Concentrates on the delivery schedule established pursuant to the procedures in Section 6.3.2.7 of the Participation Agreement (i) could cause a reduction in the inventory of Uranium Concentrates or (ii) could lead to the breach of or the incurrence of any penalties under any Nuclear Fuel Agreement providing for the conversion, enrichment or fabrication of Nuclear Fuel, then the Operating Agent is authorized to and shall, after giving written notice 10 days in advance to such Participant, purchase on behalf of such Participant that quantity of Uranium Concentrates required to replace the Uranium Concentrates as to which delivery is in doubt on such terms as may be required to obtain delivery of substitute Uranium Concentrates in accordance with such schedule or at the earliest possible time thereafter, and such Participant shall be obligated to pay all costs incurred by the Operating Agent to obtain the substitute Uranium Concentrates. In the event such Participant
(deficient-Participant) and the Operating Agent are unable to obtain delivery of the substitute Uranium Concentrates on or before the scheduled date, the Operating Agent is authorized to utilize the Uranium Concentrates inventory as a source of the substitute Uranium Concentrates if required to implement the then current fuel management plan; provided that the deficient Participant shall reimburse each other Participant for its fixed charges on its investment in the Uranium Concentrates inventory used to provide the substitute Uranium Concentrates. If the inventory of Uranium Concentrates is insufficient to provide all of the substitute Uranium Concentrates and as a result any penalties are incurred, the deficient Participant shall be obligated to pay all such penalties. In the event the obligations of one or more Participants under this Section K.3.6 arise as a result of a failure in the delivery of Uranium Concentrates under any contract executed by the Operating Agent pursuant to Section K.2.7 hereof, then such obligations shall be shared by the Participants who are participating in such contract in proportion to their respective obligations to pay for Uranium Concentrates
delivered thereunder.

K.3.7 In the event (i) any Participant shall have failed for any reason to delivery its entire share of the Uranium Concentrates required for the subsequent operation of any Generating Unit at its Target Capacity and (ii) the Operating Agent shall have been unable to obtain Uranium Concentrates to make up such Participant's deficiency, and as a result thereof the Maximum Generating Capability of such unit is reduced during any Refueling Cycle, as defined in Appendix F to the Participation Agreement, in which the deficient amount of Uranium Concentrates would have been utilized in such unit's Reactor, then such Participant's right to schedule Power and associated Energy from such unit during each such Refueling Cycle shall be subject to reduction in amount or restricted in time in proportion to such deficiency or such lesser amount as the representatives on the Engineering and Operating Committee, excluding the representative of such Participant, shall determine In the event one or more Participants shall become subject to a reduction(s) in its (their) right to schedule Power and associated Energy pursuant to this Section K.3.7 as

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a result of the failure in the delivery of Uranium Concentrates under any contract executed by the Operating Agent pursuant to Section K.2.7 hereof, then any such reduction shall be shared by such Participant(s) in proportion to their respective obligations to pay for Uranium Concentrates delivered under such contract.

K.3.8 Notwithstanding the provisions of Section 30 of the Participation Agreement, the provisions of this Section K.3 shall be fully applicable and enforceable against any Participant who shall fail to deliver the quantities of Uranium Concentrates which it has committed to deliver pursuant to this Section K.3 because of any uncontrollable force, foreseeable or unforeseeable, adversely affecting such Participant or any of its agents, contractors or suppliers.

K.4 Existing Properties of the Operating Agent's Subsidiary

Malapai Resources Company (Malapai), a wholly owned subsidiary of the Operating Agent, as of October 16, 1981, has an ownership interest in certain properties, consisting of fee leases, state leases and mining claims, referred to as Christensen Ranch, located in Townships 44 and 45 North, Ranges 75, 76,
and 77 West, Johnson and Campbell Counties, Wyoming, and Peterson Property, located in Townships 33 and 34 North, Ranges 72 and 73 West, Converse County, Wyoming. Such properties may become viable alternatives for a supply of Uranium Concentrates to ANPP and Malapai may offer its interest in the properties, or Uranium Concentrates from the properties, to the Operating Agent who shall then transmit such offer to the Participants pursuant to Section K.2.3 hereof. The principles by which such offer may be made are as follows:

K.4.1 If Uranium Concentrates are being mined, Uranium Concentrates shall be offered at a price that is the same for all Participants, including the Operating Agent.

K.4.2 If Uranium Concentrates have not been mined, a proposal for a joint ownership interest shall be offered. The price for such a proposal shall be on the same basis for all Participants, including the Operating Agent, and mutually agreed upon by those Participants, including the Operating Agent, who ultimately accept the proposal.
AMENDMENT NO. 7 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

1. PARTIES:
The Parties to this Amendment No. 7 (hereinafter referred to as the "Participants") are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona," SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project," SOUTHERN CALIFORNIA EDISON COMPANY a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison," PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM" and EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso."

2. EFFECTIVE DATE: April 1, 1982

3. RECITALS:
3.1 Arizona, Salt River Project, Edison, PNM and El
Paso are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973, as amended by Amendment No. 1, dated as of January 1, 1974, Amendment No. 2, dated as of August 28, 1975, Amendment No. 3, dated as of July 22, 1976, Amendment No. 4, dated as of December 15, 1977, Amendment No. 5, dated as of December 5, 1979, and Amendment No. 6, dated as of October 16, 1981 (hereinafter as so amended "Participation Agreement").

3.2  The Participants desire to amend Appendix F to the Participation Agreement and to make certain conforming amendments to the Participation Agreement required thereby.

4.  AGREEMENT:

The Participants agree that the Participation Agreement be and is hereby amended as follows:

4.1  Section 3.26 shall be amended to read as follows:

"3.26 FUEL FINANCER: Each and every person, corporation, partnership, joint venture, bank, trust company or other entity of any nature who under a Nuclear Fuel financing arrangement with any Participant shall either pay or assume the obligation to pay on behalf of such Participant its share of

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any Nuclear Fuel Expenditure or Project Uranium Costs or shall reimburse such Participant for all or any portion of any such expenditures or who shall take and hold legal title to or any beneficial interest in, as trustee or otherwise, such Participant's undivided ownership in any Nuclear Fuel."

4.2 Section 3.46 shall be amended to read as follows:

"3.46 Project Agreements: This Participation Agreement, any Construction Agreement, any Nuclear Fuel Agreement, but excluding any Nuclear Fuel Agreements for the supply of Uranium Concentrates to which all Participants are not parties, and any agreements between the Participants or any of them and any third party for land, land rights or water rights for ANPP, as such agreements are originally executed or as they may thereafter be supplemented or amended and any other agreements as the Participants agree to designate as Project Agreements."

4.3 Section 13.1 shall be amended to read as follows:

"13.1 The Participants shall use their best efforts to have any taxing or other authority levying any taxes or assessments, or payments in lieu thereof, or making any valuations
for the purpose of levying any taxes or assessments or payments in lieu thereof, on ANPP, or any interest or rights therein, assess and levy such taxes or assessments or payments in lieu thereof directly against the ownership or beneficial interest of each Participant or its Fuel Financer, if any."

4.4 Section 15.4 shall be amended to read as follows:

"15.4 Unless otherwise determined by the Administrative Committee, all Nuclear Fuel to be used in or removed from any Generating Unit of ANPP or recovered after reprocessing for reuse in any such Generating Unit or for sale to others shall be jointly-owned by the Participants in accordance with their respective Generation Entitlement Shares, subject to Section F.1.3.1 of Appendix F attached hereto, provided that any Participant may at any time finance (through a Fuel Financer) its undivided interest in any discrete portion or portions of such Nuclear Fuel in the manner provided in Section F.1.4 of Appendix F attached hereto, subject to the conditions set forth therein and to the further conditions that in each instance (a) any such Fuel Financer (i) shall waive all..."
right to partitionment of such discrete portion or portions of Nuclear Fuel, (ii) shall not obtain any rights not possessed by such Participant with respect to the operation or scheduling of any Generating Unit or the removal of Nuclear Fuel therefrom and (iii) shall not become a Participant in ANPP unless or until it succeeds to all of such Participant's right, title and interest in ANPP, and agrees to assume and be fully obligated to perform and discharge all of such Participant's obligations hereunder and under any other Project Agreement, and (b) such Participant shall indemnify all other Participants against any costs or expenses incurred by them because of such Participant's financing of its undivided interest in such discrete portion or portions of the Nuclear Fuel."

4.5 Section 23.5.4 shall be amended to read as follows:

"23.5.4 During the period that such suspension is in effect, no Fuel Expense Credits nor net credit adjustments to the Assigned Fuel Expense to which the defaulting Participant would in the absence of such suspen-

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sion have been entitled, pursuant to Appendix F attached hereto, shall become due and payable to the defaulting Participant and the non-defaulting Participants may apply all or any portion of any such Fuel Expense Credits and of any such net credit adjustments as offsets to the costs and expenses incurred by them and arising from or in connection with such default."

4.6 Section 32.1 shall be amended to read as follows:

"32.1 All of the respective covenants and obligations of each of the Participants set forth and contained in the Project Agreements shall bind and shall be and become the respective covenants and obligations of:

32.1.1 Each such Participant;

32.1.2 All mortgagees, trustees and secured parties under all present and future mortgages, indentures and deeds of trust, and security agreements which are or may become a lien upon any of the interests of such Participant in ANPP; provided, however, that such covenants and obligations shall become binding upon such parties only at the time of taking possession;"
32.1.3 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such Participant;

32.1.4 All other persons, firms, partnerships or corporations claiming through or under any of the foregoing; and

32.1.5 Any successors or assigns of any of those mentioned in Sections 32.1.1 through 32.1.4 hereof, and shall be covenants and obligations running with such Participant's respective rights, titles and interests in ANPP and in, to and under the Project Agreements, and shall be for the benefit of the respective rights, titles and interests of the Participants and their respective successors and assigns, in and to ANPP. It is the specific intention of this provision that all such covenants and obligations shall be binding upon any party which acquires any of the rights, titles and interests of any such Participant in ANPP or in, to and under the Project Agreements and that all of the above-described persons and groups shall be
obligated to use such Participant's rights, titles and interests in ANPP and/or in, to or under the Project Agreements for the purpose of discharging its covenants and obligations under the Project Agreements; except (i) that in the case of a partial assignment the assignee shall only be required to share in the cost of fulfilling the covenants and obligations of the assigning Participant in, to and under the Project Agreements to an extent proportionate or attributable to such assignment and (ii) the rights and obligations of any Fuel Financer of any Participant shall be governed by the provisions of Section 15.4 hereof.”

4.7 Appendix F shall be amended which will read as shown in Attachment A to this Amendment No. 7.

Except as otherwise provided, the Participation Agreement, as amended by this Amendment No. 7, shall remain in full force and effect.

5. EXECUTION:

This Amendment No. 7 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument.

Any sig-

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nature page of this Amendment No. 7 may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 7 to be executed as of the Effective Date set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:

BY    /s/ Russell D. Hulse
Its    WM. T. Quinsler, Secretary
Its    Vice President

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

BY
Its
Its

SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

BY
Its
Its

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nature page of this Amendment No. 7 may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 7 to be executed as of the Effective Date set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:

BY

Its

Its

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

Paul D. Rice
Its Secretary

BY

/s/ Karl F. Abel
Its President

SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

BY

Its

Its

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nature page of this Amendment No. 7 may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

WHEREFORE, the Participants have caused this Amendment No. 7 to be executed as of the Effective Date set forth above.

ARIZONA PUBLIC SERVICE COMPANY

ATTEST:

______________________________
Its

______________________________
Its

BY

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

______________________________
Its

______________________________
Its

BY

SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

/s/ [ILLEGIBLE]
Its Assistant Secretary

______________________________
Its

/s/ G. J. Bjorklund
Vice President

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PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:

/s/ B. P. Lopez
Its Assistant Secretary

BY /s/ C. D. Bedford
Its Senior Vice President

EL PASO ELECTRIC COMPANY

ATTEST:


STATE OF ARIZONA

County of Maricopa

On this _____ day of ____________________, 1982, before me, the undersigned Notary Public, personally appeared ___________________ and __________________ who acknowledged themselves to be the _______________ and __________________ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such _______________ and __________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_______________________________________ Notary Public

My commission expires:

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STATE OF ARIZONA

County of Maricopa

On this _____ day of __________________, 1982, before me, the undersigned Notary Public, personally appeared ___________________________ and ___________________________ who acknowledged themselves to be the ___________________________ and ___________________________ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ___________________________ and ___________________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

______________________________
Notary Public

My commission expires:

______________________________
PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:

__________________________________
Its ________________________________

__________________________________
Its ________________________________

EL PASO ELECTRIC COMPANY

ATTEST:

__________________________________
Its ________________________________

__________________________________
Its ________________________________

STATE OF ARIZONA

) ) ss.

County of Maricopa

On this _____ day of ___, 1982, before me, the undersigned Notary Public, personally appeared __Russell D. Hulse___ and ___WM. T. Quinsler___ who acknowledged themselves to be the _____ Vice President _____ and _____ Secretary _____ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such __Vice President__ and ___Secretary__.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires:

July 2, 1984

[Notary Seal]
STATE OF ARIZONA

County of Maricopa

On this ___13th___ day of ___April___, 1982, before me, the undersigned Notary Public, personally appeared Karl F. Abel and Paul D. Rice who acknowledged themselves to be the President and Secretary of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Don. E. Smith
Notary Public
My commission expires: My Commission Expires May 3, 1983

STATE OF CALIFORNIA

County of Los Angeles

On this ___day of __________________, 1982, before me, the undersigned Notary Public, personally appeared and who acknowledged themselves to be the and of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ___________ and ___________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________
Notary Public
My commission expires:

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STATE OF ARIZONA

County of Maricopa

On this ______ day of ____________________, 1982, before me, the undersigned Notary Public, personally appeared ______________________ and ______________________ who acknowledged themselves to be the ______________________ and ______________________ of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______________________ and ______________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

STATE OF CALIFORNIA

County of Los Angeles

On this ______ 13th day of ______ April ______, 1982, before me, the undersigned Notary Public, personally appeared G. J. Bjorklund and [ILLEGIBLE] who acknowledged themselves to be the ______ Vice President ______ and ______ Assist. Secretary ______ of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______ Vice President ______ and ______ Assist. Secretary ______.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Vera M. Manley

Notary Public

My commission expires:

July 11, 1983
STATE OF NEW MEXICO
)
) ss.
County of Bernalillo
)

On this 26th day of April, 1982, before me, the undersigned Notary Public, personally appeared C. D. Bedford and B. P. Lopez who acknowledged themselves to be the Senior Vice President and Assistant Secretary of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such. Senior Vice President and Assistant Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Wilma L. Rock
Notary Public

My commission expires:
My Commission Expires March 4, 1983

STATE OF TEXAS
)
) ss.
County of El Paso
)

On this _____ day of __________________, 1982, before me, the undersigned Notary Public, personally appeared ______________________ and ______________________ who acknowledged themselves to be the ______________________ and ______________________ of EL PASO ELECTRIC COMPANY, an Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______________________ and ______________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Wilma L. Rock
Notary Public

My commission expires:

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STATE OF NEW MEXICO

County of Bernalillo

On this ______ day of __________, 1982, before me, the undersigned Notary Public, personally appeared _______________________________ and _______________________________ who acknowledged themselves to be the _______ and _______________________________ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of company by themselves as such __________________ and __________________———.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

________________________________________
Notary Public

My commission expires:

________________________________________

STATE OF TEXAS

County of El Paso

On this ___ day of ___________, 1982, before me, the undersigned Notary Public, personally appeared _______________________________ and _______________________________ who acknowledged themselves to be the _______ and _______________________________ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of company by themselves as such _______ ___________________ and __________________———.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

________________________________________
Notary Public

My commission expires:

________________________________________

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APPENDIX F

INVESTMENTS IN AND ACCOUNTING FOR NUCLEAR FUEL

F.1 General Principles. The principles set forth in this Section F.1 shall govern (i) the responsibilities of the Operating Agent, (ii) the responsibilities of the Administrative Committee and the Engineering and Operating Committee, (iii) the rights and obligations of the Participants and (iv) the financing of Nuclear Fuel investments by the Participants. Such principles recognize that (a) investments in Nuclear Fuel will be made considerably in advance of its use, (b) some elements affecting Fuel Expense may not be known until several years after the related Nuclear Fuel is used, (c) the FERC Accounts impose certain requirements respecting Nuclear Fuel cost accounting, (d) the responsibilities for furnishing Uranium Concentrates are governed by Appendix K to the Participation Agreement, and (e) in the event any Participant (non-scheduling-Participant) fails to fully schedule its Generation Entitlement Share of the Available Generating Capability of any Generating Unit and one or more other Participants (scheduling-Participant(s)) have fully scheduled its (or their) Generation Entitlement Share (s) of such capability, then the scheduling-Participant (s) will in certain circum-
stances be utilizing the portion of the Nuclear Fuel owned by the non-scheduling Participant. If the event described in (e) above should occur (except in cases where the failure to fully schedule results in underutilization of the Nuclear Fuel), then this Appendix F provides that the scheduling-Participant(s) shall reimburse the non-scheduling Participant for its share of the direct costs of the Nuclear Fuel used by scheduling-Participant(s). Such reimbursements shall exclude the non-scheduling Participant's indirect costs, including carrying charges on its investment in such Nuclear Fuel. The Participants agree that this treatment is warranted because, among other reasons, during the foreseeable future the occurrence of the event is considered to be remote, the duration short and the risk equal for all Participants. Additionally, each Participant has the right under Section 5.2 of the Participation Agreement to schedule Generation up to its Generation Entitlement Share subject to the provisions of Appendix K. Under the circumstances described in (e) above, the additional accounting and auditing complexities which would be required to provide for reimbursement of indirect costs, including carrying charges, are not justified. Such principles and their application as hereinafter set forth are subject to
such changes as the Administrative Committee may from time to time determine.

F.1.1 Responsibilities of the Operating Agent.

F.1.1.1 Subject to Sections 7.3 and 8.3 of the Participation Agreement and Appendix K thereto, the Operating Agent shall make and be responsible for all arrangements for the supply and disposal of Nuclear Fuel and the development and implementation of Nuclear Fuel management plans. In the event of any dispute among the Participants respecting any matter affecting the supply, disposal or management of Nuclear Fuel or in the event the Administrative Committee or Engineering and Operating Committee is unable or fails to approve, modify or otherwise act in a timely manner on any Nuclear Fuel Agreement or Nuclear Fuel management plan pursuant to Sections 6.2.7 and 6.3.2 of the Participation Agreement, the Operating Agent is authorized and obligated, pending the resolution of such dispute or action by the Admin-
istrative Committee or the Engineering and Operating Committee, to take such action, including without limitation, the execution and performance of any Nuclear Fuel Agreement, as it may in its discretion determine to be necessary to assure an adequate supply or appropriate disposition of Nuclear Fuel for the operation of each Generating Unit at its Maximum Generating Capability.

F.1.1.2 In the event any materials are recovered from the reprocessing of any irradiated Nuclear Fuel discharged from a Reactor and are suitable for recycling or sale, such recovered materials shall be recycled in one or more of the Generating Units unless the Engineering and Operating Committee shall otherwise determine. If the Engineering and Operating Committee determines that such recovered materials should not be recycled, such recovered materials shall be disposed of by the Operating Agent subject to section 6.2.7 of the Par-
The Operating Agent shall provide to the Participants (i) those forecasts, determinations, estimates and reports as may be required to comply with Sections F.3 and F.4 hereof and (ii) any other information requested by a Participant which is necessary to fulfill its reporting requirements.

The Operating Agent shall collect and record such data and take such other action as the Operating Agent shall determine to be necessary to furnish the forecasts, determinations, estimates, reports and information as required by Section F.1.1.3 hereof.

In the event with respect to any Fuel Assembly any changes are made in any factor which affects the determination of the Adjusted Assigned Fuel Expense or any Fuel Expense Credits or Debits associated with such assembly, the Operating Agent shall make adjustments as may be appropriate to reflect such changes in the manner provided by Section F.4.4.
hereof. Such adjustments made by the Operating Agent with respect to any Fuel Assembly shall be final and subject to correction only as may be required by subsequent audit; provided that no such audit may require a change in the Operating Agent's estimate of Net Salvage Values made at the time of discharge of such assembly in accordance with criteria approved by the Engineering and Operating Committee.

F.1.1.6 The Operating Agent shall determine and account for investments in Nuclear Fuel, Assigned Fuel Expenses and Adjusted Assigned Fuel Expenses, and Net Salvage Values on a Fuel Assembly basis and shall keep such records and follow such procedures as may be required to determine as accurately as is reasonably feasible the thermal output from each Fuel Assembly inserted into a Reactor.

F.1.2 Responsibilities of the Administrative Committee and the Engineering and Operating Committee.
F.1.2.1 The Administrative Committee is authorized, in addition to those authorities and responsibilities delegated to it pursuant to Sections 6.2.2, 6.2.7, 6.9 and 15.4 of the Participation Agreement, to make (i) any change in the principles set forth in this section F.1 as may be proposed by the Operating Agent or any other Participant and the manner of implementation of any such principle as provided in this Appendix F and (ii) findings pursuant to Section F.1.4.2 hereof with respect to any fuel financing arrangement entered into or proposed to be entered into by any Participant.

F.1.2.2 The Engineering and Operating Committee, in addition to those authorities and responsibilities delegated to it pursuant to Section 6.3 of the Participation Agreement, is authorized to (i) approve, modify or otherwise act on criteria recommended by the Operating Agent for estimating Net Salvage Values, (ii) determine from criteria recommended by the Operating Agent for estimating Net Salvage Values, (ii) determine from
time to time whether reprocessing of Fuel Assemblies is feasible, (iii) approve changes in the Estimated Thermal Output or Net Salvage Value of one or more Fuel Assembly (ies) at times other than as provided in this Appendix F and (iv) make determinations that materials recovered from reprocessing any Fuel Assembly should or should not be recycled in one or more of the Generating Units.

F.1.3.1 The Participants shall own undivided interests equal to their respective Generation Entitlement Shares (i) in all Nuclear Fuel in any form used or held for use for any Generating Unit, including Nuclear Fuel in storage, in process of conversion and in fabrication and materials recovered by reprocessing, but excluding any Additional Uranium Concentrates prior to delivery to a conversion facility by any Participant pursuant to Appendix K to the Participation Agreement, and (ii) in any monetary balance in
any joint account of the Participants maintained under any Nuclear Fuel Agreement unless otherwise determined by the Administrative Committee.

F.1.3.2 The Participants shall share in accordance with their respective Generation Entitlement Shares (i) all costs to obtain and transport Nuclear Fuel to the Nuclear Plant Site in a form ready for use in a Reactor other than costs incurred by the Participants to obtain and deliver Uranium Concentrates to a conversion facility pursuant to Appendix K to the Participation Agreement, (ii) Fuel Handling Expenses, (iii) Fuel Management Expenses, (iv) all costs incurred in connection with the shipment, storage, disposal or reprocessing of irradiated Nuclear Fuel and (v) the value of any materials recovered from reprocessing, but excluding from the costs described in (i) through (v) above any Participant's costs for interest on advanced funds, rental, carrying or use charges and, except as provided in Section 13.3 of the

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Participation Agreement, any *ad valorem* taxes or payments in lieu thereof.

F.1.3.3 Each Participant shall pay its share of all Nuclear Fuel Expenditures in advance pursuant to Section F.3 hereof.

F.1.3.4 The Participants' respective investments in Nuclear Fuel, including the Project Uranium Costs, less the related Net Salvage Values, shall be amortized during those periods when the Nuclear Fuel is in a Reactor on the basis of the thermal energy produced in such periods to start up the Reactor and to generate Energy.

F.1.3.5 The amortization charges referred to in Section F.1.3.4 hereof shall be considered Fuel Expense which shall be shared by the Participants in accordance with the ratio of the Nuclear Fuel's thermal output used by them, respectively, to the total thermal output from the Nuclear Fuel.

F.1.3.6 To the extent that the thermal output of any Fuel Assembly used by any Par-
ticipant exceeds that Participant's Generation Entitlement Share of the total thermal output of such assembly, such Participant shall compensate the other Participants, subject to Section F.1.3.7 hereof, for the use of such excess thermal output. Such compensation shall be determined upon removal from a Reactor of such assembly for reprocessing or disposal or at other times as the Audit Committee shall establish. Such compensation shall be made by payment of the Assigned Fuel Expense Debits therefor to the Operating Agent who shall reimburse said other Participants as appropriate from such payments received for their respective Nuclear Fuel Expenditures and Project Uranium Costs.

F.1.3.7 In the event the then current Estimated Thermal Output of any Fuel Assembly is not fully utilized prior to its discharge from a Reactor due to the failure of one or more Participants to schedule operation of
the associated Generating Unit up to its or their Generation Entitlement Share or Shares, then such Participant or Participants shall be entitled to compensation, but only in the event that the total thermal output actually utilized plus the additional thermal output which would have been utilized if such Participant or Participants had scheduled operation of such Generating Unit up to its or their respective Generation Entitlement Share or Shares exceeds the Estimated Thermal Output.

F.1.3.8 For the purpose of determining with respect to one or more Fuel Assemblies the amount of the Fuel Expense to be charged prior to the discharge of such Fuel Assembly(ies) from a Reactor for reprocessing or disposal, estimates of thermal output and salvage values shall be used. Such estimates shall be subject to change from time to time up to 30 days after such discharge or at such other times as the Engineering and Operat-
F.1.4  Participant Financing of Nuclear Fuel.

F.1.4.1 Any Participant may, subject to Section F.1.4.2 hereof and section 15.4 of the Participation Agreement, arrange for the financing of all or any portion of its investment in Nuclear Fuel on such terms and conditions as it determines in its sole discretion to be acceptable, including without limitation, the conveyance and assignment of its undivided joint ownership interest in the Nuclear Fuel to its Fuel Financer.

F.1.4.2 No financing arrangement shall relieve such Participant from any obligations under this Appendix F or any other provision of the Participation Agreement. No such financing arrangement shall give nor purport to give the Fuel Financer any different rights or obligations under the Participation Agreement than would be possessed or imposed upon such Participation in the absence of such financing arrangement. No such finan-
cing arrangement nor the rights of any Fuel Financer thereunder shall be valid or enforceable against the Operating Agent or any other Participant until such arrangement has been found by the Administrative Committee to be consistent with this Appendix F and all other provisions of the Participation Agreement.

F.2 Definitions. The following terms, when used herein shall have the meanings hereinafter specified. Such terms have been separated into certain functional groupings to permit better understanding.

F.2.1 AMORTIZED COSTS.

F.2.1.1 ASSEMBLY COST (AC): The total costs incurred for a complete new Fuel Assembly ready for insertion into a Reactor and recorded in FERC Account 120.3, including the Project Uranium Costs for the Uranium Concentrates incorporated in such assembly or utilized or consumed in any and all processes involved in the manufacture of such assembly, less its estimated Net Salvage Value. Such total costs shall exclude (i) any Participant's costs

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for interest on advanced funds, rental, carrying or use charges and, except as provided in Section 13.3 of the Participation Agreement, any *ad valorem* taxes or payments in lieu thereof and (ii) all Fuel Handling Expenses and all Fuel Management Expenses.

F.2.1.2 **ASSIGNED ASSEMBLY COST (AAC):** The portion of the Assembly Cost assignable to each Participant for any Fuel Assembly which shall be equal to the product of (i) such Participant's Generation Entitlement Share multiplied by (ii) the Assembly Cost for such assembly.

F.2.1.3 **NET SALVAGE VALUE (NSV):** The amount, which may be either positive or negative, estimated for each Fuel Assembly by the Operating Agent in accordance with criteria approved by the Engineering and Operating Committee, including (i) all estimated costs of handling, transportation, offsite storage and disposal of such assembly or any portions thereof after its re-
moval from a Reactor, but excluding all Fuel Handling Expenses and (ii) if such committee determines that reprocessing of such assembly is feasible, the estimated costs of reprocessing, including without limitation, the costs of waste disposal associated therewith, and the estimated value of any materials expected to be recoverable therefrom for reuse in any Reactor or for sale.

F.2.1.4 PROJECT URANIUM COSTS (PUC): The total costs of obtaining and delivering Uranium Concentrates properly chargeable to FERC Account 120.1 which would have been incurred if all Uranium Concentrates required in the manufacture of a Fuel Assembly had been supplied at the average cost of those concentrates delivered in satisfaction of contracts to which the Operating Agent is a party pursuant to Appendix K to the Participation Agreement. Such average cost shall be determined by the Operating Agent using the weighted average in-
ventory allocation method in accordance with Accounting Practice or such other method as the Audit Committee may establish.

F.2.2 THERMAL OUTPUT - ESTIMATED, ACTUAL AND PRESUMED.

F.2.2.1 ESTIMATED THERMAL OUTPUT (ETO): The total thermal energy, expressed in megawatt-days (MWD), expected to be produced from one or more Fuel Assemblies as specified in the applicable Nuclear Fuel management plan(s) in effect from time to time as proposed by the Operating Agent and approved by the Engineering and Operating Committee pursuant to Section 6.3.2 of the Participation Agreement.

F.2.2.2 ASSIGNED ESTIMATED THERMAL OUTPUT (AETO): The portion of the Estimated Thermal Output from one or more Fuel Assembly(ies) that is (are) assignable to each Participant, which is equal to the product of (i) such Participant's Generation Entitlement Share multiplied by (ii) the Estimated Thermal output of such assem-
bly(ies).

F.2.2.3  **ACTUAL THERMAL OUTPUT (ATO):** The recorded thermal energy expressed in megawatt-days (MWD) produced from one or more Fuel Assemblies during any given period or periods of residence in a Reactor or Reactors which has or have been used to start up and operate such Reactor or Reactors at any Power level or levels.

F.2.2.4  **ASSIGNED ACTUAL THERMAL OUTPUT (AATO):**

The portion of the Actual Thermal Output of one or more Fuel Assemblies during any given period assignable to each Participant which shall be equal to the sum of (i) the product computed separately for each resident Fuel Assembly of (a) its total Actual Thermal Output during such period required for start-up and during operation of the Reactor in which such assembly(ies) is (are) residing at any Power level up to and including that required for such Reactor's Generating Unit to produce its Zero Net Load, multiplied by (b) such Partici-
pant's Generation Entitlement Share, and (ii) the product computed separately for each resident Fuel Assembly of (a) its total Actual Thermal Output during such period used for Net Energy Generation multiplied by (b) the percentage of the total Net Energy Generation from such Generating Unit during such period delivered to such Participant.

F.2.2.5 Presumed Thermal Output (PTO): The thermal output presumed to have been utilized by any Participant for the purpose of computing its Presumed Thermal Output Expense, if any, with respect to any Fuel Assembly whose Actual Thermal output at the time of its discharge from a Reactor is less than its Estimated Thermal Output (as established at the time of its first insertion into a Reactor or such other time as the Engineering and Operating Committee shall specify) because such Participant, or such Participant and one or more other Participants, shall have failed to

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schedule operation of the associated Generating Unit up to its or their respective Generation Entitlement Share or Shares. Such Presumed Thermal Output shall be equal to the product of (i) the amount by which the Estimated Thermal Output for such assembly exceeded its Actual Thermal Output multiplied by (ii) the quotient of (a) the amount by which such Participant's Assigned Estimated Thermal Output exceeded such Participant's Assigned Actual Thermal Output divided by (b) the total of such amounts for all Participants whose respective Assigned Estimated Thermal Outputs exceeded their respective Assigned Actual Thermal Output.

F.2.3 FUEL EXPENSES CHARGEABLE TO FERC ACCOUNT 518.

F.2.3.1 ASSIGNED FUEL EXPENSE (AFE): The portion of the Fuel Expense assignable to each Participant in any month for one or more Fuel Assembly(ies) determined by multiplying (i) such Participant's Assigned Assembly Cost

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for such assembly(ies) by (ii) the quotient of (a) such Participant's Assigned Actual Thermal Output from such assembly(ies) in such month divided by (b) such Participant's Assigned Estimated Thermal Output from such assembly(ies).

**F.2.3.2 ADJUSTED ASSIGNED FUEL EXPENSE (AAFE)**: The amount determined for each Participant for one or more Fuel Assemblies at the time such assembly(ies) is (are) removed from a Reactor for reprocessing or other disposal, equal to the summation of such Participant's (i) Assigned Fuel Expenses for assembly(ies) during all periods such assembly(ies) was (were) utilized in a Reactor and (ii) Presumed Thermal Output Expense, if any, during such period.

**F.2.3.3 PRESUMED THERMAL OUTPUT EXPENSE (PTOE)**: The expense assignable to any Participant for the purpose of computing such Participant's Adjusted Assigned Fuel Expense for one or more Fuel Assembly(ies), which shall be equal
to the product of (i) such Participant’s Assigned Assembly Cost multiplied by (ii) the quotient of such Participant’s Presumed Thermal Output (see Section F.2.2.5 hereof) divided by its Assigned Estimated Thermal Output of such assembly(ies).

F.2.4 FUEL EXPENSE CREDITS AND DEBITS.

F.2.4.1 FUEL EXPENSE CREDIT (FEC): The amount, if any, determined for any Participant by which such Participant's Assigned Assembly Cost for such assembly(ies) exceeds such Participant's Adjusted Assigned Fuel Expense for such assembly(ies). This amount shall be determined upon the removal of one or more Fuel Assemblies from a Reactor for reprocessing or other disposal or at other times as the Audit Committee shall establish.

F.2.4.2 ASSIGNED FUEL EXPENSE DEBITS (AFED): With respect to one or more Fuel Assemblies, the portion of the sum of all Fuel Expense Credits chargeable to each Participant whose Assigned
Actual Thermal Output from such assembly(ies) exceeds such Participant's Generation Entitlement Share of the Actual Thermal Output from such assembly(ies). This amount shall be equal to the amount determined by multiplying (i) the sum of all the Fuel Expense Credits for such assembly(ies) by (ii) the quotient of (a) the amount that such Participant's Assigned Actual Thermal Output from such assembly(ies) exceeds such Participant's Assigned Estimated Thermal Output from such assembly(ies) divided by (b) the sum of all such amounts for all such Participants.

F.2.5 EXPENSES NOT CHARGEABLE TO FERC ACCOUNT 518.

F.2.5.1 FUEL HANDLING EXPENSE (FHE): All costs incurred by the Operating Agent in connection with the receipt, inspection, storage, insertion, removal, preparation for shipment and other handling of Nuclear Fuel at the Nuclear Plant Site, but excluding any costs which shall be capitalized in accordance with Accounting Practice.
F.2.5.2 **FUEL MANAGEMENT EXPENSE (FME)**: All costs incurred by the Operating Agent in connection with planning and ordering of, contracting, accounting for, and scheduling and managing the use of Nuclear Fuel, including any computer charges, consultant's fees, costs of any advisory or management services furnished by any Nuclear Fuel supplier, payroll and associated costs of the Operating Agent's personnel and an allowance for administrative and general expense of the Operating Agent, but excluding Fuel Handling Expenses and any expense incurred by the Project Manager in connection with contracting for nuclear steam supply systems and for each Reactor's initially purchased supply of Fuel Assemblies, which expense shall be capitalized in accordance with Accounting Practice.

F.2.6 **MISCELLANEOUS**.

F.2.6.1 **NUCLEAR FUEL EXPENDITURES (NFE)**: All expenditures which are made or scheduled pursuant to any Nuclear Fuel.
Agreement, but excluding (i) any expenditures payable to a Fuel Financer and (ii) all Project Uranium Costs.

F.3 Forecasts of Cash Requirements and Advances of Funds.

F.3.1 On or before the beginning of each quarter commencing on the first day of January, April, July and October, the Operating Agent shall furnish to each Participant, and, at the written request of such Participant, to its Fuel Financer, if any, a ten-year forecast of such Participant's cash requirements for its share of all Nuclear Fuel Expenditures, including all payments to become due under each Nuclear Fuel Agreement then in effect (including without limitation the contracts identified in Section K.3.1 of Appendix K to the Participation Agreement, but excluding all other contracts to purchase Additional Uranium Concentrates), and estimates of all other expenditures, including without limitation, shipping charges, cask rentals, charges for storage at places other than the Nuclear Plant Site, reprocessing costs, enrichment services and conversion costs, of the character chargeable to FERC Ac-
count 120.5. Such forecast shall set forth such cash requirements (i) for each month of the first two years following the date of the forecast and (ii) for each year of the last eight years of the forecast.

F.3.2 At least ten (10) days in advance of the date on which any Nuclear Fuel Expenditure shall become due the Operating Agent shall send a request for funds to each Participant and, upon request of a Participant, a copy of such request for funds to its Fuel Financer for such Participant's share of such Nuclear Fuel Expenditure. Each Participant shall advance or cause to be advanced to the Operating Agent the funds so requested on or before said due date. In the event the amount advanced by any Participant shall exceed such Participant's share of the amount of Nuclear Fuel Expenditures actually made, then any such excess advance shall be promptly returned to such Participant.

F.3.3 Funds not advanced to the Operating Agent as required pursuant to Section F.3.2 hereof shall be payable with interest from
and after said due date at the rate provided in Section 23.3 of the Participation Agreement.

F.3.4 If a Participant shall dispute any portion of any amount specified in a forecast of Nuclear Fuel Expenditures or a request for funds, it shall make the total payment or advance specified in the request for funds and follow the procedures set forth in Section 23.4 of the Participation Agreement.

F.4 Determinations, Estimates and Reports.

F.4.1 Upon receipt of Fuel Assemblies. Promptly after receipt of the last Fuel Assembly of the initial core and subsequently of each reload batch for any Generating Unit, the Operating Agent shall determine for each Participant, when applicable, for each Fuel Assembly of such initial core or reload batch, and for all such Fuel Assemblies the totals of, the following:

F.4.1.1 Assembly Cost, including costs of the individual Nuclear Fuel cost components comprising the Assembly Cost with the dates when such cost components were paid.

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F.4.2 **Upon Initial Fuel Loading**: At the time of the initial loading of Fuel Assemblies into a Reactor the Operating Agent shall update its determinations made in accordance with Section F.4.1 hereof making such adjustments as may be warranted due to changes in any factor affecting the Assigned Estimated Thermal Outputs or Assembly Cost.

F.4.3 **Monthly Determinations**: Not later than ten (10) days after the end of each month after the initial Nuclear Fuel loading, the Operating Agent shall determine with respect to each Fuel Assembly:

F.4.3.1 Actual Thermal Output and Assigned Actual Thermal Outputs during such month (i) for Reactor operation at any Power level up to that required for Zero Net Load and (ii) for Net Energy Generation.

F.4.3.2 Actual Thermal Output and Assigned
Actual Thermal Outputs during entire period of residence in a Reactor or Reactors to the end of such month.

F.4.3.3 Assigned Fuel Expense for each Participant for such month.

F.4.3.4 The summation of the Assigned Fuel Expenses for each Participant as of the beginning and the end of such month.

F.4.3.5 In the event the Actual Thermal Output determined pursuant to Section F.4.3.2 hereof shall exceed the Estimated Thermal Output, net adjustments to be made in the Assigned Fuel Expenses for each Participant.

F.4.4 Upon Shutdown of a Reactor for Removal of Fuel Assemblies for Reprocessing or Other Disposal: Within thirty (30) days after the removal of any Fuel Assembly for reprocessing or other disposal, the Operating Agent shall determine on the basis of the best information then available with respect to such Fuel Assembly:

F.4.4.1 Assembly Cost.

F.4.4.2 Estimate of the Net Salvage Value.

F.4.4.3 Assigned Assembly Cost.

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F.4.4.4  Actual Thermal Output during entire period of residence in a Reactor or Reactors.
F.4.4.5  Assigned Actual Thermal Output during such period for each Participant.
F.4.4.6  Presumed Thermal Output, if any, for each Participant.
F.4.4.7  Adjusted Assigned Fuel Expense for each Participant.
F.4.4.8  Net adjustments, for each annual reporting period affected, to the Assigned Fuel Expense for each Participant due to (i) differences between Estimated and Actual Thermal Output and (ii) changes in any factor affecting the estimate of the Net Salvage Value.
F.4.4.9  Fuel Expense Credits and Assigned Fuel Expense Debits applicable to such removed Fuel Assembly after making the net adjustments determined pursuant to Section F.4.4.8 hereof in the event the sum of the Actual Thermal Output and all Presumed Thermal Outputs, if any, determined for such Fuel Assembly is equal to or greater
than its Estimated Thermal Output used to compute such Presumed Thermal Outputs.

F.4.5 Prior to Reactor Start-up after Refueling: Prior to start-up of a Reactor after any refueling, the Operating Agent shall determine with respect to each new Fuel Assembly inserted and each partially irradiated Fuel Assembly reinserted into the Reactor during such refueling the same data as that required under section F.4.2 hereof.

F.4.6 The Operating Agent shall furnish to each Participant a report of each determination made pursuant to this Section F.4 promptly after such determination is made in a form and manner as may be recommended by the Operating Agent and approved by the Engineering and Operating Committee.

F.5 Bills for Assigned Fuel Expense Debits and Adjustments.

F.5.1 Within fifteen (15) days after making the determinations required under Section F.4.4.9 hereof, the Operating Agent shall bill each Participant having aggregate Assigned Fuel Expense Debits for the pur-
pose of reimbursing those Participants having aggregate Fuel Expense Credits.

F.5.2 Promptly upon receipt of payment of any such bills for Assigned Fuel Expense Debits or net adjustments, including any interest thereon pursuant to Section F.5.3 hereof, the Operating Agent shall pay the amounts so received to those Participants entitled thereto pro rata.

F.5.3 Bills rendered pursuant to Section F.5.1 hereof shall be due and payable fifteen (15) days after receipt. Any bill not paid on its due date shall bear interest from and after said due date at the rate provided in Section 23.3 of the Participation Agreement.

F.5.4 If any Participant shall dispute any determination made by the Operating Agent pursuant to Section F.4 hereof or any bill rendered pursuant to this Section F.5, the disputant shall make the total payment billed or accept the payment rendered and follow the procedures set forth in Section 23.4 of the Participation Agreement.

F.6 Example Calculations.

F.6.1 The following examples illustrate the man-
ner in which calculations of Assigned Fuel Expenses, Fuel Expense Credits and Assigned Fuel Expense Debits are made under four scenarios with differing assumptions.

F.6.2 If a conflict arises between this Appendix F and the examples attached hereto, then this Appendix F shall govern.

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## Scenario 1 - Sample Calculation of Appendix F

All participants use their energy allotment.

<table>
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<tr>
<th>Participant</th>
<th>GES</th>
<th>AAC</th>
<th>AETO</th>
<th>AATO</th>
<th>AFE</th>
<th>PTO</th>
<th>PTOE</th>
<th>AAFE</th>
<th>FEC</th>
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Notes:
1. ATO = ETO = 30,000 MWD
2. AC = $1,000,000

### Calculations

1. **GES Given**
2. **AAC = GES x AC**
3. **AETO = GES x ETO**
   a. $3,000 \times 0.10 = 300$ MWD
   b. $6,000 \times 0.20 = 1,200$ MWD
   c. $9,000 \times 0.30 = 2,700$ MWD
   d. $12,000 \times 0.40 = 4,800$ MWD
4. **AATO Given**
5. **AFE = AAC x (AATO ÷ AETO)**
   a. $100,000 \times \frac{3,000}{300} = 10,000$ MWD
   b. $200,000 \times \frac{6,000}{1,200} = 10,000$ MWD
   c. $300,000 \times \frac{9,000}{2,700} = 10,000$ MWD
   d. $400,000 \times \frac{12,000}{4,800} = 10,000$ MWD
6. **PTO = (ETO - ATO) x \frac{\sum (AETO - AATO)}{AETO - AATO}**
   Where ETO > ATO and AETO > AATO
   ETO = ATO. Therefore PTO for each Participant is zero.
   *"\sum" denotes a summation for all Participants.
7. **PTOE = AAC x (PTO ÷ AETO)**
   PTO = 0 for each Participant. Therefore PTOE for each Participant is zero.
8. **AAFE = AFE ÷ PTOE**
   a. $10,000 \div 0 = 0$
   b. $10,000 \div 0 = 0$
   c. $10,000 \div 0 = 0$
   d. $10,000 \div 0 = 0$
9. **FEC = AAC - AAFE if AAC ≥ AAFE**
   a. $100,000 - 0 = 100,000$
   b. $200,000 - 0 = 200,000$
   c. $300,000 - 0 = 300,000$
   d. $400,000 - 0 = 400,000$
10. **AFED = IFEC x \frac{\sum (AATO - AETO)}{\sum (AATO - AETO)}**
    Where AATO > AETO
    FEC(a) + FEC(b) + FEC(c) + FEC(d) = 0. Therefore AFED
### Scenario 2 - Sample Calculation of Appendix F

**Participants A and B Use Energy of C and D - No Presumed Thermal Output**

<table>
<thead>
<tr>
<th>Participant</th>
<th>GES %</th>
<th>AAC $</th>
<th>AETO MWD</th>
<th>AATO MWD</th>
<th>AFE $</th>
<th>PTO $</th>
<th>PTOE $</th>
<th>AAFe $</th>
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<td>110,000</td>
<td>0</td>
<td>10,000</td>
</tr>
<tr>
<td>B</td>
<td>20</td>
<td>200,000</td>
<td>6,000</td>
<td>6,600</td>
<td>220,000</td>
<td>0</td>
<td>0</td>
<td>220,000</td>
<td>0</td>
<td>20,000</td>
</tr>
<tr>
<td>C</td>
<td>30</td>
<td>300,000</td>
<td>9,000</td>
<td>8,700</td>
<td>290,000</td>
<td>0</td>
<td>0</td>
<td>290,000</td>
<td>0</td>
<td>10,000</td>
</tr>
<tr>
<td>D</td>
<td>40</td>
<td>400,000</td>
<td>12,000</td>
<td>11,400</td>
<td>380,000</td>
<td>0</td>
<td>0</td>
<td>380,000</td>
<td>0</td>
<td>20,000</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>1,000,000</td>
<td>30,000</td>
<td>30,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>1,000,000</td>
<td>30,000</td>
<td>30,000</td>
</tr>
</tbody>
</table>

**Notes:**
1. ATO = ETO = 30,000 MWD
2. AC = $1,000,000

**Calculations:**

1. **GES Given**
2. **AAC = GES x AC**
3. **AETO = GES x ETO**
   a. AETO (A) = 3,000 MWD = .10 x 30,000 MWD
   b. AETO (B) = 6,000 MWD = .20 x 30,000 MWD
   c. AETO (C) = 9,000 MWD = .30 x 30,000 MWD
   d. AETO (D) = 12,000 MWD = .40 x 30,000 MWD
4. **AATO Given**
   a. A uses 300 MWD more than its allotment
   b. B uses 600 MWD more than its allotment
   c. C loses 300 MWD of its allotment
   d. D loses 600 MWD of its allotment
5. **AFE = AAC x (AATO - AETO)**
   a. AFE (A) = $110,000 = $100,000 x (3,300 MWD - 3,000 MWD)
   b. AFE (B) = $220,000 = $200,000 x (6,600 MWD - 6,000 MWD)
   c. AFE (C) = $290,000 = $300,000 x (8,700 MWD - 9,000 MWD)
   d. AFE (D) = $380,000 = $400,000 x (11,400 MWD - 12,000 MWD)
6. **PTO = (ETO - ATO) x \(\frac{\sum(AETO - AATO)}{\text{ETO} - \text{ATO}}\)**
   Where ETO > ATO and AETO > AATO
   ETO = ATO. Therefore PTO for each Participant is zero.
   "\(\sum\)" denotes a summation for all Participants.
7. **PTOE = AAC x (PTO - AETO)**
   PTO = 0 for each Participant. Therefore PTOE for each Participant is zero.
8. **AAFE = AFE - PTOE**
   a. AAFE (A) = $10,000 = $10,000 - 0
   b. AAFE (B) = $220,000 = $22,000 - 0
   c. AAFE (C) = $290,000 = $290,000 - 0
   d. AAFE (D) = $380,000 = $380,000 - 0
9. **FEC = AAC - AAFE if AAC ≥ AAFE**
   a. FEC (A) = 0 = $100,000 - $100,000
   b. FEC (B) = 0 = $200,000 - $200,000
   c. FEC (C) = $10,000 = $300,000 - $290,000
d. \( \text{FEC (D)} = \$20,000 \times \$400,000 \times \$380,000 \)

10. \( \text{AFED} = \text{IFEC} \times \frac{\text{AATO} - \text{AETO}}{\Sigma (\text{AATO} - \text{AETO})} \)

   Where \( \text{AATO} > \text{AETO} \)

a. \( \text{AFED (A)} = \$10,000 \times \$30,000 \times \frac{300 \text{ MWD} \div 900 \text{ MWD}}{1} \)

b. \( \text{AFED (B)} = \$20,000 \times \$30,000 \times \frac{600 \text{ MWD} \div 900 \text{ MWD}}{1} \)

c. \( \text{AFED (C)} = 0 \)

d. \( \text{AFED (D)} = 0 \)
**SCENARIO 3 - SAMPLE CALCULATION OF APPENDIX F**

**PARTICIPANTS A AND B LOSE PART OF THEIR ENERGY ALLOTMENT AND HAVE PRESUMED THERMAL OUTPUT – PARTICIPANTS C AND D USE ALL OF THEIR ENERGY ALLOTMENT**

<table>
<thead>
<tr>
<th>Participant</th>
<th>GES</th>
<th>AAC</th>
<th>AETO</th>
<th>AATO</th>
<th>AFE</th>
<th>PTO</th>
<th>PTOE</th>
<th>AAFF</th>
<th>FEC</th>
<th>AFED</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>10</td>
<td>100,000</td>
<td>3,000</td>
<td>2,700</td>
<td>90,000</td>
<td>300</td>
<td>10,000</td>
<td>100,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>B</td>
<td>20</td>
<td>200,000</td>
<td>6,000</td>
<td>5,400</td>
<td>180,000</td>
<td>600</td>
<td>20,000</td>
<td>200,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>C</td>
<td>30</td>
<td>300,000</td>
<td>9,000</td>
<td>9,000</td>
<td>300,000</td>
<td>0</td>
<td>0</td>
<td>300,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>D</td>
<td>40</td>
<td>400,000</td>
<td>12,000</td>
<td>12,000</td>
<td>400,000</td>
<td>0</td>
<td>0</td>
<td>400,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>1,000,000</td>
<td>30,000</td>
<td>29,100</td>
<td>970,000</td>
<td>900</td>
<td>30,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**Notes:**
1. ETO = 30,000 MWD
2. ATO = 29,100 MWD
3. AC = $1,000,000

**CALCULATIONS:**

1. **GES Given**
2. **AAC = GES x AC**
3. **AETO = GES x ETO**
   a. \( AETO (A) = 3,000 \text{ MWD} \times .10 \times 30,000 \text{ MWD} \)
   b. \( AETO (B) = 6,000 \text{ MWD} \times .20 \times 30,000 \text{ MWD} \)
   c. \( AETO (C) = 9,000 \text{ MWD} \times .30 \times 30,000 \text{ MWD} \)
   d. \( AETO (D) = 12,000 \text{ MWD} \times .40 \times 30,000 \text{ MWD} \)
4. **AATO Given**
   a. A uses 300 MWD more than its allotment
   b. B uses 600 MWD more than its allotment
   c. C used exactly its allotment
   d. D used exactly its allotment
5. **AFE = AAC x (AATO - AETO)**
   a. \( AFE (A) = 90,000 \times (2,700 \text{ MWD} - 3,000 \text{ MWD}) \)
   b. \( AFE (B) = 180,000 \times (5,400 \text{ MWD} - 6,000 \text{ MWD}) \)
   c. \( AFE (C) = 300,000 \times (9,000 \text{ MWD} - 9,000 \text{ MWD}) \)
   d. \( AFE (D) = 400,000 \times (12,000 \text{ MWD} - 12,000 \text{ MWD}) \)
6. **PTO = (ETO - ATO) \times \frac{\text{AFE}}{\sum (AETO - AATO)}**
   Where ETO > ATO and AETO > AATO
   a. \( PTO (A) = 300 \text{ MWD} \times (30,000 \text{ MWD} - 29,100 \text{ MWD}) \times (3,000 \text{ MWD} - 2,700 \text{ MWD}) = 900 \text{ MWD} \)
   b. \( PTO (B) = 600 \text{ MWD} \times (30,000 \text{ MWD} - 29,100 \text{ MWD}) \times (5,400 \text{ MWD} - 5,000 \text{ MWD}) = 900 \text{ MWD} \)
   c. \( PTO (C) = 0 \text{ MWD} \)
   d. \( PTO (D) = 0 \text{ MWD} \)
7. **PTOE = AAC x (PTO - AETO)**
   a. \( PTOE (A) = 10,000 \times (300 \text{ MWD} + 3,000 \text{ MWD}) \)
   b. \( PTOE (B) = 20,000 \times (600 \text{ MWD} + 6,000 \text{ MWD}) \)
   c. \( PTOE (C) = 0 \)
   d. \( PTOE (D) = 0 \)
8. **AAFE = AFE + PTOE**
   a. \( AAFF (A) = 100,000 \times 90,000 - 10,000 \)
<table>
<thead>
<tr>
<th></th>
<th>AAFE (B)</th>
<th></th>
<th>AAFE (C)</th>
<th></th>
<th>AAFE (D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>b.</td>
<td>$200,000</td>
<td>=</td>
<td>$180,000</td>
<td>=</td>
<td>$20,000</td>
</tr>
<tr>
<td>c.</td>
<td>$300,000</td>
<td>=</td>
<td>$300,000</td>
<td>=</td>
<td>0</td>
</tr>
<tr>
<td>d.</td>
<td>$400,000</td>
<td>=</td>
<td>$400,000</td>
<td>=</td>
<td>0</td>
</tr>
</tbody>
</table>

9. **FEC = AAC - AAFE if AAC > AAFE**
   
   FEC = 0 for each participant

10. **AFED = IFEC * \(\frac{(AATO - AETO)}{\Sigma(AATO - AETO)}\)**

   Where AATO > AETO
   
   AFED = 0 for each Participant
AMENDMENT NO. 8 TO THE

ARIZONA NUCLEAR POWER PROJECT

PARTICIPATION AGREEMENT

APS Contract No. 4172-419.00

Execution Copy
June 17, 1983
1. PARTIES:

The Parties to this Amendment No. 8 to the Arizona Nuclear Power Project Participation Agreement ("Amendment No. 8") (hereinafter referred to as the "Participants") are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona," SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project," SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison," PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM," EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso," and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State of California, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter
referred to as "SCPPA."

2. RECITALS:

2.1 Arizona, Salt River Project, Edison, PNM and El Paso are parties ("Participants") to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973; as amended by Amendment No. 1, dated as of January 1, 1974; Amendment No. 2, dated as of August 28, 1975; Amendment No. 3, dated as of July 22, 1976; Amendment No. 4, dated as of December 15, 1977; Amendment No. 5, dated as of December 5, 1979; Amendment No. 6, dated as of October 16, 1981; and Amendment No. 7, dated as of April 1, 1982 (hereinafter as so amended "Participation Agreement").

2.2 Pursuant to the Salt River Project - Authority Palo Verde Nuclear Generating Station Assignment Agreement, dated August 14, 1981, by and between Salt River Project and SCPPA, on September 10, 1982, Salt River Project, pursuant to Section 15.3 of the Participation Agreement, assigned and transferred to SCPPA, among other things, an undivided 5.91% interest in the Palo Verde Nuclear Generating Station and in the Project Agreements related thereto, and a 5.91% Generation Entitlement Share under the Participation Agreement, and SCPPA, pursuant to Section 15.5 of the Participation Agreement, has accepted said assignment and transfer and has become and assumed the status and obligations of a Participant in the Palo Verde Nuclear Generating Station to the extent of SCPPA's interest therein.
2.3 Mutual assistance agreements among utilities and others providing for the temporary borrowing, loan or exchange of personnel, equipment or material to a requesting party to such agreement are advantageous to all parties thereto because (i) personnel, equipment or material required to respond to an emergency or to avoid or minimize any delay, outage or reduction of generating availability or capacity may not be readily available from any other source and (ii) responses to any such requests can be expedited if the terms and conditions pursuant to which any borrowing, loan or exchange of personnel, equipment or material have been agreed upon prior to such requests.

2.4 As construction of ANPP reaches completion, significant amounts of valuable construction equipment and materials jointly owned by the Participants will no longer be required and means should be established for its orderly and expeditious disposition on terms favorable to the Participants. Similarly, it is anticipated that, from time to time during the operation of ANPP, some jointly owned equipment or materials acquired for the operation or maintenance of ANPP or for Capital Improvements shall cease to be used or useful and should be disposed of expeditiously on terms favorable to the Participants.

2.5 The Parties desire to amend the Participation Agreement to empower the Project Manager and/ or the Operating Agent to borrow, lend or exchange personnel, equipment or material
from or to any third party who shall have entered into a mutual assistance agreement substantially in a form as shall have been previously approved by the Administrative Committee and, upon Administrative Committee approval of criteria and guidelines, and consistent with such criteria and guidelines, dispose of equipment and material jointly owned by the Participants as and when the Project Manager or Operating Agent shall determine that such equipment and material is no longer used or useful in the performance of Construction Work or Operating Work or in making Capital Improvements.

3. **AGREEMENT:**

   In consideration of the terms and conditions contained in this Amendment No. 8 to the Participation Agreement, the Parties agree as follows:

4. **EFFECTIVE DATE:**

   This Amendment No. 8 shall become effective when executed by all the Participants.

5. **AMENDMENT NO. 8 TO THE PARTICIPATION AGREEMENT:**

   5.1 Amendment to Section 3.28.

   Section 3.28 shall be deleted in its entirety and a new Section 3.28 shall be added to read as follows:

   "3.28 Generation Entitlement Share: The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:
| 3.28.1 | Arizona          | = 29.1 percent |
| 3.28.2 | Salt River Project | = 23.19 percent |
| 3.28.3 | Edison           | = 15.8 percent |
| 3.28.4 | PNM              | = 10.2 percent |
| 3.28.5 | El Paso          | = 15.8 percent |
| 3.28.6 | SCPPA            | = 5.91 percent |

5.2 New Section 6.2.11.

A new Section 6.2.11 shall be added to read as follows:

"6.2.11 Review, modify if necessary and approve a form of contract recommended by the Engineering and Operating Committee pursuant to Section 6.3.5, which may be executed by the Project Manager, pursuant to Section 7.3.34, or the Operating Agent, pursuant to Section 8.3.27, as applicable, for and on behalf of all Participants concerning mutual assistance among the parties thereto in the nature of the temporary borrowing, loan or exchange of personnel, equipment or material."

5.3 New Section 6.2.12.

A new Section 6.2.12 shall be added to read as follows:

"6.2.12 Review, modify if necessary and approve criteria and guidelines which are to be utilized by the Project Manager or Operating Agent, as the case may be, concerning (i) the sale, transfer or conveyance of equipment or materials acquired for use in the performance of Construction Work,"
Operating Work or the construction, operation or maintenance of Capital Improvements which are no longer required for such purposes and (ii) the disposal of retired Units of Property pursuant to Section 18.8. Such criteria and guidelines are to be developed by the Project Manager and shall be reviewed and modified as necessary by the Engineering and Operating Committee prior to being forwarded to the Administrative Committee. Such criteria and guidelines shall also include any specific requirements which may be deemed necessary with respect to the sale, transfer or conveyance, by a non-competitive bid process, of such equipment or materials or retired Units of Property to any Participant or subsidiary thereof, the Project Manager or the Operating Agent."

5.4 New Section 6.3.5.
A new section 6.3.5 shall be added to read as follows:

"6.3.5 Develop and recommend to the Administrative Committee a form of contract which may be executed by the Project Manager, pursuant to Section 7.3.34, or the Operating Agent, pursuant to Section 8.3.27, as applicable, for and on behalf of all Participants concerning mutual assistance among the parties thereto in the nature of the temporary borrowing, loan or exchange of personnel,"
5.5 New Section 6.3.6.

A new Section 6.3.6 shall be added to read as follows:

"6.3.6 Review, modify as necessary and forward to the Administrative Committee for their approval, criteria and guidelines to be developed by the Project Manager which are to be utilized by the Project Manager or the Operating Agent, as the case may be, concerning (i) the sale, transfer or conveyance of equipment or materials acquired for use in the performance of Construction Work, Operating Work or the construction, operation or maintenance of Capital Improvements which are no longer required for such purposes and (ii) the disposal of retired Units of Property pursuant to Section 18.8."

5.6 New Section 7.3.34.

A new Section 7.3.34 shall be added to read as follows:

"7.3.34 Enter into mutual assistance agreements with utilities and others providing for the temporary borrowing, loan or exchange of personnel, equipment or material, upon request of any party to such agreement; provided that each such agreement shall be in a form as approved by the Administrative Committee pursuant to Section 6.2.11 and shall include such warranty, indemnity, insurance - 7 -
and other provisions as such committee may have deemed appropriate."

5.7 New Section 7.3.35.

A new Section 7.3.35 shall be added to read as follows:

"7.3.35 Develop and recommend to the Engineering and Operating Committee for their review, modification if necessary and forwarding to the Administrative Committee for final review, modification if necessary and approval, criteria and guidelines to be utilized by the Project Manager or Operating Agent, as the case may be, concerning (i) the sale, transfer or conveyance of equipment or materials acquired for use in the performance of Construction Work, Operating Work or the construction, operation or maintenance of Capital Improvements which are no longer required for such purposes and (ii) the disposal of retired Units of Property pursuant to Section 18.8."

5.8 New Section 7.3.36.

A new Section 7.3.36 shall be added to read as follows:

"7.3.36 Consistent with the criteria and guidelines approved by the Administrative Committee pursuant to Section 6.2.12(i), sell, transfer and convey for and on behalf of all Participants to any entity, including without limitation any Participant or the Operating Agent, any and all..."
equipment or material acquired for use in the performance of Construction Work, provided that at the time of such sale, transfer or conveyance (i) the Project Manager shall have determined that such equipment or material is no longer used or useful for ANPP, (ii) the Project Manager shall sell, transfer or convey any such equipment or material only on an "as is" basis without any representation or warranty as to quality, condition or fitness for any purpose and (iii) proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Generation Entitlement Shares."

5.9 New Section 8.3.27.

A new Section 8.3.27 shall be added to read as follows:

"8.3.27 Enter into mutual assistance agreements with utilities and others providing for the temporary borrowing, loan or exchange of personnel, equipment or material upon request of any party to such agreement; provided that each such agreement shall be in a form as approved by the Administrative Committee pursuant to Section 6.2.11 and shall include such warranty, indemnity, insurance and other provisions as such committee shall deem appropriate."

5.10 New Section 8.3.28.
A new Section 8.3.28 shall be added to read as follows:

"8.3.28 Consistent with the criteria and guidelines approved by the Administrative Committee pursuant to Section 6.2.12(i), sell, transfer and convey for and on behalf of all Participants to any entity, including without limitation any Participant, any and all equipment or material acquired for use in the performance of Operating Work, or acquired for use in the construction, operation or maintenance of any Capital Improvement; provided that at the time of such sale, transfer or conveyance (i) the Operating Agent shall have determined that such equipment or material is no longer used or useful for ANPP, (ii) the Operating Agent shall sell, transfer or convey any such equipment or material only on an 'as is' basis without any representation or warranty as to quality, condition or fitness for any purpose and (iii) proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Generation Entitlement Shares."

5.11 Amendment to Section 18.8.

Section 18.8 shall be deleted in its entirety and a new Section 18.8 shall be added to read as follows:

"18.8 Units of Property retired from service, whether
considered original construction or Capital Improvements, shall be disposed of by the Operating Agent on the best available terms as soon as practicable consistent with the criteria and guidelines approved by the Administrative Committee pursuant to Section 6.2.12(ii); provided that at the time of such disposal (i) the Operating Agent shall have determined that such Units of Property are no longer used or useful for ANPP, (ii) the Operating Agent shall dispose of such Units of Property only on an 'as is' basis without any representation or warranty as to quality, condition or fitness for any purpose and (iii) proceeds, if any, received therefrom shall be credited or distributed to the Participants in proportion to their Generation Entitlement Shares."

5.12 New Section 38.1.6.

A new Section 38.1.6 shall be added to read as follows:

"38.1.6 Southern California Public Power Authority

c/o Executive Director

Room 300

613 East Broadway

Glendale, California 91205"

5.13 Except as otherwise provided, the amended Participation Agreement, as amended by this Amendment No. 8, shall remain in full force and effect.

- 11 -
EXECUTION BY COUNTERPARTS:

This Amendment No. 8 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 8 may be detached from any counterpart of this Amendment No. 8 without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 8 identical in form hereto but having attached to it one or more signature pages.

SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 8 on behalf of the party for whom they sign. This Amendment No. 8 is hereby executed as of the 12th day of September, 1983.

ARIZONA PUBLIC SERVICE COMPANY

By /s/ [ILLEGIBLE]
Its

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By
Its

ATTEST AND COUNTERSIGN:

/s/ [ILLEGIBLE]
6. **EXECUTION BY COUNTERPARTS**:  
This Amendment No. 8 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 8 may be detached from any counterpart of this Amendment No. 8 without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 8 identical in form hereeto but having attached to it one or more signature pages.

7. **SIGNATURE CLAUSE**:  
The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 8 on behalf of the party for whom they sign. This Amendment No. 8 is hereby executed as of the _______ day of ______________, 1983.

ARIZONA PUBLIC SERVICE COMPANY  
By __________________________________________
Its  __________________________________________

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT  
ATTEST AND COUNTERSIGN:  
/s/ [ILLEGIBLE]  
Its  __________________________ Secretary

By __________________________________________
Its  __________________________________________
President  __________________________

- 12 -
SOUTHERN CALIFORNIA EDISON COMPANY

By
Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By
Its

EL PASO ELECTRIC COMPANY

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST

By
Its

- 13 -
SOUTHERN CALIFORNIA EDISON COMPANY

By ____________________________
Its ____________________________

PUBLIC SERVICE COMPANY OF NEW MEXICO

By ____________________________
Its ____________________________

EL PASO ELECTRIC COMPANY

By ____________________________
Its ____________________________

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY,
doing business in the State of Arizona as SOUTHERN
CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST

By ____________________________
Its ____________________________

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- 13 -
SOUTHERN CALIFORNIA EDISON COMPANY

By
Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By
Its

EL PASO ELECTRIC COMPANY

By /s/ [ILLEGIBLE]
Its SR. V.P.

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

By
Its

ATTEST
Its
SOUTHERN CALIFORNIA EDISON COMPANY

By __________________________________________________________________________
Its __________________________________________________________________________

PUBLIC SERVICE COMPANY OF NEW MEXICO

By __________________________________________________________________________
Its __________________________________________________________________________

EL PASO ELECTRIC COMPANY

By __________________________________________________________________________
Its __________________________________________________________________________

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

By __________________________________________________________________________
Its __________________________________________________________________________

ATTEST
/s/ [ILLEGIBLE]
Its Ass't Secretary

/s/ [ILLEGIBLE]
Its President

/ 
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/
AMENDMENT NO. 9 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

APS Contract No: 4172-419.00

June 12, 1984
AMENDMENT NO. 9 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

1. PARTIES:

The Parties to this Amendment No. 9 to the Arizona Nuclear Power Project Participation Agreement, hereinafter referred to as "Amendment No. 9," are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona"; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project"; SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison"; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM"; EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso"; and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State of California, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter referred to as "SCPPA."

2. RECITALS:

___________________________________________________________________________________________

2.2 The Participants desire to limit their risks of liability due to Willful Action, whether or not it results from or arises out of a nuclear incident.

3. **AGREEMENT:**

   In consideration of the terms and conditions contained in this Amendment No. 9 to the Participation Agreement, the parties agree as follows:

4. **EFFECTIVE DATE:**

   This Amendment No. 9 shall become effective when executed by all Participants.

5. **AMENDMENT NO. 9 TO THE PARTICIPATION AGREEMENT:**

   5.1 Amendment to Section 3.56.

   Section 3.56 of the Participation Agreement shall be deleted in its entirety and a new Section 3.56 shall be added to read as follows:
"3.56 WILLFUL ACTION

3.56.1 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom.

3.56.2 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which action occurs or continues beyond the time specified in
such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default.

3.56.3 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under any of the Project Agreements.

3.56.4 The phrase 'employees having management or administrative responsibility' as used in this Section 3.56 means employees of a Participant who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Participant's performance under any of the Project Agreements; provided
however, that, with respect to employees of the Operating Agent acting in its capacity as such and not in its
capacity as a Participant, such phrase shall refer only to (i) the senior employee of the Operating Agent on
duty at ANPP who is responsible for the operation of the Generating Units and (ii) anyone in the
organizational structure of the Operating Agent between such senior employee and an officer.

3.56.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent."

5.2 Amendment to Section 21.

Section 21 of the Participation Agreement, composed of subsections 21.1 through 21.6 inclusive, shall be deleted in its
entirety and a new Section 21 shall be added to read as follows:

"21. LIABILITY

21.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any
judgment debt is collectible from valid Project Insurance, and subject to the provisions of Sections 21.2, 21.4,
21.5, and 21.6 hereof, each Participant hereby extends to
all other Participants, their directors, members of their governing bodies, officers and employees its
covenant not to executes, levy or otherwise enforce a judgment obtained against any of them, including
recording or effecting a judgment lien, for any direct, indirect or consequential loss, damage, claim,
cost, charge or expense, whether or not resulting from the negligence of such Participants, its directors.
members of its governing bodies, officers, employees, or any person or entity whose negligence would be
imputed to such Participant from (i) Construction Work, Operating Work, the design and construction of
Capital Improvements, or the use of or ownership of ANPP or (ii) the performance or nonperformance
of the obligations of a Participant under the Project Agreements, other than the obligation to pay any monies
which have become due.

21.2 In the event any insurer providing Project Insurance refuses to pay any judgment obtained
by a Participant against another Participant, its directors, members of its governing bodies, officers or employees, on account of liability referred to in Section 21.1 hereof, the Participant, its directors, members of its governing bodies, officers or employees against whom the judgment is obtained shall, at the request of the prevailing Participant and in consideration of the covenant given in Section 21.1 hereof, execute such documents as may be necessary to effect an assignment of its contractual rights against the nonpaying insurer and thereby give the prevailing Participant the opportunity to enforce its judgment directly against such insurer. In no event when a judgment debt is collectible from valid Project Insurance shall the Participant obtaining the judgment execute, levy or otherwise enforce the judgment (including recording or effecting a judgment lien) against the Participant, its directors, members of its governing bodies, officers or employees, against whom the judgment was obtained.

21.3 Except as provided in Sections 21.4, 21.5, and 21.6 hereof, the costs and expenses of discharging all Work Liability or liability
resulting from the design or construction of Capital Improvements imposed upon one or more of the Participants for which payment is not made by Project Insurance shall be shared among and paid by all Participants in proportion to their respective Generation Entitlement Shares.

2.1.4 Each Participant shall be responsible for any damage, loss, claim, cost, charge or expense that is not covered by Project Insurance and results from its own Willful Action as defined in Section 3.56.2 hereof and shall indemnify and hold harmless the other Participants, their directors, members of their governing bodies, officers and employees from any such damage, loss, claim, cost, charge or expense.

21.5 Except as provided in Section 21.4 hereof, the aggregate liability of any Participant to all other Participants for Willful Action not covered by Project Insurance shall be determined as follows:

21.5.1 All such liability for damages, losses, claims, costs, charges or expenses of such Participant shall not exceed $10,000,000 per occurrence. Each Participant extends to each other Participant, its directors, members of
its governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a
judgment obtained against any of them for any such aggregate liability in excess of $10,000,000 per
occurrence.

21.5.2 A claim based on Willful Action must be perfected by filing suit in a court of competent jurisdiction
within three years after the Willful Action occurs. All claims made thereafter relating to
the same Willful Action shall be barred by this Section 21.5.2. The award to each nonwillfully acting
Participant from each Participant determined to have committed Willful Action shall be determined as
follows: (i) Each Participant who successfully files suit for remuneration shall receive the
lesser of (a) its final judgment awarded (or settlement made) or (b) its pro-rata Generation
Entitlement Share of the $10,000,000 maximum recovery established in Section 21.5.1 hereof.
(ii) When all pending suits are resolved, those Participants who were
awarded judgments or reached settlements but whose claims were not fully satisfied pursuant to Section 21.5.2(i) shall be entitled to participate in any remaining portion of the $10,000,000 maximum recovery limit, based upon the ratio of the unsatisfied portion of such Participant's judgment or settlement to the total unsatisfied portion of all such judgments and settlements. Such participation shall be limited to the Participants' unsatisfied judgments or settlements.

21.6 Except for liability resulting from Willful Action (which, subject to the provisions of Section 21.5 hereof, shall be the responsibility of the willfully acting Participant), any Participant whose electric customer shall have a claim or bring an action against any other Participant for any death, injury, loss or damage arising out of or in connection with electric service to such customer and caused by the operation or failure of operation of ANPP or any portion thereof, shall indemnify and hold harmless such other Participant, its directors, members of its governing bodies,
officers and employees from and against any liability for such death, injury, loss or damage.

21.7 The provisions of this Section 21 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible Project Insurance policies.

21.8 The Participants agree that the aggregate liability limit of $10,000,000 referenced in Sections 21.5.1 and 21.5.2 hereof may be determined in the future to be inappropriate and shall make a good faith effort to evaluate and, if appropriate, revise said limit at the request of any Participant."

5.3 Except as provided herein, the Participation Agreement, as amended by this Amendment No. 9, shall remain in full force and effect.

6. **EXECUTION BY COUNTERPARTS**:

This Amendment No. 9 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 9 may be detached from any counterpart of this Amendment No. 9 without
imparing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 9 identical in form hereto but having attached to it one or more signature pages.

7. SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 9 on behalf of the party for whom they sign. This Amendment No. 9 is hereby executed as of the 12th day of June, 1984.

ATTEST:

/s/ [ILLEGIBLE]

Its Secretary

ATTEST AND COUNTERSIGN:

ARIZONA PUBLIC SERVICE COMPANY

By /s/ [ILLEGIBLE]

Its Chief Executive Officer

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By

Its
impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 9 identical in form hereto but having attached to it one or more signature pages.

7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 9 on behalf of the party for whom they sign. This Amendment No. 9 is hereby executed as of the 12th day of June, 1984.

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**ATTEST:**

[Signatures]

**ARIZONA PUBLIC SERVICE COMPANY**

By __________________________

Its __________________________

**SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

By __________________________

Its __________________________

By __________________________

Its __________________________

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]

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/s/ [ILLEGIBLE]

/s/ [ILLEGIBLE]
SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

/s/ [ILLEGIBLE]
Its Asst. Secretary

By /s/ [ILLEGIBLE]
Its Exec. Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:

Its

By
Its

EL PASO ELECTRIC COMPANY

ATTEST:

Its

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

Its

By
Its

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SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

Its

By

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:

/s/ [ILLEGIBLE]

Its Secretary

By /s/ [ILLEGIBLE]

Its Senior Vice President

EL PASO ELECTRIC COMPANY

ATTEST:

Its

By

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

Its

By

-13-
SOUTHERN CALIFORNIA EDISON COMPANY

ATTEST:

By
Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

ATTEST:

By
Its

EL PASO ELECTRIC COMPANY

ATTEST:

/s/ [ILLEGIBLE]
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By
Its

/s/ [ILLEGIBLE]
Its
Senior Vice President
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

/s/ [ILLEGIBLE]

Its Assistant Secretary

By /s/ [ILLEGIBLE]

Its President

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AMENDMENT NO. 10 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT
APS Contract No.: 4172-419.00

NOVEMBER 21, 1985
1. Parties:
The Parties to this Amendment No. 10 to the Arizona Nuclear Power Project Participation Agreement, hereinafter referred to as "Amendment No. 10", are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona"; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project"; SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison"; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM"; EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso"; and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State of California, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter referred to as "SCPPA".
2. Recitals:
   2.1 Arizona, Salt River Project, Edison, PNM, El Paso and SCPPA are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973, as amended by Amendment No. 1, dated as of January 1, 1974, Amendment No. 2, dated as of August 28, 1975, Amendment No. 3, dated as of July 22, 1976, Amendment No. 4, dated as of December 15, 1977, Amendment No. 5, dated as of December 5, 1979, Amendment No. 6, dated as of September 28, 1981, Amendment No. 7, dated as of March 4, 1982, Amendment No. 8, dated as of June 17, 1983, and Amendment No. 9, dated as of June 12, 1984, hereinafter, as so amended, referred to as the "Participation Agreement".
   2.2 The Participants desire to amend the Participation Agreement to make provision for sale and leaseback financing transactions involving the Participants.

3. Agreement:
   3.1 In consideration of the terms and conditions contained in this Amendment No. 10 to the Participation Agreement, the parties agree as follows:

4. Effective Date:
   4.1 This Amendment No. 10 shall become effective when executed by all Participants.
5. Amendment No. 10 to the Participation Agreement:

5.1. Section 3.43 is hereby deleted in its entirety and a new Section 3.43 is added as follows:

"3.43 Participant: Any party hereto and any successor or assignee of such party under Section 15.2 or Section 15.3 and any Transferee under Section 15.10 hereof."

5.2. Section 3.46 is deleted in its entirety and a new Section 3.46 is added as follows:

"3.46 Project Agreements: This Participation Agreement, any Construction Agreement, any Nuclear Fuel Agreement, but excluding any Nuclear Fuel Agreements for the supply of Uranium Concentrates to which all Participants are not parties, and any agreements between the Participants or any of them and any third party for land, land rights or water rights for ANPP, as such agreements are originally executed or as they may thereafter be supplemented or amended and any other agreements as the Participants agree to designate as Project Agreements. Project Agreements shall not include any deed of trust, mortgage, indenture, security agreement or any agreement or instrument relating to a sale and leaseback transaction, unless the Participants shall otherwise agree."

5.3. Section 4.1 is deleted in its entirety and a new Section 4.1 is added as follows:

"4.1 Except as otherwise permitted in Section 15.1.l(b) hereof, each Participant shall accept, acquire and own an undivided interest as a tenant in common in ANPP and all Project Agreements in proportion to its Generation Entitlement Share, but excluding (i) Option and Purchase of Effluent Agreement, Agreement No. 13904, dated April 23, 1973, between Arizona and Salt River Project and the Cities of Phoenix, Glendale, Mesa, Scottsdale and Tempe and the Town of Youngtown, except to the extent only that said agreement governs the rights and obligations for the purchase and delivery of wastewater effluent required for Construction Work, Operating Work and Capital Improvements and (ii) any Project Agreement which by its terms establishes an ownership interest or rights"
of any Participant in the subject matter thereof which differs from its Generation Entitlement Share under this Participation Agreement."

5.4. The caption of Section 15 is hereby amended to read:

"15. Mortgage, Sale and Leaseback and Transfer of Interest ":

5.5. Section 15.1 is hereby deleted in its entirety and a new Section 15.1 is added as follows:

"15.1 The following provisions shall apply to the right of each Participant to enter into mortgage and sale and leaseback transactions.

"15.1.1 Each Participant shall have the right at any time and from time to time to

"(a) mortgage, create or provide for a security interest in or convey in trust all or a part of its ownership share in ANPP, together with an equal interest in the Project Agreements, to a trustee or trustees under deed of trust, mortgage or indenture or to a secured party or parties under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, or

"(b) sell and lease back, under a net lease having a primary term of not less than 25 years, all or any part of its interest in a Generating Unit and Capital Improvements made from time to time with respect thereto, together with all or any part of its Generation Entitlement Share with respect to such Generating Unit or part thereof, to a trustee or trustees under a grantor trust or trusts and to any successors or assigns thereof, "without need for the prior written consent of any other Participant and without such mortgagee, trustee, secured party or lessor under such sale and leaseback transaction assuming or becoming in any respect obligated to perform any of the obligations of such Participant; provided, however, at or prior to any sale and leaseback pursuant to clause (b) of this Section 15.1.1, the conditions to such transaction set forth in Section 15.6 hereof shall have been satisfied.

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"15.1.2 Each lessor under a sale and leaseback transaction permitted under clause (b) of Section 15.1.1 shall have the right at any time and from time to time to mortgage, create or provide for a security interest in or convey in trust all or any part of its ownership share in ANPP to a trustee or trustees under deed of trust, mortgage or indenture or to a secured party or parties under a security agreement, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior written consent of any Participant and without such mortgagee, trustee or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Participants."

5.6. Section 15.2 is amended (i) to redesignate such Section as "15.2.1", (ii) by the addition of a new introductory Section 15.2 as follows:

"15.2 The following provisions shall apply to the exercise of rights in respect of transactions permitted by Section 15.1."

and (iii) by the addition of a new Section 15.2.2 which reads as follows:

"15.2.2 From and after, but in no event prior to, the date of a rejection or deemed rejection by any receiver, referee or trustee in bankruptcy or reorganization of any Participant of the lease or other executory contract constituting part of a sale and leaseback transaction relating to ANPP to which such Participant is a party, the lessor in such sale and leaseback transaction (or any mortgagee, trustee or secured party under present and future deeds of trust, mortgages, indentures or security agreements of such lessor and any successor or assignee thereof, and any receiver, referee or trustee in bankruptcy or reorganization of such lessor and any successor by action of law or otherwise, and any purchaser, transferee or assignee of any thereof) may (subject, however, to the rights of the other Participants under the Project Agreements, including but not limited to, Section 23 hereof), without need for the prior written consent of any other Participant, (i) succeed to and acquire all the rights, titles and interests of such Participant in ANPP
and the Project Agreements, to the extent, but only to the extent, of the Generating Unit (or portion thereof) and the portion of such Participant's Generation Entitlement Share acquired by such lessor in such transaction, and (ii) take over possession of or foreclose upon said property, rights, titles and interests of such Participant, and in such event such lessor or other party shall assume and be obligated fully to perform and discharge all obligations arising thereafter hereunder and under any other Project Agreement of such Participant to the extent, but only to the extent, of the Generating Unit (or portion thereof) and the portion of such Participant's Generation Entitlement Share subject to such transaction."

5.7. Section 15 is amended by the addition of Sections 15.6, 15.7, 15.8, 15.9 and 15.10 which read as follows:

"15.6 The right of a Participant to enter into a sale and leaseback transaction as provided in clause (b) of Section 15.1.1 is subject to the following:

"15.6.1 The other Participants shall have received (1) an instrument of each lessor party to such transaction confirming the matters set forth in Section 15.6.3.2 hereof, (2) a certificate of such Participant to the effect that such transaction will satisfy the conditions set forth in Section 15.6 hereof, and all other provisions of this Participation Agreement, and (3) an opinion of counsel to such Participant with respect to the matters set forth in Sections 15.6.3.1 and 15.6.3.4 hereof and to the effect that the documents and agreements relating to such transaction are not inconsistent with the requirements of Section 15.6.3 hereof.

"15.6.2 The Administrative Committee, based upon the instrument, the certificate and the opinion described in Section 15.6.1, shall have found, by unanimous resolution, such transaction to be consistent with Section 15 hereof. The representative of any Participant need not join in such finding if such transaction (1) is inconsistent with Section 15 hereof or (2) may, in some manner, materially impair the rights of such Participant to retain or obtain tax benefits arising from its property interest in ANPP.

"15.6.3 Such transaction, and the documents and agreements relating thereto, shall provide that:

"15.6.3.1 The rights and remedies of the parties thereto shall be subject and subordinate to the rights and remedies of the Participants (other than (i) the Participant party thereto or (ii) any person who shall become a Participant in respect of the lessor's interest
in ANPP under such transaction) under the Project Agreements;

"15.6.3.2 Except as provided in Sections 15.2.2, 15.6.4 and 15.10 hereof, the Participant party thereto shall be and remain the sole "Participant" for all purposes of this Participation Agreement and the sole representative (with power to bind each lessor party to such transaction and each mortgagee, trustee and secured party of such lessor described in Section 15.1.2 hereof) in all dealings with the other Participants in relation to the property, rights, titles and interests of such Participant transferred pursuant to such transaction;

"15.6.3.3 Any right conferred by Section 15.2.2 hereof shall be exercised only in concert (through a single nominee, agent, receiver or subsequent transferee) with similar rights conferred by Section 15.2.2 hereof on parties to other sale and leaseback transactions involving the same Participant and interests in the same Generating Unit;

"15.6.3.4 All right to partitionment with respect to the interest acquired shall be waived by the lessor party to such transaction;

"15.6.3.5 Upon the expiration of the lease in such transaction and upon the Participant party thereto failing to purchase all the right, title and interest in ANPP and contractual rights related thereto necessary for the operation of such interest (a "Lessor's Interest") acquired by the lessor in such transaction, such lessor shall entertain cash bids from each other Participant for such Lessor's Interest; and

"15.6.3.6 The provisions of such transaction responsive to the foregoing Sections of this Section 15.6.3 shall remain in full force and effect until such time as the Administrative Committee shall otherwise consent.

"15.6.4 Such transaction may provide that the authority of the Participant party thereto described in Section 15.6.3.2 hereof shall not extend to approval of any amendment to the Participation Agreement the effect of which would be to reduce the Generation Entitlement Share in which the lessor or lessors party to such transaction have acquired an interest.

"15.7 Except to the extent provided in Section 15.10 hereof, a Participant shall not be released from any obligation under the Project Agreements notwithstanding
any assumption of, or agreement to perform or discharge in whole or in part, such obligation by any other person in connection with a sale and leaseback transaction.

"15.8 Anything in a sale and leaseback transaction to the contrary notwithstanding: (1) the rights and remedies of the parties thereto shall be subject and subordinate to the rights and remedies of the Participants under the Project Agreements (including but not limited to Section 23 hereof), other than (i) the Participant party thereto and (ii) any person who shall become a Participant in respect of the lessor's interest in ANPP under such transaction; (2) no other Participant shall incur any obligations or liabilities in respect of such transaction; and (3) the lessor party thereto shall be bound by the provisions of Section 21 hereof (other than Section 21.3) to the same extent as if such lessor were a Participant.

"15.9 If a Participant enters into a sale and leaseback transaction as provided in clause (b) of Section 15.1.1. such Participant shall indemnify all other Participants against any costs and expenses incurred by them because of such Participant's entering into such transaction.

"15.10 Upon a lease or sale to a person, partnership, corporation or governmental corporation or agency engaged in the generation, transmission or distribution of Energy (other than the Participant originally party to such transaction) (a "Transferee") of a Lessor's Interest acquired by a lessor in a sale and leaseback transaction:

"15.10.1 The Transferee shall be and become the sole "Participant" for all purposes of this Participation Agreement and the sole representative (with power to bind any lessor) in all dealings with the other Participants in relation to such interest;

"15.10.2 The Transferee (1) shall assume and agree, and be deemed to have assumed and agreed, fully to perform and discharge all obligations under the Project Agreements relating to such interest to the extent arising subsequent to such lease or sale, except obligations in respect of decommissioning and removing from service the Generating Unit to which such interest relates (the "Termination Obligation"), (2) if such Transferee was not previously a Participant, may assume and agree fully to perform and discharge all or any part of the Termination Obligation and, (3) if such Transferee is and was previously a Participant, shall assume and agree, and be
deemed to have assumed and agreed, fully to perform and discharge the Termination Obligation;

"15.10.3 The Participant originally party to such transaction shall thereupon, with the consent (which consent shall not be withheld by any Participant unless a release would, in some manner, materially impair or materially adversely affect the rights of such Participant under this Participation Agreement or the rights or security of obligation holders of such Participant) of each other Participant, be released from all obligations under the Project Agreements so assumed and agreed to by the Transferee but only to the extent of such assumption and agreement; and

"15.10.4 The Transferee shall furnish to each other Participant evidence of such sale or lease and such assumption and agreement."

5.8. Section 20.8 is amended by the addition of the following sentence at the end thereof:
"Each Participant shall have the right to have any lessor (and any trustee or trustees under a deed of trust, mortgage or indenture or any secured party or parties under a security agreement) in a sale and leaseback transaction named on all or any of the Project Insurance policies as loss payee or additional insured as its interest may appear, by notice in writing to the Project Manager or Operating Agent given in writing not less than thirty (30) days prior to the date proposed for such naming, which notice shall specify the name or names of such lessor and such additional information as may be necessary or required to permit it to be included on the policy(ies) of insurance."

5.9. Section 32.1 is hereby deleted in its entirety and a new Section 32.1 is added as follows:
"32.1 All of the respective covenants and obligations of each of the Participants set forth and contained in the Project Agreements shall bind and shall be and become the respective covenants and obligations of:

"32.1.1 Each such Participant;"
"32.1.2 All mortgagees, trustees and secured parties under all present and future mortgages, indentures and deeds of trust, and security agreements which are or may become a lien upon any of the interests of such Participant in ANPP; provided, however, that such covenants and obligations shall become binding upon such parties only at the time of taking possession;

"32.1.3 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such Participant;

"32.1.4 All lessors under all future sale and leaseback transactions (or other person described in Section 15.1.2 hereof) involving interests in ANPP; provided, however, that such covenants and obligations shall become binding on such lessors (or other persons) only in accordance with Section 15.2.2 hereof;

"32.1.5 All receivers, assignees for the benefit of creditors, bankruptcy trustees and referees of such lessors;

"32.1.6 All Transferees pursuant to Section 15.10 hereof; provided, however, that such covenants and obligations shall become binding on a Transferee only in accordance with Section 15.10.2 hereof;

"32.1.7 All other persons, firms, partnerships or corporations claiming through or under any of the foregoing; and

"32.1.8 Any successors or assigns of any of those mentioned in Sections 32.1.1 through 32.1.7 hereof,

"and shall be covenants and obligations running with such Participant's respective rights, titles and interests in ANPP and in, to and under the Project Agreements, and shall be for the benefit of the respective rights, titles and interests of the Participants and their respective successors and assigns, in and to ANPP. It is the specific intention of this provision that all such covenants and obligations shall be binding upon any party which acquires any of the rights, titles and interests of any such Participant in ANPP or in, to and under the Project Agreements and that all of the above-described persons and groups shall be obligated to use such Participant's
rights, titles and interests in ANPP and/or in, to or under the Project Agreements for the purpose of discharging its covenants and obligations under the Project Agreements: except (i) that in the case of a partial assignment the assignee shall only be required to share in the cost of fulfilling the covenants and obligations of the assigning Participant in, to and under the Project Agreements to an extent proportionate or attributable to such assignment, (ii) the rights and obligations of any Fuel Lessor of any Participant shall be governed by the provisions of Section 15.4 hereof and (iii) the rights and obligations of any person specified in Sections 32.1.2, 32.1.4 and 32.1.6 hereof shall be governed as set forth in such Sections."

5.10. Except as provided herein, the Participation Agreement, as amended by this Amendment No. 10, shall remain in full force and effect.

6. Execution by Counterparts:

6.1. This Amendment No. 10 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 10 may be detached from any counterpart of this Amendment No. 10 without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 10 identical in form hereto but having attached to it one or more signature pages.
7. Signature Clause:

7.1. The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 10 on behalf of the party for whom they sign. This Amendment No. 10 is hereby executed as of the 21st day of November, 1985.

ARIZONA PUBLIC SERVICE COMPANY
By /s/ [ILLEGIBLE]
Its Chief Executive Officer

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
By 
Its 

SOUTHERN CALIFORNIA EDISON COMPANY
By
Its

-12-
7. Signature Clause:

7.1. The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 10 on behalf of the party for whom they sign. This Amendment No. 10 is hereby executed as of the ______ day of October, 1985.

ARIZONA PUBLIC SERVICE COMPANY

By ______________________________________________
Its ____________________________________________

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By ______________________________________________
Its ____________________________________________

SOUTHERN CALIFORNIA EDISON COMPANY

By ______________________________________________
Its ____________________________________________

ATTEST AND COUNTERSIGN:

/s/ [ILLEGIBLE]
Its Secretary

APPROVED AS TO FORM
SALT RIVER PROJECT LAW DEPARTMENT

BY ___________________________
DATE N.P.V. 1985
7. Signature Clause:

7.1. The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 10 on behalf of the party for whom they sign. This Amendment No. 10 is hereby executed as of the ______ day of October, 1985.

ARIZONA PUBLIC SERVICE COMPANY

By

Its

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By

Its

SOUTHERN CALIFORNIA EDISON COMPANY

By /s/ [ILLEGIBLE]

Its
PUBLIC SERVICE COMPANY OF NEW MEXICO

By /s/ [ILLEGIBLE]
Its Senior Vice President Power Supply

EL PASO ELECTRIC COMPANY

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By
Its

-13-
PUBLIC SERVICE COMPANY OF NEW MEXICO

By ____________________________________________
Its ____________________________________________

EL PASO ELECTRIC COMPANY

By /s/ [ILLEGIBLE]
Its Senior Vice President

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY,
doing business in the State of Arizona as SOUTHERN
CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By ____________________________________________
Its ____________________________________________

-13-
PUBLIC SERVICE COMPANY OF NEW MEXICO

By ________________________________

Its ________________________________

EL PASO ELECTRIC COMPANY

By ________________________________

Its ________________________________

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY,

doing business in the State of Arizona as SOUTHERN

CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST

/s/ [ILLEGIBLE]

Its Asst. Secretary

By ________________________________  /s/ [ILLEGIBLE]

Its President

-13-
STATE OF ARIZONA
County of Maricopa

On this 21st day of November, 1985 before me, the undersigned Notary Public, personally appeared Keith L. Turley who acknowledged himself to be the Chairman of the Board of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Chief Executive Officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires:

-14-
On this 5th day of ___ November __, 1985 before me, the undersigned Notary Public, personally appeared ___ JOHN R. LASSEN _______ and ___ PAUL D. RICE _______ who acknowledged themselves to be the ____ PRESIDENT____ and ____ SECRETARY____ of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the district by themselves as such ____ PRESIDENT____ and ____ SECRETARY____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

/s/ [ILLEGIBLE]

Notary Public

My commission expires:

-15-
STATE OF CALIFORNIA

County of Los Angeles

On this 21st day of November, 1985 before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] who acknowledged himself to be the Exec. Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Exec. Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires:

-16-
On this 31st day of October, 1985 before me, the undersigned Notary Public, personally appeared J. L. Wilkins who acknowledged himself to be the Senior Vice President of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Senior Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires:

July 1, 1988
On this ___1st___ day of ___November___, 1985 before me, the undersigned Notary Public, personally appeared ______R . E. York____ who acknowledged himself to be the ___SR. Vice Pres.____ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such ___SR. Vice Pres.____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires: 
7-3-89

_____________________
Notary Public

My commission expires: 
7-3-89 2-2-89
On this 6th day of November, 1985, before me, the undersigned Notary Public, personally appeared ___ [ILLEGIBLE] ______ and ___ [ILLEGIBLE] ______ who acknowledged themselves to be the ____ [ILLEGIBLE]_____ and ____ [ILLEGIBLE]_____ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the agency by themselves as such ____ [ILLEGIBLE]_____ and ____ [ILLEGIBLE]_____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_________________________
/\ [ILLEGIBLE]
Notary Public

My commission expires:

________________________________________
AMENDMENT NO. 11 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

APS Contract No: 4172-419.00

Pursuant to Section 4 herein, this Amendment No. 11 has been filed with the Nuclear Regulatory Commission and became effective on the 10th day of January, 1987.

June 13, 1986
1. PARTIES:

The parties to this Amendment No. 11 to the Arizona Nuclear Power Project Participation Agreement, hereinafter referred to as "Amendment No. 11", are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona"; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project"; SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue, of the laws of the State of California, hereinafter referred to as "Edison"; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM"; EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "El Paso"; SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State of California, doing business in the State of Arizona a SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter referred to as "SCPPA"; and DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal
corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "LADWP".

2. **RECITALS:**


2.2 By this Amendment No. 11, the Participants desire to amend the Participation Agreement in order to provide for the determination of administrative and general expenses regarding Start-Up and Pre-Operation Costs as agreed to in the letter entitled "Letter of Understanding Concerning Administrative and General Expense Charged to Arizona Nuclear Power Project Start-Up and Pre-Operation Expenses", hereinafter referred to as "Letter of Understanding", which became effective February 21, 1985.
2.3 Pursuant to Items D.1, D.2 and D.3 of the Letter of Understanding, the Participants, based upon the recommendation of the Auditing Committee, have determined that it is desirable to implement by this Amendment No. 11 certain changes to the formulas for determining the Operation and Maintenance A & G Ratio, the O & M Ratio and Construction Ratio, and the Capital A & G Ratio.

2.4 Pursuant to the Salt River Project - Los Angeles Palo Verde Station Assignment Agreement, dated January 29, 1986, by and between Salt River Project and LADWP, on January 29, 1986, Salt River Project, pursuant to Section 15.3 of the Participation Agreement, assigned and transferred to LADWP, among other things, an undivided 5.7% interest in the Palo Verde Nuclear Generating Station and in the Project Agreements related thereto, and a 5.7% Generation Entitlement Share under the Participation Agreement (all collectively referred to as "LADWP's Palo Verde Interest") and LADWP pursuant to Section 15.5 of the Participation Agreement has accepted said assignment and transfer and has become, and assumed the status and obligations of, a Participant in the Palo Verde Nuclear Generating Station to the extent of LADWP's Palo Verde Interest.

3. AGREEMENT:

   In consideration of the terms and conditions contained in this Amendment No. 11, the parties agree as follows:
4. **EFFECTIVE DATE:**

This Amendment No. 11 shall become effective 10 days following the filing of this Amendment No. 11 with the Nuclear Regulatory this Commission, and shall be as indicated on the cover page to Amendment No. 11. This Amendment No. 11 shall supercede in its entirety the Letter of Understanding.

5. **AMENDMENT NO. 11 TO THE PARTICIPATION AGREEMENT:**

5.1 A new Section 3.8A is hereby added to read as follows:

"3.8A Beginning of Generating Unit Fuel Load: The date on which the first Fuel Assembly is placed in the reactor vessel of each Generating Unit."

5.2 A new Section 3.8B is hereby added to read as follows:

"3.8B Beginning of Generating Unit Precore Hot Functional Test: The date on which information is first recorded in the Hot Functional Director's Log of Information for each Generating Unit in accordance with Section 8.1 of the PVNGS Manual, Procedure No. 90HF-1ZZ01.

5.3 Section 3.23 is hereby deleted in its entirety and a new Section 3.23 is hereby added to read as follows:

"3.23 FPC Accounts: The Federal Energy Regulatory Commission's (FERC) "Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)", in effect as of the date of this Participation Agreement, and as such system of accounts may be in effect from time to time."
References in this Participation Agreement to any specific FPC Account number shall mean the FERC Account number in effect as of the effective date of this Participation Agreement or any successor FERC Account.

5.4 Section 3.28 is hereby deleted in its entirety and a new Section 3.28 is hereby added to read as follows:

"3.28 Generation Entitlement Share: The percentage entitlement of each Participant to the Net Energy Generation and to the Available Generating Capability. Each Participant's percentage entitlement is as follows:

<table>
<thead>
<tr>
<th>Generation Entitlement Share</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>29.1 percent</td>
</tr>
<tr>
<td>Salt River Project</td>
<td>17.49 percent</td>
</tr>
<tr>
<td>Edison</td>
<td>15.8 percent</td>
</tr>
<tr>
<td>PNM</td>
<td>10.2 percent</td>
</tr>
<tr>
<td>El Paso</td>
<td>15.8 percent</td>
</tr>
<tr>
<td>SCPPA</td>
<td>5.91 percent</td>
</tr>
<tr>
<td>LADWP</td>
<td>5.7 percent</td>
</tr>
</tbody>
</table>

5.5 A new Section 3.45A is hereby added to read as follows:

"3.45A Power Ascension Level 50%: That point at which each Generating Unit is certified at the fifty percent (50\%) "Reliable (Power Level) Power Operation During Power Ascension Testing" level by the Engineering and Operating Committee pursuant to the Engineering and Operating Committee's Procedure"
5.6 A new Section 3.53A is hereby added to read as follows:

"3.53A Start-Up and Pre-Operation Costs: The costs of start-up and pre-operation of ANPP as described in Section 10A."

5.7 A new Section 10A is hereby added to read as follows:

"10A. START-UP AND PRE-OPERATION COSTS:

10A.1 For purposes of computing the allowance for start-up and pre-operation administrative and general expenses beginning on October 1, 1984, and through the Date of Firm Operation of each respective Generating Unit, Start-Up and Pre-Operation Costs of ANPP for each Generating Unit, including its one-third share of common facilities, shall consist of all payments made and obligations incurred by the Project Manager and the Operating Agent as follows:

10A.1.1 Costs of pre-operational Operating Work, as such costs are described within Appendix G, Section G.7.1;

10A.1.2 Costs of training personnel for Operating Work, as such training expenses are described within Appendix G, Sections G.7.3 and G.7.4;"
10A.1.3 Costs of all operation and maintenance performed by any contractor.

10A.2 Start-Up and Pre-Operation Costs shall not receive an allowance for administrative and general expenses
except as provided pursuant to Appendix L, attached hereto and made a part hereof."

5.8 A new Section 38.1.7 is hereby added to read as follows:
"38.1.7 Department of Water and Power
of the City of Los Angeles
c/o Chief Electric Engineer and
Assistant Manager
P. O. Box 111
111 North Hope Street
Los Angeles, California 90015"

5.9 Section E.6 of Appendix E is hereby deleted in its entirety and a new Section E.6 is hereby added to read as follows:
"E.6 Operation and Maintenance A & G Ratio :

E.6.1 The Operation and Maintenance A & G Ratio shall be the percentage computed by dividing (i) the sum of (a)
the total amounts charged to FPC Accounts 920 and 921 multiplied by the O & M Ratio computed in
accordance with Section E.8 hereof, (b) the total amounts charged to FPC Accounts 923 (except any amounts
directly chargeable to ANPP) and 935 (formerly 932), (c) the product of the portion of labor charges included
within (a) and (b) above multiplied by the Payroll Tax

-7-
Ratio computed in accordance with Section E.4 hereof, (d) the product of the labor charges included within (a) and (b) above multiplied by the Benefits Ratio computed in accordance with Section E.5 hereof, and (e) the product of the labor charges included within (a) and (b) above multiplied by the Compensation Insurance Ratio computed in accordance with Section E.7 hereof, less (f) the one percent (1%) portion of the administrative and general expenses charged to FPC Accounts 920 and 921 allocable to contract operation and maintenance by (ii) the direct labor (i.e. total labor less labor charged to clearing accounts) chargeable to operation and maintenance accounts (exclusive of A & G), to include O & M labor billed to Participants and the labor portion of Start-Up and Pre-Operation Costs subject to the Operation and Maintenance A & G Ratio pursuant to Section L.1.3. and to exclude the labor portion of Start-Up and Pre-Operation Costs subject to the construction administrative and general expense percentage of one percent (1%) pursuant to Section L.1.3.
The following example sets forth the method to be employed by the Operating Agent to determine the Operation and Maintenance A & G Ratio:

**EXAMPLE COMPUTATION OF OPERATION AND MAINTENANCE A & G RATIO**
*(Based on the Operating Agent's 1984 Experience)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FPC Account 920</td>
<td>$ 17,408,542</td>
<td>$ 17,406,779</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FPC Account 921</td>
<td></td>
<td>7,208,084</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 17,408,542</td>
<td>$ 24,614,863</td>
</tr>
<tr>
<td>Total FPC Accounts 920 and 921, multiplied by O&amp;M Ratio @ 68.481%</td>
<td>$ 11,921,544</td>
<td>$ 16,856,504</td>
</tr>
<tr>
<td>FPC Account 923</td>
<td></td>
<td>919,166</td>
</tr>
<tr>
<td>FPC Account 932 (presently 935)</td>
<td>1,555,913</td>
<td>3,127,002</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>$ 13,477,457</td>
<td>$ 20,902,672</td>
</tr>
<tr>
<td>Payroll Taxes @ 7.126%</td>
<td></td>
<td>960,404</td>
</tr>
<tr>
<td>Pensions and Benefits @ 13.512%</td>
<td></td>
<td>1,821,074</td>
</tr>
<tr>
<td>Compensation Insurance @ 0.451%</td>
<td></td>
<td>60,783</td>
</tr>
<tr>
<td>Less that 1% portion of A &amp; G allocable to</td>
<td></td>
<td>1,483,314</td>
</tr>
<tr>
<td>Contract Operation and Maintenance</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total administrative and general expenses allocable to operations and maintenance</strong></td>
<td></td>
<td>$ 22,261,619</td>
</tr>
</tbody>
</table>

**Labor Base**

Direct labor charged to system operations and maintenance, as further defined in Section E.6.1

<table>
<thead>
<tr>
<th>Description</th>
<th>Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less direct labor charged to administrative and general expenses (FPC Accounts 920-931 and 935)</td>
<td>148,557,953</td>
</tr>
<tr>
<td><strong>Labor Base</strong></td>
<td>$ 135,397,318</td>
</tr>
</tbody>
</table>

A & G Ratio for 1984 $22,261,169 ÷ $135,397,318 = 16.442 %

Note: All labor figures include loading for allowed time.

5.10 Section E.8 of Appendix E is hereby deleted in its entirety and a new Section E.8 is hereby added to read as follows:

"**E.8  O & M Ratio and Construction Ratio**

E.8.1 The O & M Ratio set forth below shall be applied to the amounts chargeable to FPC"
Accounts 920 and 921 for the purpose of determining one component in the computation of the Operation and Maintenance A & G Ratio as provided in Section E.6 hereof.

\[
\text{O & M Ratio} = \frac{O}{L}
\]

Where: 

\( O = \) The Operating Agent's direct labor chargeable to operation and maintenance accounts (exclusive of A & G), to include O & M labor billed to Participants and the labor portion of Start-Up and Pre-Operation Costs subject to the Operation and Maintenance A & G Ratio pursuant to Section L.1.3, and to exclude the labor portion of Start-Up and Pre-Operation Costs subject to the construction administrative and general expense percentage of one percent (1%) pursuant to Section L.1.3. 

\( L = \) The operating Agent's direct labor distributed, including accruals, less direct labor.
E.8.2 The Construction Ratio set forth below shall be applied to the amounts chargeable to FPC Accounts 920 and 921 for the purpose of determining one component in the computation of the Capital A & G Ratio as provided in Section E.9 hereof.

\[
\text{Construction Ratio} = \frac{C}{L}
\]

Where: \( C = \) The Operating Agent's direct labor in construction accounts (exclusive of A & G), to include construction labor billed to Participants, including the labor portion of Start-Up and Pre-Operation Costs subject to the construction administrative and general expense percentage of one percent (1%) pursuant to Section L.1.3, and excluding the labor portion of Start-Up and Pre-Operation Costs subject to the Operation and Maintenance A & G Ratio pursuant to Section L.1.3.
The Operating Agent's direct labor distributed, including accruals, less direct labor chargeable to FPC Accounts 920 through 931 and 935.

E.8.3 Estimated and actual O & M Ratios and Construction Ratios shall be determined, adjusted and used in the manner set forth in Section E.10 hereof.

E.8.4 The following example sets forth the method to be employed by the Operating Agent to determine the O & M Ratio and the Construction Ratio:

**EXAMPLE COMPUTATION**  
**O & M RATIO AND CONSTRUCTION RATIO**  
*(Based on the Operating Agent's 1984 Experience)*

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total direct labor in operation and maintenance Accounts</td>
<td>$148,557,953</td>
</tr>
<tr>
<td>Less: direct labor charged to administrative and general expense FPC Accounts 920 through 931, inclusive and FPC Account 935</td>
<td>$13,160,635</td>
</tr>
<tr>
<td>Net labor in O &amp; M Accounts</td>
<td>$135,397,318</td>
</tr>
<tr>
<td>Total direct labor charged to General Ledger Accounts</td>
<td>$6,255,648</td>
</tr>
<tr>
<td>Total direct labor in construction Accounts (exclusive of A &amp; G)</td>
<td>$56,061,726</td>
</tr>
<tr>
<td>Total Labor Base</td>
<td>$197,714,692</td>
</tr>
<tr>
<td>Ratio of net O &amp; M labor to direct labor</td>
<td>$135,397,381 = 68.481%</td>
</tr>
<tr>
<td>Ratio of construction labor to direct labor</td>
<td>$56,061,726 = 28.355%</td>
</tr>
</tbody>
</table>

Note: All labor figures include loading for allowed time.

5.11 Section E.9 of Appendix E is hereby deleted in its entirety
and a new Section E.9 is hereby added to read as follows:

"E.9  **Capital A & G Ratio**:

E.9.1 The Capital A & G Ratio shall be the percentage computed by dividing (i) the amounts equal to (A) the sum of (a) the total amounts charged to FPC Accounts 920 and 921 multiplied by the Construction Ratio computed in accordance with Section E.8 hereof, and (b) the product of the portion of labor charges included in (a) above multiplied by the sum of the Payroll Tax Ratio, the Benefits Ratio and the Compensation Insurance Ratio less (B) the one percent (1%) portion of administrative and general expenses charged to FPC Accounts 920 and 921 allocable to contract construction (including the administrative and general expenses (i) recovered on Start-Up and Pre-Operation Costs subject to the construction administrative and general expense percentage of one percent (1%) pursuant to Section L.1.3, (ii) recovered on ANPP construction expenses, and (iii) allocable to other contract construction) by (ii) the direct labor in construction accounts (exclusive of A & G), to include
construction labor billed to Participants, excluding the labor portion of Start-Up and Pre-Operation Costs subject to the Operation and Maintenance A & G Ratio pursuant to Section L.1.3, less the labor portion of construction expenses to which the one percent (1%) portion of administrative and general expenses is applicable, and less the labor portion of Start-Up and Pre-Operation Costs subject to the construction administrative and general expense percentage of one percent (1%) pursuant to Section L.1.3.

E.9.2 The following example sets forth the method to be employed by the Operating Agent to determine the Capital A & G Ratio:

EXAMPLE COMPUTATION OF CAPITAL A & G RATIO
(Based on the Operating Agent's 1984 Experience)

<table>
<thead>
<tr>
<th></th>
<th>Labor</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative and General Salaries charged to FPC Account 920</td>
<td>$17,408,542</td>
<td>$17,406,779</td>
</tr>
<tr>
<td>Office Supplies and Expenses charged to FPC Account 921</td>
<td></td>
<td>7,208,084</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$17,408,542</td>
<td>24,614,863</td>
</tr>
<tr>
<td>Total FPC Accounts 920 and 921, multiplied by Construction Ratio @ 28.355%</td>
<td>$4,936,192</td>
<td>$6,979,544</td>
</tr>
<tr>
<td>Payroll Taxes @ 7.126%</td>
<td></td>
<td>351,753</td>
</tr>
<tr>
<td>Pensions and Benefits @ 13.512%</td>
<td></td>
<td>666,978</td>
</tr>
<tr>
<td>Compensation Insurance @ 0.451%</td>
<td></td>
<td>22,262</td>
</tr>
<tr>
<td>Less that 1% portion of A &amp; G allocable to Contract Construction, as further defined in Section 9.1</td>
<td></td>
<td>3,634,919</td>
</tr>
</tbody>
</table>

-14-
Total A & G allocable to Construction $ 4,385,618

Construction Direct Labor 56,061,726

Less the labor portion of Construction Work,
Start-Up and Pre-Operational Costs subject

to the construction administrative and general
expense percentage of one percent (1%)

134,968,824

Total Construction Direct Labor Base $ 42,564,902

Capital A & G Ratio for 1984 $4,385,618 ÷ $42,564,902 =

10.303%

Note: All labor figures include loading for allowed time."

5.12 A new Appendix L is hereby added to read as attached.

5.13 Except as provided herein, the Participation Agreement, as amended by this Amendment No. 11, shall remain in full

force and effect.

6. EXECUTION BY COUNTERPARTS:

This Amendment No. 11 may be executed in any number of counter-parts, and upon execution by all Participants, each

executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same

instrument. Any signature page of this Amendment No. 11 may be detached from any counterpart of this Amendment No. 11 without

impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 11

identical in form hereto but having attached to it one or more signature pages.

/ / / /
7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 11 on behalf of the party for whom they sign. This Amendment No. 11 is hereby executed as of the 8th day of September, 1986.

**ARIZONA PUBLIC SERVICE COMPANY**

By /s/ [ILLEGIBLE]

Its

**SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

ATTEST AND COUNTERSIGN:

By

Its

**SOUTHERN CALIFORNIA EDISON COMPANY**

By

Its

/-16-
7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 11 on behalf of the party for whom they sign. This Amendment No. 11 is hereby executed as of the _____day of __________, 1986.

**ARIZONA PUBLIC SERVICE COMPANY**

By _______________________________
Its ______________________________

**SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

ATTEST AND COUNTERSIGN:

/s/ [ILLEGIBLE] By /s/ [ILLEGIBLE]
Its SECRETARY Its PRESIDENT

**SOUTHERN CALIFORNIA EDISON COMPANY**

By _______________________________
Its ______________________________

/-16-/
7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 11 on behalf of the party for whom they sign. This Amendment No. 11 is hereby executed as of the ____ day of ________, 1986.

ARIZONA PUBLIC SERVICE COMPANY

By ________________________________
Its ________________________________

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By ________________________________
Its ________________________________

SOUTHERN CALIFORNIA EDISON COMPANY

By /s/ [ILLEGIBLE]
Its VICE PRESIDENT

-16-
PUBLIC SERVICE COMPANY OF NEW MEXICO

By ____________________________
/s/ [ILLEGIBLE]
SENIOR VICE PRESIDENT
Its ____________________________
POWER SUPPLY

EL PASO ELECTRIC COMPANY

By ____________________________
Its ____________________________

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By ____________________________
Its ____________________________

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

BY ____________________________

BOARD OF WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES

By ____________________________
Its ____________________________

and ____________________________
Its ____________________________

-17-
PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By /s/ [ILLEGIBLE]

Its PRESIDENT

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

BY

BOARD OF WATER AND POWER COMMISSIONERS OF THE CITY OF LOS ANGELES

By

Its

and

Its Secretary
PUBLIC SERVICE COMPANY OF NEW MEXICO

By
Its

EL PASO ELECTRIC COMPANY

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By
Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

BY /s/ [ILLEGIBLE]
Its

-17-
STATE of ARIZONA  
)  
) ss.  
County of Maricopa  
)

On this 8th day of September, 1986 before me, the undersigned Notary Public, personally appeared E. E. Van Brunt who acknowledged himself to be the Executive Vice President of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Executive Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ [ILLEGIBLE]  
Notary Public

My commission expires:  
April 6, 1987

STATE of ARIZONA  
)  
) ss.  
County of Maricopa  
)

On this ______ day of ____________, 1986 before me, the undersigned Notary Public, personally appeared _____________________ and _____________________ who acknowledged themselves to be the _____________________ and _____________________ of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such _____________________ and _____________________.

IN WITNESS WHEREOF, I have set my hand and official seal.

______________________________  
Notary Public

My commission expires:

/  
/  
-18-
STATE of ARIZONA  )
  ) ss.
County of Maricopa  )

On this _______ day of __________, 1986 before me, the undersigned Notary Public, personally appeared ________________________ who acknowledged himself to be the ________________________ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ________________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________________________
Notary Public

My commission expires: ____________________________

STATE of ARIZONA  )
  ) ss.
County of Maricopa  )

On this 29th day of July, 1986 before me, the undersigned Notary Public, personally appeared JOHN R LASSEN and PAUL D RICE who acknowledged themselves to be the PRESIDENT and SECRETARY of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ________________________ and ________________________.

IN WITNESS WHEREOF, I have set my hand and official seal.

  /s/ [ILLEGIBLE]
  Notary Public

My commission expires: ____________________________

April 29, 1987

-18-
STATE of CALIFORNIA  )
) ss.
County of Los Angeles  )

On this 26th day of August, 1986 before me, the undersigned Notary Public, personally appeared G. J. Bjorklund who acknowledged himself to be the Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Vera Montemayor
Notary Public

My commission expires:
Aug. 19, 1987

STATE of NEW MEXICO  )
) ss.
County of Bernalillo  )

On this _____ day of ________, 1986 before me, the undersigned Notary Public, personally appeared __________________ who acknowledged himself to be the __________________ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ____________.

IN WITNESS WHEREOF, I have set my hand and official seal.

/s/ [ILLEGIBLE]
Notary Public

My commission expires:

-19-
STATE of CALIFORNIA

County of Los Angeles

On this _____ day of ________, 1986 before me, the undersigned Notary Public, personally appeared ______________________ who acknowledged himself to be the ___________________ of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ______________ .

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________________
Notary Public

My commission expires:

______________________________

STATE of NEW MEXICO

County of Bernalillo

On this _____ 25th day of ________, September__ 1986 before me, the undersigned Notary Public, personally appeared ______ J. L. Wilkins ______ who acknowledged himself to be the ______ Senior Vice President ______ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such __Senior Vice Officer__.

IN WITNESS WHEREOF, I have set my hand and official seal.

/s/ SHERRY LEESON
Notary Public

My commission expires:

______________________________
July 1, 1988

[Notary Seal]

/ /
/ /
/ -19-
On this 18th day of July, 1986 before me, the undersigned Notary Public, personally appeared J. E. Wasiak who acknowledged himself to be the Vice President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ CECILIA R. SHEA
Notary Public

My commission expires:
July 3, 1989

On this ______day of ________, 1986 before me, the undersigned Notary Public, personally appeared ___________________ and ___________________ who acknowledged themselves to be the ___________________ and ___________________ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ___________________ and ___________________.

IN WITNESS WHEREOF, I have set my hand and official seal.

____________________________
Notary Public

My commission expires:

____________________________
On this __________ day of __________, 1986 before me, the undersigned Notary Public, personally appeared __________________ who acknowledged himself to be the __________________ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ___________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________
Notary Public

My commission expires:

__________________________

-----------------------------------------------------------

STATE of CALIFORNIA

County of Los Angeles

On this __________ day of __________, 1986 before me, the undersigned Notary Public, personally appeared __________________ and __________________ who acknowledged themselves to be the ________________ and ________________ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ________________ and ________________.

IN WITNESS WHEREOF, I have set my hand and official seal.

__________________________
/s/ Raul A. Mora
Notary Public

My commission expires:

__________________________

--------------------------
[Notary Seal]

/ / /-20-
STATE of CALIFORNIA

County of Los Angeles

On this 29th day of October, 1986 before me, the undersigned Notary Public, personally appeared Eldon A. Cotton who acknowledged himself to be the Assistant Chief Engineer – Power of DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a California municipal corporation, and that he as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Assistant Chief Engineer – Power.

IN WITNESS WHEREOF, I have set my hand and official seal.

/s/ Sally Morrison Fick
Notary Public

My commission expires:

November 18, 1988

[Notary Seal]
APPENDIX L

START-UP AND PRE-OPERATION ADMINISTRATIVE AND GENERAL EXPENSE

L.1 Calculation of Start-Up and Pre-Operational A & G Expense

L.1.1 For the period from October 1, 1984 through completion of start-up and pre-operation activities for ANPP, the administrative and general expense associated with such activities for each Generating Unit shall be determined by the following formula:

(An example calculation is shown in Exhibit L-A.)

\[ \text{AGE} = \frac{[(\text{SUPO}) \times (\text{OMF}) \times (\text{OMAG})]}{[(\text{SUPO}) \times (1-\text{OMF}) \times (\text{CFAG})]} \]

Where:

\text{Age} = \text{Monthly start-up and pre-operation administrative and general expenses for each Generating Unit.}

\text{SUPO} = \text{Monthly Start-Up and Pre-Operation Costs for each Generating Unit.}

\text{OMF} = \text{Percent (expressed as decimal of the total monthly Start-UP and Pre-Operation Costs for each Generating Unit to be allocated to the operation and maintenance administrative and general expense formula, as determined in Section L.1.3.}

\text{OMAG} = \text{Operation and maintenance administrative and general expense percentages as determined and applied in Section E.1.7 and E.1.9 of the Participation Agreement.}

\text{CFAG} = \text{Construction administrative and general expense percentage of one percent (1%) as applied pursuant}

L-1
L.1.2 Start-Up and Pre-Operation Costs for ANPP common facilities shall be allocated by apportioning one-third (1/3) of these expenses to each ANPP Generating Unit prior to determining the administrative and general expense associated with each Generating Unit.

L.1.3 To determine start-up and pre-operation administrative and general expense (AGE) in Section L.1.1 the monthly total Start-Up and Pre-Operation Costs for each ANPP Generating Unit, including its common facilities share, shall be allocated between construction and operation & maintenance in accordance with the benchmark time periods and percentages shown below. If a benchmark time period begins in the middle of a month, the change in percentage allocation to construction and operation & maintenance expenses shall take place on the first day of the calendar month following such benchmark.

<table>
<thead>
<tr>
<th>Benchmark Time Period for Each Generating Unit</th>
<th>Percent Allocation Between Operation &amp; Maintenance and Construction OMF/(1-OMF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. 10/1/84 to eight (8) months prior to Beginning of Generating Unit Precore Hot Functional Test.</td>
<td>25% O&amp;M/75% Construction</td>
</tr>
<tr>
<td>b. Eight (8) months prior to Beginning of Generating Unit Precore hot Functional Test to Beginning of Generating Unit Precore Hot Functional Test.</td>
<td>50% O&amp;M/50% Construction</td>
</tr>
<tr>
<td>Benchmark Time Period for Each Generating Unit</td>
<td>Percent Allocation Between Operation &amp; Maintenance and Construction OMF/(1-OMF)</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>(Cont'd)</td>
<td></td>
</tr>
<tr>
<td>c. Beginning of Generating Unit Precore Hot Functional Test to Beginning of Generating Unit Fuel Load.</td>
<td>70% O&amp;M/30% Construction</td>
</tr>
<tr>
<td>d. Beginning of Generating Unit Fuel Load to satisfactory completion of Power Ascension Level 50%</td>
<td>90% O&amp;M/10% Construction</td>
</tr>
<tr>
<td>Satisfactory completion of Power Ascension Level 50% to completion of start-up and pre-operation.</td>
<td>100% O&amp;M</td>
</tr>
</tbody>
</table>

L.2 Adjustments

L.2.1 The benchmark time periods in Items L.1.3a and L.1.3b require an estimate of the Beginning of Generating Unit Precore Hot Functional Test for a Generating Unit. Should the actual date for the Beginning of Generating Unit Precore Hot Functional Test for a Generating Unit be different than estimated, adjustments shall be made to the amount of administrative and general expense actually charged based on the appropriate allocation of Start-Up and Pre-Operation Costs to construction and operation & maintenance expenses.

L.2.2 Amount of administrative and general expenses determined pursuant to the Letter of Understanding for the period October 1, 1984 through March, 1985 that were different than the amount actually paid for the same period have,
pursuant to the Letter of Understanding appeared as a credit on the request for advancement of Operating Funds for ANPP dated June 14, 1985, Request No. PVO-093. Such expense differences accrued interest at the rate from time to time publicly announced by Citibank, N. A., New York, New York, as its prime interest rate less two percent (2%), from the date of payment of such difference to the date of mailing of the request for advancement of Operating Funds. Any such amounts were allocated to each Participant in accordance with its Generation Entitlement Share, and were clearly delineated on the Operating Agent's request for advancement of Operating Funds.

L.3 Credit to Future Requests for Advancement of Operating Funds for ANPP

L.3.1 The Operating Agent shall credit to future requests for advancement of Operating Funds, thirteen million dollars ($13,000,000) plus interest, determined pursuant to Section L.3.2 of this Appendix L, for administrative and general expense charged to Start-Up and Pre-Operation Costs through September 30, 1984. Such credit will be allocated to each Participant in accordance with its Generation Entitlement Share, and is separate and in addition to any adjustment to administrative and general expense necessitated by the routine annual adjustment to the Operation and Maintenance A & G Ratio pursuant to Section E.10.2 of the Participation Agreement. No other
adjustment shall be made to change administrative and general expense charged to Start-Up and Pre-
Operation Costs through September 30, 1984, except for those related to any future adjustments made to Start-Up and Pre-Operation Costs incurred through such date.

L.3.2 Interest will be charged on the unpaid balance of the thirteen million dollars ($13,000,000) credit beginning on October 1, 1984. The interest rate to be applied will be the rate from time to time publicly announced by Citibank, N.A., New York, New York, as its prime interest rate, less two percent (2%). The initial credit shall include all interest accrued from September 30, 1984, and subsequent monthly credits will be applied first against accrued interest. In addition to such monthly payments of all accrued interest, the principal balance shall be amortized by crediting monthly an amount equal to not less than one twenty-fourth (1/24) of such amount until the full thirteen million dollars ($13,000,000) principal amount has been credited. Pursuant to the Letter of Understanding, the initial credit hereunder occurred with the first request for the advancement of Operating Funds dated March 1, 1985.
EXHIBIT L-A
SAMPLE CALCULATION of MONTHLY ADMINISTRATIVE AND GENERAL EXPENSE FOR START-UP AND PRE-OPERATION COSTS FOR ANPP GENERATING UNIT NO. 1

AGE = [(SUPO) X (OMF) X (OMAG)] + [(SUPO) X (1-OMF) X (CFAG)]

ASSUMPTIONS:

SUPO = $9,500,000 (1)
OMF = 90%
OMAG = 16.442% OF Project Manager's/Operating Agent's ANPP labor, plus 1% of contractor's costs, plus 0% of other costs.
CFAG = 1%

Project Manager's/Operating Agent's ANPP Labor Costs = $4,750,000
CONTRACTOR COSTS = $3,800,000
OTHER COSTS = $950,000

CALCULATION:

AGE = [(SUPO) X (OMF) X (OMAG)] + [(SUPO) X (1-OMF) X (CFAG)]

[(SUPO) X (OMF) X (OMAG)] = ($9,500,000)(0.9)(0.16442)

[(SUPO) X (1-OMF) X (CFAG)] = ($9,500,000)(0.9)(0.01) = $9,500

AGE = $737,096 + $9,500
AGE = $746,596

(1) Includes 1/3 of Start-Up and Pre-Operation Costs for common facilities.

(2) The OMAG rate will be applied to only the Project Manager's/Operating Agent's ANPP labor incurred for Start-UP and Pre-Operation Costs times the OMF factor in effect.
AMENDMENT NO. 12 TO THE

ARIZONA NUCLEAR POWER PROJECT

PARTICIPATION AGREEMENT

APS Contract No: 4172-419.00

Pursuant to Section 4 herein, this Amendment No. 12 has been filed with the Nuclear Regulatory Commission and became effective on the 5th day of August, 1988.

March 28, 1988
AMENDMENT NO. 12 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT

1. PARTIES:

The parties to this Amendment No. 12 to the Arizona Nuclear Power Project Participation Agreement, hereinafter referred to as "Amendment No. 12", are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Arizona"; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as "Salt River Project"; SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as "Edison"; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as "PNM"; EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as "EL Paso"; SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State of California, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter referred to as "SCPPA"; and DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a department
organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, hereinafter referred to as "LADWP", hereinafter individually referred to as "Party" and collectively as "Parties.

2. **RECITALS:**


2.2 By this Amendment No. 12, the Participants desire to amend the Participation Agreement in order to revise certain definitions, to create a new defined term, to add an additional function to the functions of the Engineering and Operating Committee and to make certain other minor language modifications.
3. **AGREEMENT:**

In consideration of the terms and conditions contained in this Amendment No. 12, the parties agree as follows:

4. **EFFECTIVE DATE:**

This Amendment No. 12 shall become effective 10 days following the filing of this Amendment No. 12 with the Nuclear Regulatory Commission, and the effective date shall be as indicated on the cover page to this Amendment No. 12.

5. **AMENDMENT NO. 12 TO THE PARTICIPATION AGREEMENT:**

5.1 Section 3.7 is hereby deleted in its entirety and a new Section 3.7 is added as follows:

"3.7 Available Generating Capability: The Maximum Generating Capability of each Generating Unit less the General Service Requirements allocated to that Generating Unit pursuant to Section 6.3.2.5."

5.2 Section 3.27 is hereby deleted in its entirety and a new Section 3.27 is added as follows:

"3.27 General Service Requirements: The Power and Energy, including without limitation Testing and Start-Up Power and Energy, required during any period for each Generating Unit for testing, start-up or operation of all process and auxiliary equipment and systems used or useful in connection with the operation and maintenance of that Generating Unit, plus an allocation of loads"
5.3 Section 3.31 is hereby deleted in its entirety and a new Section 3.31 is added as follows:

"3.31 Maximum Generating Capability: The maximum capability of any Generating Unit to produce Power for sustained periods under conditions existing from time to time, measured at its main generator output terminals, including without limitation restrictions imposed by any law, regulation, license or permit, derating due to fuel conditions, water and atmospheric conditions or any other conditions other than an Operating Emergency."

5.4 Section 3.33 is hereby deleted in its entirety and a new Section 3.33 is added as follows:

"3.33 Net Energy Generation: The Energy generated over any period of time by each Generating Unit, measured at its main generator output terminals, less the Energy allocated for General Service Requirements pursuant to Sections 6.3.2.5 and 8.3.25 hereof."

5.5 Section 3.54 is hereby deleted in its entirety and a new Section 3.54 is added as follows:

"3.54 Target Capacity: -The nominal generating capacity established by the Administrative Committee, pursuant to Section 6.2.7.1 hereof for each
Generating Unit. The initial nominal generating capacity for each Generating Unit is 1270 megawatts electrical.

5.6 A new Section 3.54C is hereby added to read as follows:

"3.54C Unit Rating: The effective Available Generating Capability as determined from time to time by the Engineering and Operating Committee, pursuant to Section 6.3.2.17, to reflect seasonal changes in Generating Unit operation."

5.7 Section 5.6 is hereby deleted in its entirety and a new Section 5.6 is added as follows:

"5.6 The Operating Agent shall deliver Power and Energy to each Participant from each Generating Unit at the ANPP High Voltage Switchyard(s) in accordance with the schedule submitted by such Participant to the Operating Agent or in accordance with any revisions thereto."

5.8 Section 6.3.2.5 is hereby deleted in its entirety and a new Section 6.3.2.5 is added as follows:

"6.3.2.5 The policies, criteria and procedures for determining Available Generating Capability, General Service Requirements, Maximum Generating Capability, Minimum Generating Capability, Net Energy Generation, Unit Rating and Zero Net Load, for allocating the General Service Requirements among the Generating Units consistent with
Section 3.27 and for determining the amounts of Testing and Start-Up Power and Energy to be provided by the Participants,

5.9 A new Section 6.3.2.17 is hereby added to read as follows:

"6.3.2.17 Value(s) of Unit Rating for each Generating Unit determined pursuant to Section 6.3.2.5."

5.10 The initial paragraph of Section 23.5 is hereby deleted in its entirety and a new initial paragraph is added to read as follows:

"23.5 Unless otherwise determined by a board of arbitrators, in the event a default by any Participant in the payment or performance of any obligation under the Project Agreements shall continue for a period of six (6) months or more without having been cured by the defaulting Participant or without such Participant having commenced or continued action in good faith to cure such default, or in the event the question of whether an act of default exists becomes the subject of an arbitration pursuant to Section 24 hereof, and such act continues for a period of six (6) months following a final determination by a board of arbitrators or otherwise that an act of default exists and the defaulting Participant has failed to cure such default or to commence such action during said six (6) month period,"
then, at any time thereafter and while said default is continuing, all of the non-defaulting Participants, by written notice to all Participants, may suspend the right of the defaulting Participant (i) to be represented on and participate in the actions of all committees and (ii) to receive all or any part of its proportionate share of the Available Generating Capability and Net Energy Generation in which event:"

5.11 Sections 23.5.1, 23.5.2, 23.5.3 and 23.5.4 remain as originally stated.

6. EXECUTION BY COUNTERPARTS:

This Amendment No. 12 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 12 may be detached from any counterpart of this Amendment No. 12 without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 12 identical in form hereto but having attached to it one or more signature pages.

/ 

/ 

/
7. SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 12 on behalf of the party for whom they sign. This Amendment No. 12 is hereby executed as of the 14th day of June, 1988.

ARIZONA PUBLIC SERVICE COMPANY

By /s/ Edwin E. Van Brunt, Jr. 
Its Executive Vice President

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By 
Its

SOUTHERN CALIFORNIA EDISON COMPANY

By 
Its

-8-
7. SIGNATURE CLAUSE:

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 12 on behalf of the party for whom they sign. This Amendment No. 12 is hereby executed as of the _____day of ____________, 1988.

ARIZONA PUBLIC SERVICE COMPANY

By

Its

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

/s/ Paul D. Rice

By

Its

SECRETARY

/s/ John R. Lassen

By

Its

President

SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

-/s-

-/s-

-/s-

-/s-

-/s-

-/s-

-/s-

-/s-

-/s-
7. **SIGNATURE CLAUSE:**

The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 12 on behalf of the party for whom they sign. This Amendment No. 12 is hereby executed as of the ____ day of __________, 1988.

ARIZONA PUBLIC SERVICE COMPANY

By

Its

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By

Its

SOUTHERN CALIFORNIA EDISON COMPANY

By /s/ G. J. Bjorklund

Its VICE PRESIDENT

/s-
PUBLIC SERVICE COMPANY OF NEW MEXICO

By /s/ Jeffry E. Sterba
Its Vice President, Revenue Management Electric Operations

EL PASO ELECTRIC COMPANY

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By
Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

By
Its

/ / / / / /
PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By /s/ J. E. Waslak

Its Senior Vice President

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

By

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PUBLIC SERVICE COMPANY OF NEW MEXICO

By
Its

EL PASO ELECTRIC COMPANY

By
Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:
/s/ [ILLEGIBLE]
Its Assistant Secretary

By /s/ Gale A. Drews
Its President

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

By
Its

/s/
/s/
/s/
/s/
/s/
/s/

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PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

By /s/ Eldon A. Cotton

Its

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On this 28th day of April, 1988 before me, the undersigned Notary Public, personally appeared Edwin E. Van Brunt, Jr. who acknowledged himself to be the Executive V. P. – ANPP of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Edwin E. Van Brunt, Jr.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Nora E. Meador
Notary Public

My commission expires:
My Commission Expires April 6, 1991

On this _____ day of __________, 1988 before me, the undersigned Notary Public, personally appeared ________ and ___________ who acknowledged themselves to be the ___________ and __________________ of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______________ and ______________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

______________________________
Notary Public

My commission expires:
STATE OF ARIZONA

) ss.
County of Maricopa

On this ______ day of __________, 1988 before me, the undersigned Notary Public, personally appeared __________________ who acknowledged himself to be the __________________ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such __________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________
Notary Public

My commission expires:

__________________________

STATE OF ARIZONA

) ss.
County of Maricopa

On this 28th day of April, 1988 before me, the undersigned Notary Public, personally appeared JOHN R LASSEN and PAUL D RICE who acknowledged themselves to be the PRESIDENT and SECRETARY of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ________________ and ________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Terrill A. Lonon

Notary Public

My commission expires:

__________________________

April 29, 1991

__________________________

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On this 31st day of May, 1988 before me, the undersigned Notary Public, personally appeared G. J. Bjorklund who acknowledged himself to be the Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ C. Sally Sebo
Notary Public

My commission expires:
April 20, 1990

On this _____ day of _______, 1988 before me, the undersigned Notary Public, personally appeared ________ who acknowledged himself to be the ______________ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ______________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

______________________________

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On this ______ day of ________, 1988 before me, the undersigned Notary Public, personally appeared __________________ who acknowledged himself to be the _______________ of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

________________________________________
Notary Public

My commission expires:

_______________________________

STATE OF NEW MEXICO )
) ss.
County of Bernalillo )

On this 26th day of April, 1988 before me, the undersigned Notary Public, personally appeared Jeffry E. Sterba who acknowledged himself to be the VP Revenue Management Elec. Ops of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such VP Revenue Management Elec. Ops.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ SHERRY LEESON
Notary Public

My commission expires:

July 1, 1988

_______________________________
On this 24 day of May, 1988, before me, the undersigned Notary Public, personally appeared J. E. Waslak who acknowledged himself to be the SR Vice President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such SR Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Lori S. Gonzalez
Notary Public

My commission expires:
February 3, 1992

STATE OF CALIFORNIA

On this _____ day of ________, 1988 before me, the undersigned Notary Public, personally appeared ______________________ and ______________________ who acknowledged themselves to be the ______________________ and ______________________ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such ______________________ and ______________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires:

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STATE OF TEXAS
) ss.
County of El Paso
)

On this ______ day of __________, 1988 before me, the undersigned Notary Public, personally appeared ____________________ who acknowledged himself to be the ____________________ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ____________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_________________________________________________________________

Notary Public

My commission expires:

_________________________________________________________________

STATE OF CALIFORNIA
) ss.
County of Los Angeles
)

On this 4th day of May, 1988 before me, the undersigned Notary Public, personally appeared Gale A. Drews and __________ who acknowledged themselves to be the President and __________ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and ________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Raul A. Mora
Notary Public

My commission expires:

_________________________________________________________________

July 27, 1988

/ /  
/ /  
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On this 3rd day of May, 1988 before me, the undersigned Notary Public, personally appeared Eldon A. Cotton who acknowledged himself to be the Assistant Chief Engineer – Power, of DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a department organized and existing under the Charter of the City of Los Angeles, a California municipal corporation, and that he as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Assistant Chief Engineer – Power.

IN WITNESS WHEREOF, I have set my hand and official seal.

/s/ Sally Morrison Fick
Notary Public

My commission expires:
November 18, 1988
AMENDMENT NO. 13 TO THE
ARIZONA NUCLEAR POWER PROJECT
PARTICIPATION AGREEMENT
1. Parties:

The Parties to this Amendment No. 13 to the Arizona Nuclear Power Project Participation Agreement, hereinafter referred to as “Amendment No. 13,” are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”; SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”; SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as “Edison”; PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”; EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “El Paso”; SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized and existing under and by virtue of the laws of the State
of California, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION, hereinafter referred to as “SCPPA”; and DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as “LADWP”, hereinafter individually referred to as “Party” and collectively as “Parties”.

2. Recitals:

2.1 Arizona, Salt River Project, Edison, PNM, El Paso, SCPPA and LADWP are parties to a certain agreement entitled Arizona Nuclear Power Project Participation Agreement, dated as of August 23, 1973, as amended by Amendment No. 1, dated as of January 1, 1974, Amendment No. 2, dated as of August 28, 1975, Amendment No. 3, dated as of July 22, 1976, Amendment No. 4, dated as of December 15, 1977, Amendment No. 5, dated as of December 5, 1979, Amendment No. 6, effective as of October 16, 1981, Amendment No. 7, effective as of April 1, 1982, Amendment No. 8, executed as of September 12, 1983, Amendment No. 9, executed as of June 12, 1984, Amendment No. 10, executed as of November 21, 1985, Amendment No. 11, effective January 10, 1987, and Amendment No. 12, effective August 5, 1988,
hereinafter, as so amended, referred to as the “Participation Agreement”.

2.2 The Participants desire to amend the Participation Agreement in respect of the permanent termination of operation and removal from service of each Generating Unit.

2.3 During discussions among the Participants leading to this Amendment No. 13, a consensus was reached that no Participant should be enabled to take advantage of Section 21.5 to limit its Termination Responsibility (as hereinafter defined) to $10,000,000 through a deliberately willful refusal or failure to pay its share of the Termination Costs (as hereinafter defined) and that Section 21.5 should be modified to preclude its application to a refusal or failure of any participant to meet its Termination Responsibility.

In discussions respecting an appropriate modification of Section 21.5, it was recognized that a modification that was limited solely to carving out from the limitation of liability a refusal or failure by a Participant to meet its monetary obligations for its share of Termination Costs might result in an attempt by a Participant to interpret Section 21.5 in a manner that would permit a Participant to limit any or all of its other monetary obligations.
obligations under the Participation Agreement to $10,000,000 through a deliberately willful refusal or failure to pay any or all of such other monetary obligations. All Participants agreed that when Section 21.5 was incorporated into the Participation Agreement by Amendment No. 9, it was never intended that a deliberately willful refusal or failure by any Participant to meet any or all its monetary obligations should be subject to any limitation of liability, and the language should not be so interpreted. However, in view of the foregoing discussion of Termination Costs the Participants desire to explicitly conform Section 21.5 to clearly reflect the original intent.

3. Agreement:

3.1 In consideration of the terms and conditions contained in this Amendment No. 13 to the Participation Agreement, the Parties agree as follows:

4. Effective Date:

4.1 This Amendment No. 13 shall become effective thirty days after it has been (i) executed by all Participants and (ii) filed with the NRC; provided that in the event the NRC requests or orders additional time for its review.
of this Amendment No. 13, then the effective date shall be deferred to the expiration of the requested or ordered additional time.

5. Amendment Ro. 13 to the Participation Agreement:

5.1 Section 3 is amended by the addition of Section 3.17A which reads as follows:

“3.17A Cure Period: The period defined in paragraph (C) of Section 8A.1.11 hereof.”

5.2 Section 3 is further amended by the addition of Sections 3.18A, 3.18B, 3.18C and 3.18D which read as follows:

“3.18A Decommission or Decommissioning: The permanent removal or removing from service of any Generating/Terminated Unit (together with any radioactively contaminated common facilities associated therewith which the Engineering and Operating Committee, pursuant to Section 8A.2.7 hereof, shall have determined are not required or useful in the operation or maintenance of any Generating Unit or other Generating/Terminated Unit) in a manner that meets the requirements of

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the NRC for the surrender of the license issued for such Generating/Terminated Unit and the disposal of all radioactive materials (other than Nuclear Fuel) and radioactively contaminated equipment, materials or wastes associated therewith in accordance with applicable law.

“3.18B Decommissioning Work: All work undertaken to Decommission any Generating/Terminated Unit, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications to Decommission such unit, but excluding all work undertaken by the Operating Agent pursuant to Section 8A.5 hereof (other than work performed by the Operating Agent that is deemed to be Termination Work pursuant to Section 8A.5.15 hereof) or by any Participant in connection with the performance of its obligations under Section 8A.7 hereof.

“3.18C Deficiency Deposit: The funds that a nondefaulting Participant maintains in its Termination Fund(s) to make up for any deficiency of a Participant in Default (as
defined in paragraph (D) of Section 8A.1.11 hereof) as required by Section 8A.7.2.3 hereof, including any net income deemed to have been earned thereon as determined in accordance with the policies, criteria and formulas established by the Termination Funding Committee pursuant to Section 8A.4.7 hereof; provided that at such time as the Termination Funding Committee shall make the findings described in clause (i)(a) of paragraph (E) of Section 8A.1.11, such funds so maintained by any nondefaulting Participant shall thereupon cease to be Deficiency Deposits.

“3.18D Deficiency Findings : The findings made by the Administrative Committee pursuant to paragraph (B) of Section 8A.1.11 hereof.”

5.3 Section 3 is further amended (i) to redesignate Section 3.28 as Section 3.29A, and (ii) to add a new Section 3.28 which reads as follows:

“3.28 Generating/Terminated Unit : Any Generating Unit which the Administrative Committee has determined to permanently remove from service, pursuant to Section 8A.1.3 hereof.”

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5.4 Section 3 is further amended by the addition of Section 3.29B which reads as follows:

“3.29B Independent Trustee: With respect to any Termination Fund of a Participant, a trustee meeting the following requirements: (A) shall be selected by such Participant, (B) shall be (i) a corporation organized and existing under and by virtue of the laws of the United States or of any State, (ii) authorized under such laws to exercise corporate trust powers and (iii) subject to supervision or examination by federal or state banking or trust authorities, (C) shall not be owned by or subject to the control, except as provided in the following clauses (D) and (E), of such Participant or any other direct or indirect Participant or any parent or any other subsidiary of any parent of such Participant or any other Participant, or, if such participant is an agency, instrumentality, department or subdivision of a governmental unit, of an agency, instrumentality, department or subdivision of the same or a related governmental unit [other than as required by clause (B) (iii) above], (D) may invest all or any portion of such Termination Fund as such Participant or its designee(s) may
direct, and (E) may be subject to removal at any time at the sole discretion of such Participant, provided such Participant shall have, at the time of any such removal, appointed a successor trustee who meets all of the requirements of clauses (A), (B) and (C) above.”

5.5 Section 3 is further amended by the addition of Section 3.33A which reads as follows:

“3.33A **NRC**: The United States Nuclear Regulatory Commission or any successor agency which has authority to regulate the construction, operation, maintenance and Decommissioning of nuclear power facilities, including each Generating Unit and each Generating/Terminated Unit in respect of all matters affecting radiological safety in accordance with the Atomic Energy Act of 1954, as heretofore or hereafter amended or any laws superseding said act, and the NRC’s predecessor agency, the U. S. Atomic Energy Commission.”

5.6 Section 3 is further amended by the addition of Section 3.36A which reads as follows:

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“3.36A OA Discharge Date: The date in respect of each Generating/Terminated Unit which is the later of (i) the Unit Termination Date of such unit or (ii) the date on which all Nuclear Fuel shall have been removed from the reactor vessel of such unit and placed in storage at the Nuclear Plant Site or otherwise stored or disposed of off the Nuclear Plant Site, but in any event not earlier than the date on which the NRC shall have authorized by license amendment or otherwise the Termination Agent to assume all license responsibilities for such unit.”

5.7 Section 3 is further amended by the deletion of Section 3.42 in its entirety and the substitution in lieu thereof of a new Section 3.42 which reads as follows:

“3.42 Operating Work: Engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, accounting, testing, protection, operation, use, management, retirement, reconstruction, and maintenance associated with operating ANPP, including (i) any work undertaken by the Operating Agent pursuant to Section 16 or Section 8A.5 hereof and (ii) any work necessitated by an
Operating Emergency, but excluding (i) all work undertaken to make any Capital Improvements and (ii) all Termination Work.”

5.8 Section 3 is further amended by the deletion of Section 3.46 in its entirety and the substitution in lieu thereof of a new Section 3.46 which reads as follows:

“3.46 Project Agreements: This Participation Agreement, any Construction Agreement, any Nuclear Fuel Agreement, but excluding any Nuclear Fuel Agreements for the supply of Uranium Concentrates to which all Participants are not parties, any agreements between the Participants or any of them and any third party for land, land rights or water rights for ANPP, any agreement specified as a Project Agreement in Section 8A.8.1, as such agreements are originally executed or as they may thereafter be supplemented or amended and any other agreements as the Participants agree to designate as Project Agreements. Project Agreements shall not include any deed of trust, mortgage, indenture, security agreement, any agreement or instrument
relating to a sale and leaseback transaction or any trust or other agreement that any Participant may enter into in connection with the Termination Fund(s) such Participant is required to establish and maintain pursuant to Section 8A.7.2 hereof, unless the Participants shall otherwise agree.”

5.9 Section 3 is further amended by the deletion of Section 3.48 in its entirety and the substitution in lieu thereof of a new Section 3.48 which reads as follows:

“3.48 Project Insurance: Construction Insurance, Operating Insurance and Termination Insurance.”

5.10 Section 3 is further amended by the addition of Section 3.51A which reads as follows:

“3.51A Recommended Termination Plan: The plan for each Generating/Terminated Unit which is developed, submitted and recommended to the Administrative Committee by the Termination Agent pursuant to Section 8A.6.2 hereof.”
5.11 Section 3 is further amended to add new Sections 3.53B and 3.53C which read as follows:

“3.53B Surviving Obligations: Those obligations set forth in Section 35.7.2 hereof.

“3.53C Surviving Rights: Those rights set forth in Section 35.7.1 hereof.”

5.12 Section 3 is further amended by the deletion of Sections 3.54A, 3.54B and 3.54C in their entirety and the substitution in lieu thereof of new Sections 3.54A through 3.54L which read as follows:

“3.54A Termination Agent: The corporation or other entity designated by the Administrative Committee pursuant to Section 8A.1.4 hereof which is responsible for the performance of Termination Work for each Generating/Terminated Unit.

“3.54B Termination Costs: The costs and obligations incurred for any Generating/Terminated Unit in the performance of Termination Work for such unit, but excluding expenses incurred by the Operating Agent for work performed pursuant
to section 8A.5 hereof (except as otherwise provided in Section 8A.5.15 hereof) and expenses incurred by any Participant in establishing, administering, managing and investing its Termination Funds and otherwise complying with Sections 8A.7.2.2 and 8A.7.2.4 through 8A.7.2.7 hereof.

“3.54C Termination Fund(s) : The fund or funds which each Participant is obligated to establish and maintain for one or more Generating Units or Generating/Terminated Units in accordance with and for only those purposes permitted by Section 8A.7.2 hereof, irrespective of (i) the tax treatment of contributions to or deposits in such funds or of income derived from the investment of such funds or (ii) the treatment accorded to such contributions, deposits and income in the establishment of the rates for electric service furnished by such Participant.

“3.54D Termination Funding Committee : The committee established pursuant to Section 6.1.4 hereof.
“3.54E Termination Insurance: Insurance procured and maintained pursuant to Section 8A.8.4 hereof.

“3.54F Termination Plan: The plan, including any changes thereto, for each Generating/Terminated Unit which has been approved by the Administrative Committee pursuant to Section 8A.1.9 hereof.

“3.54G Termination Power and Energy: The amount of Power and Energy required for the purposes of performing Termination Work in respect of any Generating/Terminated Unit.

“3.54H Termination Responsibility: The obligation of each Participant to fully perform and satisfy all of the duties, responsibilities and obligations imposed upon it pursuant to Section 8A.7 hereof.”

“3.54I Termination Work: All work, including Decommissioning Work, performed (i) by the Operating Agent that is deemed to be Termination Work pursuant to Section 8A.5.15 hereof and (ii) by or under the direction of the Termination
Agent for any Generating/Terminated Unit in the development of the Recommended Termination Plan for such unit and -in the implementation of the Termination Plan for such unit in connection with the permanent removal from service of such unit and the common facilities associated therewith which the Engineering and Operating Committee, pursuant to Section 8A.2.7 hereof, shall have determined are not required or useful in the operation or maintenance of any Generating Unit or other Generating/Terminated Unit.

“3.54J Testing and Start-Up Power and Energy: The amount of Power and Energy required for the purposes of testing of any component or system of any Generating Unit before, during, or after its Start-Up Period.

“3.54K Transmission Agreements: Transmission Agreements which may be entered into between and among the Parties and third parties for the explicit purpose of defining transmission arrangements and charges for the delivery of each Participant’s Generation Entitlement Share of Testing and Start-Up Power and Energy, and/or Termination Power and Energy.
“3.54L Unit Rating: The effective Available Generating Capability as determined from time to time by the Engineering and Operating Committee, pursuant to Section 6.3.2.17 hereof, to reflect seasonal changes in Generating Unit operation.”

5.13 Section 3 is further amended (i) to redesignate Section 3.55A as Section 3.55C, and (ii) to add new Sections 3.55A and 3.55B which read as follows:

“3.55A Unit Termination Date: The date established pursuant to Section 8A.1.3 hereof on which the permanent termination of operation and the removal from service of a Generating/Terminated Unit shall become effective.

“3.55B Unrecovered Advanced Termination Costs: Any Termination Costs which a Participant in Default (as defined in paragraph (D) of Section 8A.1.11 hereof) is obligated to pay but which are paid by a nondefaulting Participant pursuant to Section 23.5.1 hereof and have not been recovered by such nondefaulting Participant from the Termination Fund(s) of such Participant in Default or other consideration received from the Participant in Default.”

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5.14 Section 3 is further amended by the changing of the parenthetical phrase “(including the Operating Agent)” as it appears in Sections 3.56.1, 3.56.2 and 3.56.3 to read as follows:

“(including the Operating Agent and the Termination Agent if such agent is a Participant)”

5.15 Section 3 is further amended by the addition to Section 3.57 of a new Section 3.57.3 which reads as follows:

“3.57.3 The performance or nonperformance of Termination Work.”

5.16 Section 5 is amended by the deletion of Sections 5.2 and 5.8 in their entirety and the substitution in lieu thereof of new Sections 5.2 and 5.8, respectively, which read as follows:

“5.2 At all times after the Date of Firm Operation of each Generating Unit and prior to its Unit Termination Date, other than those periods referred to in Section 5.1 hereof, each Participant shall be entitled to schedule for its account Power from such Generating Unit equal to
the product of its Generation Entitlement Share and the Available Generating Capability of such Generating Unit; and each Participant shall be obligated to provide its own reserve requirements, including spinning reserves, for its Generation Entitlement Share of the Available Generating Capability of all Generating Units.

“5.8 Each Participant shall provide and schedule its share, equal to its Generation Entitlement Share, of the Testing and Start-Up Power and Energy and/or Termination Power and Energy which the Project Manager, Operating Agent or any Termination Agent, in accordance with policies, criteria and procedures approved by the Engineering and Operating Committee pursuant to Section 6.3.2.5, 6.3.2.7 or 8A.2.5.5 hereof, shall have determined is required and scheduled for delivery to any Generating Unit or Generating/Terminated Unit. Each Participant may at its option provide its share of such required and scheduled Testing and Start-Up Power and Energy and/or Termination Power and Energy by either (i) the delivery thereof to the 500 KV bus at the ANPP High Voltage Switchyard in accordance with any applicable Transmission
Agreements or other agreements for the delivery or supply of Testing and Start-up Power and Energy and/or Termination Power and Energy, or (ii) from its Generation Entitlement Share of the Power and Energy available from any Generating Unit or Generating/Terminated Unit unless the Operating Agent shall have determined in accordance with policies, criteria and procedures approved by the Engineering and Operating Committee pursuant to Section 6.3.2.5, 6.3.2.7 or 8A.2.5.5 hereof that such Power and Energy cannot or should not be supplied by any Generating Unit or Generating/Terminated Unit. The costs of Testing and Start-Up Power and Energy and/or Termination Power and Energy as may be provided by any Participant in accordance with clause (i) above shall be borne by such Participant consistent with any applicable Transmission Agreements or other agreements for the delivery or supply of Testing and Start-Up Power and Energy and/or Termination Power and Energy and shall be accounted for by such Participant in such manner as it deems appropriate.

5.17 Section 6.1 is amended by the deletion of the introductory paragraph thereof in its entirety and the
substitution of a new introductory paragraph thereof which reads as follows:

“6.1 As a means of securing effective cooperation and interchange of information and of providing consultation on a prompt and orderly basis among the Participants in connection with various administrative and technical matters which may arise from time to time in connection with the terms and conditions of the Project Agreements, the Participants establish the committees described in this Section 6.1. The chairman of each of such committees shall be a representative of the Project Manager up to the Date of Firm Operation of the first Generating Unit and thereafter until the OA Discharge Date for the last Generating Unit to be permanently removed from service shall be a representative of the Operating Agent. After such OA Discharge Date, the chairman of each of said committees shall be determined in the manner provided by Section 8A.8.2 hereof. The chairman shall be responsible for calling meetings and establishing agendas. The following committees are hereby established and shall have the functions
and responsibilities described herein and in the Project Agreements:"

5.18 Section 6.1 is further amended by the addition of a new Section 6.1.4 which reads as follows:

“6.1.4 A Termination Funding Committee consisting of one representative appointed by each Participant.”

5.19 Section 6.2 is amended by the deletion of Section 6.2.2 in its entirety and the substitution in lieu thereof of a new Section 6.2.2 which reads as follows:

“6.2.2 Exercise general supervision over the Engineering and Operating Committee, the Auditing Committee, the Termination Funding Committee and any other standing or ad hoc committees established pursuant to Section 6.13 hereof.”

5.20 Section 6.2 is further amended by the deletion of Section 6.2.12 in its entirety and the substitution in lieu thereof of a new Section 6.2.12 and by the addition of a new Section 6.2.13 which read as follows:
6.2.12 Review, modify if necessary and approve criteria and guidelines which are to be utilized by the Project Manager, the Operating Agent or any Termination Agent, as the case may be, concerning (i) the sale, transfer or conveyance of equipment or materials acquired for use in the performance of Construction Work, Operating Work, the construction, operation or maintenance of Capital Improvements or Termination Work, which are no longer required for such purposes, and (ii) the disposal of retired Units of Property pursuant to Section 18.8. Such criteria and guidelines are to be developed by the Project Manager, Operating Agent or Termination Agent and shall be reviewed and modified as necessary by the Engineering and Operating Committee prior to being forwarded to the Administrative Committee. Such criteria and guidelines shall also include any specific requirements which may be deemed necessary with respect to the sale, transfer or conveyance, by a non-competitive bid process, of such equipment or materials or retired Units of Property to any Participant or subsidiary thereof, the Project Manager, Operating Agent or Termination Agent.
"6.2.13 Perform the functions delegated to the Administrative Committee by Section 8A.1 hereof."

5.21 Section 6.3 is amended by the addition thereto of a new Section 6.3.7 which reads as follows:

"6.3.7 Perform the functions delegated to the Engineering and Operating Committee by Section 8A.2 hereof."

5.22 Section 6.4 is amended by the addition thereto of a new Section 6.4.5 which reads as follows:

"6.4.5 Perform the functions delegated to the Auditing Committee by Section 8A.3 hereof."

5.23 Section 6 is further amended by the addition of a new Section 6.4A which reads as follows:

"6.4A The Termination Funding Committee shall perform the functions delegated to the Termination Funding Committee by Section 8A.4 hereof."

5.24 Section 6 is further amended by the deletion of Section 6.6 in its entirety and the substitution in lieu thereof of a new Section 6.6 which reads as follows:
“6.6 Any action or determination of a committee must be unanimous except as otherwise provided in Sections 8A.1.11, 8A.4.5, 8A.8.2 and 23.5 or Appendix K hereof.”

5.25 Section 6 is further amended by the deletion of Section 6.7 in its entirety and the substitution in lieu thereof of a new Section 6.7 which reads as follows:

“6.7 The Administrative Committee, the Engineering and Operating Committee, the Auditing Committee and the Termination Funding Committee shall each keep written minutes, and records of all meetings and all actions, agreements or determinations made by any such committee shall be reduced to writing and shall be signed by a representative of each Participant on such committee or an authorized alternate.”

5.26 Section 6 is further amended by the deletion of Section 6.9 in its entirety and the substitution in lieu thereof of a new Section 6.9 which reads as follows:

“6.9 If the Engineering and Operating Committee, the Auditing Committee or the Termination Funding Committee fails to agree while performing the
functions and duties delegated to it in this Participation Agreement or in the Project Agreements, then such disagreement shall be referred to the Administrative Committee for determination."

5.27 Section 8.3 is amended by the deletion of Section 8.3.17 in its entirety and the substitution in lieu thereof of a new Section 8.3.17 which reads as follows:

“8.3.17 Provide the Administrative, Engineering and Operating, Auditing and Termination Funding Committees with all written statistical and administrative reports, accounting records, written budgets, information and other records relating to Operating Work, Capital Improvements, Termination Work and Termination Costs and the funding thereof necessary or useful in the performance of their respective responsibilities under this Participation Agreement.”

5.28 Section 8.3 is further amended by the deletion of Section 8.3.25 in its entirety and the substitution in lieu thereof of a new Section 8.3.25 which reads as follows:
“8.3.25 Carry out and follow the practices and procedures and directions which have been approved and issued by the Administrative Committee, the Engineering and Operating Committee, the Auditing Committee or the Termination Funding Committee pursuant to the Project Agreements, except as otherwise provided in Section 8.3.26 hereof.”

5.29 Section 8.3 is further amended by the addition thereto of a new Section 8.3.29, which reads as follows:

“8.3.29 Perform the functions delegated to the Operating Agent by Section 8A.5 hereof.”

5.30 The Participation Agreement is amended by the addition after Section 8 of a new Section 8A which reads as follows:

“8A. Termination of Generating Units

“8A.1 Responsibilities of the Administrative Committee

“8A.1.1 In addition to those functions delegated to the Administrative Committee by Section 6.2 hereof and other provisions of this Participation Agreement,
the Administrative Committee shall have the functions hereinafter set forth in this Section 8A.1 in connection with the permanent termination of operation and the removal from service of each Generating unit and the performance and completion of Termination Work for each Generating/Terminated Unit.

“8A.1.2 The Administrative Committee shall provide liaison between the Participants and the Termination Agent for each Generating/Terminated Unit in connection with the planning, performance and completion of Termination Work for such unit and the financial and accounting aspects thereof.

“8A.1.3 The Administrative Committee shall make the determination to permanently terminate the operation of each Generating Unit and remove such unit from service and establish the Unit Termination Date therefor.

“8A.1.4 At any time prior to making its determination to permanently terminate operation of each Generating Unit or promptly thereafter, but in no event later than the Unit Termination Date for such unit, the Administrative Committee shall designate a Termination Agent to perform or direct the
Termination work for such unit that is not performed by the Operating Agent. The Termination Agent for any Generating/Terminated unit may be either a Participant, the Operating Agent, an entity organized and owned in whole or in part by one or more Participants directly or indirectly through an affiliated company, or an entity that is not owned by any Participant directly or indirectly through an affiliated company.

“8A.1.5 The Administrative Committee shall, concurrently with the designation of the Termination Agent for any Generating/Terminated Unit, enter into or authorize the chairman of the Administrative Committee to enter into a written contract with such Termination Agent containing such terms and conditions for the performance of Termination Work as the Administrative Committee shall have approved and specifying the obligations set forth in Sections 8A.6.2 and 8A.6.3 hereof.

“8A.1.6 The Administrative Committee may remove and discharge any Termination Agent for any Generating/Terminated Unit with or without cause and at any time as the Administrative Committee may determine is in the best interests of the Participants on such terms

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as the Administrative Committee shall determine to be appropriate.

“8A.1.7 In the event of the removal, discharge or resignation of the Termination Agent for any Generating/Terminated Unit prior to the completion of the Termination Work for such unit, the Administrative Committee shall designate a successor Termination Agent and enter into or authorize the chairman of the Administrative Committee to enter into a written contract with such successor Termination Agent containing such terms and conditions for the performance of Termination Work as the Administrative Committee shall have approved and specifying the obligations set forth in Section 8A.6.3 hereof.

“8A.1.8 The Administrative Committee shall delegate to the Termination Agent for each Generating/Terminated Unit such authorities, duties and responsibilities as the Administrative Committee may determine to be appropriate and are consistent with this Participation Agreement and other Project Agreements. The delegation of such authorities, duties and responsibilities shall be in writing and incorporated in either (i) the contract with such Termination Agent which the Administrative Committee
shall have approved pursuant to Section 8A.1.5 or 8A.1.7 hereof or (ii) the Termination Plan for such unit approved by the committee pursuant to Section 8A.1.9 hereof.

“8A.1.9 The Administrative Committee shall review and approve, modify or otherwise act upon the Recommended Termination Plan for each Generating/Terminated Unit submitted to it by the Termination Agent for such unit pursuant to Section 8A.6.2 hereof after giving due consideration to any recommendations or comments respecting such Recommended Termination Plan as may be submitted to it by such Termination Agent, the Operating Agent, the Engineering and Operating Committee, the Termination Funding Committee or the Auditing Committee. No changes shall be made to any Termination Plan so approved without the approval of the Administrative Committee.

“8A.1.10 The Administrative Committee shall, after considering any recommendations or comments as may be submitted to it by the Engineering and Operating Committee pursuant to Section 8A.2.6 hereof and the Termination Funding Committee pursuant to Section 8A.4.6 hereof, approve or otherwise act upon (i) the selection of the independent consultant which the
Operating Agent proposes to engage to make an estimate of Termination Costs pursuant to Section 8A.5.8 hereof and (ii) any addition to, deletion from, or other change in any assumption specified in said section on which any such estimate shall be made.

“8A.1.11 In the event that all of the following shall occur:

(A) the Termination Funding Committee shall report to the Administrative Committee pursuant to Section 8A.4.5 hereof that (i) the deposits made or accumulations in the Termination Fund(s) of any Participant are not in compliance with the criteria and standards established by the Termination Funding Committee and (ii) as a result there is not reasonable assurance that the accumulations in such fund(s) will be sufficient to meet such participant’s obligations under Section 8A.7.2.3 hereof;

(B) all members of the Administrative Committee other than the member representing any such Participant unanimously find (i) that such participant is deficient in
meeting its obligations under Section 8A.7.2.3 and (ii) that the measures which such Participant has committed to the other Participants to undertake are not sufficient to cure the deficiencies in a timely manner (hereinafter the “Deficiency Findings”); and

(C) such Participant has not cured the deficiencies within the Cure Period (i.e., the period commencing on the date on which the Deficiency Findings are made and ending on the later of (i) the date occurring six months after the date on which the Deficiency Findings are made or (ii) such other date as all members of the Administrative Committee other than the member representing such Participant shall unanimously designate) by making deposits in its Termination Fund(s) or by making commitments to do so in a timely manner acceptable to and approved by all members of the Administrative Committee other than the member representing such Participant;

then immediately upon the expiration of the Cure Period and without further action by the
(D) the Participant found to be deficient in meeting its obligations under Section 8A.7.2.3 (hereinafter the “Participant in Default”) shall thereupon be deemed to be in default of its obligations under this Participation Agreement;

(E) the rights of the Participant in Default to be represented on and participate in the actions of all committees and to receive all or any part of its Generation Entitlement Share of the Net Energy Generation and Available Generating Capability of all Generating Units shall thereupon be suspended until such time as (i) (a) the Termination Funding Committee shall find that the deposits and accumulations in the Termination Fund(s) of the Participant in Default have been brought into compliance with the criteria and standards established pursuant to Section 8A. 4.4 hereof and there
is reasonable assurance that the accumulations in such Termination Fund(s) will be sufficient to meet the obligations of the Participant in Default under Section 8A. 7.2.3 hereof and (b) the Participant in Default shall have reimbursed each nondefaulting Participant for all Unrecovered Advanced Termination Costs, for all incidental costs [including, for example and without limitation, trust administration expenses, legal expenses, and costs of borrowing funds (but excluding interest and other financial charges in lieu of interest)] incurred by such nondefaulting Participant in connection with any Deficiency Deposits and Unrecovered Advanced Termination Costs and for interest accrued thereon as determined in accordance with paragraph (H) of this Section 8A.1.11, or (ii) a decision is rendered in any arbitration initiated by the Participant in Default determining that either of the Deficiency Findings was in error;

(F) Sections 23.5.1, 23.5.2, 23.5.3 (except as otherwise provided in paragraph (E) of
(G) if the Termination Fund(s) that is deficient is for a Generating Unit or Generating/Terminated Unit which has been removed from service on or before the end of the Cure Period, or which the Administrative Committee has determined to remove from service within two years after the end of the Cure Period, the Participant in Default shall thereupon be obligated to deposit in such Termination Fund(s) amount(s) which are equal to (a) its share of the most recent estimate of the Termination Costs for such unit obtained pursuant to Section 8A.5.8 hereof (adjusted for potential inflation of such costs, using the greater of the escalation factors established by NRC in 10 CFR 50.75(c) (2) or such other escalation factors as the Termination Funding Committee may establish, over the period expiring five years after the expiration date of the operating license for such unit) LESS (b) the sum of (i) the accumulation(s) in such
fund(s) on the date the Cure Period ends and (ii) the estimated income that may be earned on the investment of all accumulations in such fund(s) over such period expiring five years after the expiration date of the operating license for such unit, using the estimated income factors established by the Termination Funding Committee; and

(H) in addition, the Participant in Default shall thereupon become liable and obligated to pay each nondefaulting Participant for all Unrecovered Advanced Termination Costs and all incidental costs such nondefaulting Participant incurs in connection with Deficiency Deposits and Unrecovered Advanced Termination Costs for the Participant in Default, including without limitation interest in the amount determined as hereinafter provided. The amount of interest for which a Participant in Default shall be liable for and pay to each nondefaulting Participant shall be equal to the aggregate amount of interest that would be obtained by multiplying (a) the daily
rate of interest equivalent to the annual rate determined in accordance with Section 23.3 hereof by (b) the amount equal to the sum of (i) the aggregate amount of Deficiency Deposits, (ii) all Unrecovered Advanced Termination Costs, and (iii) the aggregate amount of all nonreimbursed incidental costs, if any, incurred by such nondefaulting Participant in connection with Deficiency Deposits and Unrecovered Advanced Termination Costs, outstanding each day. Unrecovered Advanced Termination Costs and incidental costs incurred by a nondefaulting Participant in connection with Deficiency Deposits or Unrecovered Advanced Termination Costs shall be deemed to be nonreimbursed until such time as a Participant in Default has fully paid each nondefaulting Participant (i) its Unrecovered Advanced Termination Costs and such incidental costs and (ii) the interest due thereon.

“8A.1.12 The obligations imposed on a Participant in Default to make deposits pursuant to paragraph (G) of Section 8A.1.11 hereof shall not apply to any lessor in a sale and leaseback
transaction of such Participant in Default permitted under clause (b) of Section 15.1.1 hereof (or any mortgagee, trustee or secured party under present and future deeds of trust, mortgages, indentures or security agreements of such lessor and any successor or assignee thereof, and any receiver, referee or trustee in bankruptcy or reorganization of such lessor and any successor by action of law or otherwise, and any purchaser, transferee or assignee of any thereof), which exercises its rights and assumes the obligations under Section 15.2.2 hereof, nor shall fulfillment of the Participant in Default’s obligation to make such deposits be required as a condition for the restoration of the right to receive the Net Energy Generation and Available Generating Capability for the portion of the Generation Entitlement Share of such Participant in Default acquired by such lessor in such sale and leaseback transaction. Nothing contained in this Section 8A.1.12 shall change or modify any of the rights or obligations of a lessor under Section 15.2.2.

“8A.1.13 In respect of any default or breach by any Participant of any of its obligations under
Section 8A or any suspension of the rights of such Participant as a result of such default or breach, to the extent that any provisions of Section 8A.1.11 hereof are inconsistent with any provision of Section 23 hereof, the provisions of Section 8A.1.11 shall prevail and apply.

8A.2 Responsibilities of the Engineering and Operating Committee

8A.2.1 In addition to those functions delegated to the Engineering and Operating Committee by Section 6.3 hereof and other provisions of this Participation Agreement, the Engineering and Operating Committee shall have the functions hereinafter set forth in this Section 8A.2 in connection with the permanent removal from service of each Generating Unit and the performance and completion of Termination Work for each Generating/Terminated Unit.

8A.2.2 The Engineering and Operating Committee shall provide liaison between the Participants and the Termination Agent for each Generating/Terminated Unit in connection with the technical
aspects of the planning, performance and completion of the Termination Work for such unit.

“8A.2.3 The Engineering and Operating Committee shall work with, provide recommendations to and otherwise assist the Termination Agent for any Generating/Terminated Unit in the development of (i) the Recommended Termination Plan for such unit to be prepared by such Termination Agent pursuant to Section 8A.6.2 hereof and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.

“8A.2.4 The Engineering and Operating Committee shall provide to the Administrative Committee recommendations of the Engineering and Operating Committee and any comments of any member thereof with respect to (i) the Recommended Termination Plan for each Generating/Terminated Unit submitted to the Administrative Committee by the Termination Agent for such unit and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.

“8A.2.5 The Engineering and Operating Committee shall review and approve, modify or otherwise
act upon the recommendations of the Termination Agent for any Generating/Terminated Unit with respect to the following items related to the performance of the Termination Work for such unit:

“8A.2.5.1 The annual budget for such Termination Work and any revisions thereof.

“8A.2.5.2 Forecasts of all expenditures projected to be required for the completion of all such Termination Work and any revisions of such forecasts.

“8A.2.5.3 Policies, procedures and practices applicable to the performance of such Termination Work. Such policies, procedures and practices shall be consistent with the Termination Plan for such Generating/Terminated Unit.

“8A.2.5.4 Reporting and recordkeeping of such Termination Work not provided for in the Termination Plan for such Generating/Terminated Unit.
“8A.2.5.5 The policies, criteria and procedures for (A) determining the amounts and scheduling delivery of Termination Power and Energy to be (i) procured by the Termination Agent from any source, including any Participant on such terms and conditions as are approved by the committee, or (ii) provided by each Participant and (B) scheduling deliveries of Termination Power and Energy from the Participants as set forth in Section 5.8 hereof.

“8A.2.6 The Engineering and Operating Committee shall provide to the Administrative Committee recommendations and any comments of any members of the Engineering and Operating Committee with respect to the selection of the independent consultant which the Operating Agent proposes to engage to make an estimate of Termination Costs pursuant to Section 8A. 5.8 hereof and any proposed addition to, deletion from, or other change in any assumption specified in said section on which any such estimate shall be made.
“8A.2.7 The Engineering and Operating Committee, after considering recommendations that the Operating Agent shall submit to the committee, shall determine and identify the common facilities associated with any Generating/Terminated Unit which are not required or useful for the operation or maintenance of any Generating Unit or other Generating/Terminated Unit.

“8A.2.8 The Engineering and Operating Committee shall perform such other functions and duties in connection with the Termination Work for any Generating/Terminated Unit as may be delegated to the committee by the Termination Plan for such unit or by the Administrative Committee.

“8A.3 Responsibilities of the Auditing Committee

“8A.3.1 In addition to those functions delegated to the Auditing Committee by Section 6.4 hereof and other provisions of the Participation Agreement, the Auditing Committee shall have the functions hereinafter set forth in this Section 8A.3 in connection with the permanent removal from service of each Generating Unit and the
performance and completion of Termination Work for each Generating/Terminated Unit.

“8A.3.2 The Auditing Committee shall work with, provide recommendations to and otherwise assist the Termination Agent for each Generating/Terminated Unit in the development of (i) the accounting and auditing elements of the Recommended Termination Plan for such unit to be prepared by such Termination Agent pursuant to Section 8A.6.2 hereof and (ii) any changes which may be proposed to be made to any such elements of the Termination Plan for such unit.

“8A.3.3 The Auditing Committee shall provide to the Administrative Committee recommendations of the Auditing Committee and any comments of any member thereof with respect to (i) the Recommended Termination Plan for such Generating/Terminated Unit submitted to the Administrative Committee for approval by the Termination Agent for such unit and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.
“8A.3.4 The Auditing Committee shall develop procedures for (i) the accounting and auditing of the Termination Costs for each Generating/Terminated Unit, (ii) the advancement by the Participants of funds required to pay such Termination Costs, (iii) the establishment of accounts for holding such funds as are advanced by the Participants, (iv) controls for the expenditures of such funds from such accounts and for any short-term investments of any funds in such accounts, (v) the preparation of budgets and forecasts of expenditures and requests for funds to be made by the Termination Agent for such unit, and (vi) the determination of any overhead formulas and rates incurred by such Termination Agent, which may be included in the written contract between the Administrative Committee and such Termination Agent pursuant to Section 8A.1.5 or 8A.1.7, all in accordance with good accounting practice and as are consistent with the Termination Plan for such unit.

“8A.3.5 The Auditing Committee shall audit or cause to be audited the books and records of the Termination Agent for each Generating/Terminated Unit and any contractor of such Termination
Agent which may be relevant to the Termination Work for such unit.

“8A.3.6 The Auditing Committee shall perform such other functions and duties in connection with the Termination Work for any Generating/Terminated Unit as may be delegated to the committee by the Termination Plan for such unit or by the Administrative Committee.

“8A.4 Responsibilities of the Termination Funding Committee

“8A.4.1 The Termination Funding Committee shall have the functions hereinafter set forth in this Section 8A.4 in connection with the permanent removal from service of each Generating Unit, the performance and completion of Termination Work for each Generating/Terminated Unit and the funding which the Participants are required to provide for payment of the Termination Costs for each Generating/Terminated Unit pursuant to Section 8A.7.2.3 hereof.

“8A.4.2 The Termination Funding Committee shall work with, provide recommendations to and otherwise
assist the Termination Agent for each Generating/Terminated Unit in the development of (i) the financial and funding elements of the Recommended Termination Plan for such unit to be prepared by such Termination Agent pursuant to Section 8A.6.2 hereof and (ii) any changes which may be proposed to be made to any such elements of the Termination Plan for such unit.

“8A.4.3 The Termination Funding Committee shall provide to the Administrative Committee recommendations of the Termination Funding Committee and any comments of any member thereof with respect to (i) the Recommended Termination Plan for such Generating/Terminated Unit submitted to the Administrative Committee for approval by the Termination Agent for such unit and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.

“8A.4.4 Within six months after the date on which Amendment No. 13 shall become effective or such other date established by the Administrative Committee, the Termination Funding Committee shall establish criteria and standards, consistent with applicable law,
including the rules and regulations of the NRC [including without limitation such discount factors, allowances for inflation, bases for estimating future net earnings on accumulations in the Termination Fund(s) of the Participants and other elements as may be appropriate to provide reasonable assurance that each Participant will accumulate in its Termination Fund(s) over the remaining license term (as specified in the original license issued for each Generating Unit authorizing fuel load and low power operation of such unit) sufficient funds to pay such Participant’s share of the most current estimate of the Termination Costs of such unit] that will be used by the committee to determine whether or not the periodic deposits made by each Participant in its Termination Fund(s) have been adequate and the accumulations in its Termination Funds will be adequate to meet the requirements of Section 8A.7.2.3 hereof and to comply with applicable laws. At least once every three years the Termination Funding Committee shall review such criteria and standards and make such adjustments thereto as are warranted by the circumstances then existing or as may be required by applicable
law. Additionally, the Termination Funding Committee shall establish the format, content and time for submission of the funding status reports and certificates that Participants are required to submit pursuant to Section 8A.7.2.4 hereof.

“8A.4.5 The Termination Funding Committee shall review the reports submitted by each Participant pursuant to Section 8A.7.2.4 hereof and report to the Administrative Committee whether or not (i) the deposits made by each Participant in its Termination Fund(s) and the accumulations therein are in compliance with the criteria and standards established pursuant to Section 8A.4.4 hereof, and (ii) there is reasonable assurance that the accumulations in such Participant’s Termination Funds will be sufficient to meet obligations under Section 8A.7.2.3 hereof. In the event all members of the Termination Funding Committee other than the member representing any Participant whose report made pursuant to Section 8A.7.2.4 is under consideration conclude (i) that such deposits and accumulations in the Termination Fund(s) of such Participant are not in compliance with the committee’s criteria and
standards and (ii) that as a result there is not reasonable assurance that the accumulations in such Termination Fund(s) will be sufficient to meet such Participant's obligations under Section 8A.7.2.3 hereof, then the Termination Funding Committee shall report such conclusions to the Administrative Committee and provide the Administrative Committee with recommendations unanimously adopted by all members of the Termination Funding Committee other than the member representing such Participant as to any corrective measures such Participant should be required to make in a timely manner to cure such noncompliance or to establish such reasonable assurance.

“8A.4.6 The Termination Funding Committee shall provide to the Administrative Committee recommendations and any comments of any members of the Termination Funding Committee with respect to any proposed addition to, deletion from, or other change in the assumptions specified in Section 8A.5.8 hereof on which any estimate of Termination Costs shall be made.
“8A.4.7 Within six months after the date on which Amendment No. 13 shall become effective or such other date established by the Administrative Committee the Termination Funding Committee shall establish and from time to time thereafter review and modify as may be appropriate the policies, criteria and formulas to be used to determine the aggregate amount of net income that shall be deemed to have been earned as part of Deficiency Deposits.

“8A.4.8 The Termination Funding Committee shall perform such other functions and duties in connection with the Termination Work for any Generating/Terminated Unit as may be delegated to the committee by the Termination Plan for such unit or by the Administrative Committee.”

“8A.5 Responsibilities of the Operating Agent

“8A.5.1 In addition to those functions delegated to the Operating Agent by Section 8 hereof and other provisions of this Participation Agreement, the Operating Agent shall have the functions hereinafter set forth in this Section 8A.5 in connection with the permanent termination
of operation and removal from service of each Generating Unit and the performance and completion of Termination Work for each Generating/Terminated Unit.

“8A.5.2 The Operating Agent shall maintain all records and documents required by the NRC, any other regulatory authority or other applicable law or by the Engineering and Operating Committee or which the Operating Agent shall determine in its discretion may facilitate the performance of Termination Work for each Generating/Terminated Unit.

“8A.5.3 The Operating Agent shall make available to the Termination Agent for each Generating/Terminated Unit all of the records and documents in its possession respecting the design, engineering, construction and operation of such unit and the common facilities associated with the operation of such unit and records of any event or incident as may have occurred during the operation of such unit or facilities, and otherwise cooperate with such Termination Agent in the performance of the Termination Work for such unit, including without limitation
cooperation by making available employees who, as determined by the Operating Agent in its sole discretion, are not key employees for the operation or maintenance of any Generating Unit or Generating/Terminated Unit, for temporary loan or temporary or permanent employment by the Termination Agent as the Termination Agent may request.

“8A.5.4 The Operating Agent shall retain the responsibility under this Participation Agreement for the operation, maintenance and status of each Generating/Terminated Unit and for all work performed on such unit until the OA Discharge Date for such unit.

“8A.5.5 On the OA Discharge Date for each Generating/Terminated Unit, the Operating Agent shall turn over to the Termination Agent for such unit (i) the responsibility, as set forth in this Section 8A, for the status of and the performance of Termination Work on such unit and any associated common facilities which the Engineering and Operating Committee shall have determined pursuant to Section 8A.2.7 hereof are not required or useful for the operation or
maintenance of any Generating Unit or other Generating/Terminated Unit and (ii) all records and documents pertaining to such unit and such associated common facilities which are not required by the Operating Agent in the performance of its duties under this Participation Agreement or as licensee of any Generating Unit or other Generating/Terminated Unit. All Termination Work, other than planning or work associated with securing required regulatory approvals or authorizations for such work, conducted by such Termination Agent at the Nuclear Plant Site prior to the OA Discharge Date for such unit shall be conducted under the direction of the Operating Agent.

“8A.5.6 Prior to the OA Discharge Date of the last Generating/Terminated Unit to be terminated, the Operating Agent shall have the exclusive responsibility for the disposition of Nuclear Fuel acquired for or used in any Generating Unit. Thereafter, the Termination Agent for such unit shall have the exclusive responsibility for the disposition of any Nuclear Fuel not disposed of prior to such OA Discharge Date.
“8A.5.7 On or about the OA Discharge Date for each Generating/Terminated Unit, the Operating Agent shall assign to the Termination Agent for such Generating/Terminated Unit any outstanding contract which (i) such Termination Agent shall request be assigned and (ii) the Operating Agent shall determine in its sole discretion is not required or useful in the operation or maintenance of any Generating Unit or any other Generating/Terminated Unit for which the Operating Agent is the operating licensee. Any such assignment shall not become effective until such OA Discharge Date. With respect to any such contract which requires the consent to the assignment of other contracting parties, the Operating Agent shall use its best efforts to obtain such consents prior to any assignment thereof.

“8A.5.8 Unless otherwise directed by the Administrative Committee, the Operating Agent, in order to develop the level of funding for each Participant as provided in Section 8A.7.2.3 hereof, shall procure from a qualified independent consultant, approved by the Administrative Committee pursuant to Section 8A.1.10 hereof,
once every three years an estimate in then current year dollars of the Termination Costs for each Generating Unit. Unless otherwise directed by the Administrative Committee, such estimate shall be based upon the prompt removal/dismantling of each Generating/Terminated Unit and restoration of the Nuclear Plant Site to approximately original condition. Unless otherwise directed by the Administrative Committee, the estimate shall be based on a site specific decommissioning study (versus a generic cost estimate) and shall be based on the assumptions that (i) all radioactive structures, facilities and equipment shall be decontaminated or removed and disposed of as required by applicable law, (ii) all radioactive wastes, fluids or materials which have activities above accepted unrestricted activity levels shall be disposed of as required by applicable law, (iii) all structures, facilities and equipment shall be safely removed from the Nuclear Plant Site, (iv) the Nuclear Plant Site will be restored to an approximately pre-construction (original) condition, (v) the structures, facilities, equipment and materials to be disposed of shall have no salvage value, and (vi) such other circumstances,
factors and conditions as the independent consultant shall deem to be prudent and reasonable to assume. The development of estimates as provided in this Section 8A.5.8 on the basis of the foregoing or any other assumptions is intended to be used solely for establishing the level of funding which the Participants are required to provide pursuant to Section 8A.7.2.3 and is not intended to create any obligation or commitment to perform or conduct Termination Work in compliance with such assumptions.

“8A.5.9 Within 30 days after the receipt of each estimate of Termination Costs procured pursuant to Section 8A.5.8 hereof, the Operating Agent shall send a copy thereof to each Participant, together with a report setting forth for each Participant (i) its share of such estimate which it is required to fund pursuant to Section 8A.7.2.3 hereof, (ii) the amount of such share which remains to be funded based upon the most recent annual report which such Participant shall have furnished to the Termination Funding Committee and the Operating Agent pursuant to Section 8A.7.2.4 hereof and (iii) such other information

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as the Administrative Committee, the Engineering and Operating Committee, the Termination Funding Committee or the Auditing Committee may request.

“8A.5.10 The Operating Agent shall prepare and file with the NRC all reports respecting the Decommissioning of each Generating Unit required to be filed at any time prior to the filing of an application to the NRC for authority to surrender the license for such unit.

“8A.5.11 Until the Unit Termination Date of the last Generating/Terminated Unit to be permanently removed from service pursuant to Section 8A.1.3, the Operating Agent shall perform all work required (i) to operate and maintain such unit and the common facilities that the Operating Agent determines shall remain in service for the operation or maintenance of any Generating Unit or other Generating/Terminated Unit and (ii) to disconnect and isolate any common facilities associated with any Generating/Terminated Unit that are to be permanently removed from service.

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“8A.5.12 The Operating Agent shall cooperate with the Termination Agent for each Generating/Terminated Unit in the performance of Termination Work for such unit and shall provide to such Termination Agent such recommendations and comments as the Operating Agent deems appropriate in the development of (i) the Recommended Termination Plan for such unit to be prepared by such Termination Agent pursuant to Section 8A.6.2 hereof and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.

“8A.5.13 The Operating Agent shall provide to the Administrative Committee such recommendations and comments as may be appropriate with respect to (i) the Recommended Termination Plan for each Generating/Terminated Unit submitted to the Administrative Committee by the Termination Agent for such unit and (ii) any changes which may be proposed to be made to the Termination Plan for such unit.

“8A.5.14 The Operating Agent shall perform such other duties, responsibilities and obligations in respect of any Generating/Terminated Unit
which may be assigned to it by the Administrative Committee.

“8A.5.15 All work performed by the Operating Agent pursuant to this Section 8A.5, excluding Section 8A.5.14, shall be deemed to be Operating Work, and the costs therefor shall be shared, funded and budgeted in the same manner as the costs for all other Operating Work. Work undertaken pursuant to Section 8A.5.14 shall be deemed to be either Operating Work or Termination Work as the Administrative Committee shall determine, and the costs therefor shall be shared, funded and budgeted in the same manner as the costs for all other Operating Work or Termination Work as the case may be.

“8A.5.16 The Operating Agent shall cooperate with the Participants in connection with the preparation of regulatory filings addressing Decommissioning and Termination Costs.

“8A.6 Responsibilities of the Termination Agent

“8A.6.1 The Termination Agent for each Generating/Terminated Unit shall be the entity
designated by the Administrative Committee pursuant to Section 8A.1 hereof. The Participants hereby appoint such Termination Agent as their agent, and the Termination Agent shall undertake as their agent to perform Termination Work for such unit and to carry out the duties and responsibilities as (i) hereinafter set forth, (ii) set forth in the Termination Plan for such unit or (iii) may be delegated to it by the Administrative Committee pursuant to Section 8A.1 hereof.

“8A.6.2 The Termination Agent for each Generating/Terminated Unit shall develop, submit and recommend to the Administrative Committee a Recommended Termination Plan for such unit. Such plan shall be developed and submitted in a timely manner to permit compliance with the requirements of the NRC and any other regulatory authority which shall have jurisdiction with respect to the performance of the Termination Work for such unit or any elements thereof. In developing such Recommended Termination Plan the Termination Agent shall consult with the Engineering and Operating Committee, Auditing Committee, Termination
Funding Committee and the Operating Agent as set forth in Sections 8A.2.3, 8A.3.2, 8A.4.2 and 8A.5.12 hereof, respectively, and incorporate or otherwise resolve their respective recommendations or comments respecting such plan. Unless the Administrative Committee shall otherwise direct, such Recommended Termination Plan shall include the following elements:

“8A.6.2.1 With respect to the Termination Work to be undertaken for such unit, (i) a definition and description of the scope of such work, (ii) a milestone schedule for the performance and completion of such work, (iii) an estimate of the costs for such work, (iv) a forecast of cash requirements for such work, (v) a description of the schedule and cost control systems to be utilized in the management of such work, and (vi) a description of the quality assurance program to be applied to such work.

“8A.6.2.2 A description of the Termination Agent’s organization and the
resources required to perform and complete the Termination Work.

“8A.6.2.3 The procurement policies and practices to be followed in procuring any Materials and Supplies, equipment or services required or useful in the performance of the Termination Work.

“8A.6.2.4 A description of any discrete portions of the Termination Work to be performed by third parties under contracts with the Termination Agent, including policies and procedures to be used in soliciting and evaluating proposals and awarding contracts for such discrete portions.

“8A.6.2.5 The procedures developed by the Auditing Committee pursuant to Section 8A.3.4 hereof.

“8A.6.2.6 A description of the records management system(s) to be used.
“8A.6.2.7 Identification of property expected to have salvage value and a description of the policies and practices to be adopted to realize the maximum salvage value for such property.

“8A.6.2.8 Provisions to be made for the disposition of common facilities not required or useful in the operation or maintenance of any Generating Unit or Generating/Terminated Unit or in the conduct of any Termination Work.

“8A.6.2.9 Policies and procedures to be utilized in the disposition of any ANPP property as part of the Termination Work.

“8A.6.2.10 A description and evaluation of reasonable and practical alternatives for the performance of Termination Work.

“8A.6.2.11 Identification of regulatory authorizations, permits, licenses or approvals which must be obtained
under applicable laws to perform and complete the Termination Work.

“8A.6.2.12 A description of the Termination Insurance to be procured and maintained.

“8A.6.2.13 Such other matters as may be required by the NRC or any other regulatory authority which shall have jurisdiction with respect to the performance of the Termination Work or any elements thereof.

“8A.6.2.14 Any other elements which the Administrative Committee may require.

“8A.6.3 The Termination Agent for each Generating/Terminated Unit shall:

“8A.6.3.1 Administer, enforce and perform the Termination Work for such unit so as to comply with the Termination Plan for such unit and the Project Agreements in a manner consistent with
generally accepted practices in the electric utility industry recognizing that such practices may be affected by unique characteristics of ANPP, the rights and obligations of the Participants under the Project Agreements and other special circumstances affecting the Termination Work for such unit.

“8.A.6.3.2 Subject to the provisions of the Termination Plan and the Project Agreements, furnish from its own resources or contract for and obtain from any other sources, including any Participant, the services and studies necessary for performance of Termination Work for such unit.

“8.A.6.3.3 Execute, administer, perform and enforce contracts authorized pursuant to the Termination Plan for such unit including warranties and other remedies provided therein, in the name of such Termination Agent, acting as agent for all of the Participants, for Termination Work for such unit.
“8A.6.3.4 Keep the Participants fully and promptly informed of any known default of the Project Agreements and submit to the Participants any recommendations for amendments of the Project Agreements.

“8A.6.3.5 Prepare recommendations covering the matters which are to be reviewed and acted upon by the Administrative Committee pursuant to Section 8A.1 hereof, by the Engineering and Operating Committee pursuant to Section 8A.2 hereof, by the Auditing Committee pursuant to Section 8A.3 hereof, by the Termination Funding Committee pursuant to Section 8A.4 hereof or by the Operating Agent pursuant to Section 8A.5 hereof.

“8A.6.3.6 Carry out and follow the practices and procedures and directions which have been incorporated in the Termination Plan for such unit or have been approved and issued by the Administrative Committee, the Engineering
and Operating Committee, the Termination Funding Committee or the Auditing Committee pursuant to Section 8A hereof or any other Project Agreement.

“8A.6.3.7 Consistent with the criteria and guidelines approved by the Administrative Committee pursuant to Section 6.2.12 hereof, sell, transfer and convey or otherwise dispose of for and on behalf of all Participants to any entity, including without limitation the Operating Agent, the Termination Agent or any Participant, ANPP property, including any and all equipment or material acquired for use in the performance of Termination Work for such unit, to the extent required or contemplated by, and in a manner that complies with the Termination Plan for such unit or as otherwise directed by the Administrative Committee; provided that prior to the effective date of any such sale, transfer or conveyance the Operating Agent shall have determined
that such equipment or material is no longer used or useful for ANPP. Such property shall be sold, transferred or conveyed or otherwise disposed of only on an “as is” basis without any representation or warranty as to quality, condition or fitness for any purpose unless the Administrative Committee shall otherwise authorize and direct. The net proceeds, if any, received from any such sale, transfer, conveyance or other disposal of such equipment or material (after deduction of all costs associated with such sale, transfer, conveyance or other disposal, including without limitation the costs of removal, preparation and delivery of such equipment and material for sale, transfer, conveyance or other disposal) shall be allocated to the Participants in proportion to their respective Generation Entitlement Shares in such unit and such allocation shall be credited or distributed only to the Participants who are not in default of any obligation under any Project
Agreement; such allocation of any Participant who is in default of any obligation under any Project Agreement shall not be credited or distributed to such Participant until each such default is cured, and the Termination Agent shall hold such allocation of the Participant in default as the Administrative Committee shall direct.

“8A.6.3.8 Purchase, rent or otherwise procure in accordance with procurement policies and procedures established by the Termination Plan for such unit, in the name of the Participants as tenants in common with undivided interests in accordance with their respective Generation Entitlement Shares, the equipment, apparatus, machinery, tools, Materials and Supplies necessary for the performance of Termination Work for such unit.

“8A.6.3.9 Administer, perform and enforce all other contractual obligations and arrangements respecting the
Generating/Terminated Unit, including all warranties applicable thereto, which were (i) entered into by the Operating Agent and continue beyond the OA Discharge Date of the last Generating Unit to be permanently removed from service, and (ii) assigned to and assumed by the Termination Agent.

“8A.6.3.10 Comply with (i) any and all laws applicable to the performance of Termination Work for such unit, including without limitation all applicable laws, rules and regulations relating to the public health and safety, industrial safety, protection of the environment, workers’ compensation laws, and nondiscriminatory employment practices; and (ii) the terms and conditions of any contract, permit or license relating to ANPP.

“8A.6.3.11 Receive, deposit, invest and expend the funds advanced to the Termination Agent in accordance with the Termination Plan for such unit.
and the policies, procedures and practices established by the Auditing Committee.

“8A.6.3.12 Keep and maintain such records of monies received and expended, obligations incurred, credits accrued, the conduct of Termination Work for such unit, and of contracts entered into in the performance of such Termination Work as may be necessary or useful in carrying out Project Agreements or required to permit an audit of such Termination Work, and make such records available for inspection by any Participant, the Auditing Committee, the NRC and any other regulatory authority which shall have jurisdiction with respect to the performance of the Termination Work.

“8A.6.3.13 Not suffer any liens to remain in effect unsatisfied against ANPP (other than the liens permitted under the Project Agreements, liens for taxes and assessments not yet delinquent,
liens for labor and material not yet perfected or undetermined charges or liens incidental to the performance of the Termination Work for such unit); provided that such Termination Agent shall not be required to pay or discharge any such lien as long as the Termination Agent in good faith shall be contesting the same, which contest shall operate during the pendency thereof to prevent the collection or enforcement of such lien so contested.

“8A.6.3.14 Arrange for the placement and maintenance of Termination Insurance as provided in Section 8A.8.4 hereof.

“8A.6.3.15 Assist any insurer in the investigation, adjustment and settlement of any loss or claim covered by Termination Insurance.

“8A.6.3.16 Present and prosecute claims against insurers and indeminitors providing Termination Insurance or
indemnities in respect of any loss of or damage to any property of ANPP or liability of any Participant to third parties covered by any indemnity agreement, and to the extent that any such loss, damage or liability is not covered by Termination Insurance or by any indemnity agreement, present and prosecute claims therefor against any parties who may be liable therefor. In the event the cost of repair, replacement or correction of such loss or damage arising out of a single incident or event exceeds $250,000, such Termination Agent shall not make any settlement of any claims in respect thereof without the consent and approval of the Administrative Committee.

“8A.6.3.17 Subject to the provisions of Section 21 hereof and except as otherwise provided in the Termination Plan for such unit or directed by the Administrative Committee or as hereinafter provided in this Section 8A.6.3.17, investigate, adjust, defend and settle claims against any or all
Participants or the Termination Agent arising out of or attributable to Termination Work for such unit, or the past or future performance or nonperformance of the obligations and duties of any Participant or the Termination Agent related to such Termination Work for such unit under or pursuant to this Participation Agreement, including but not limited to any claim resulting from death or injury to persons or damage to property, when said claims are not covered by valid and collectible Termination Insurance carried by any Participant, and whenever and to the extent reasonable present and prosecute claims against any third party, including insurers, for any costs, losses and damages incurred in connection with said claims. The approval of the Administrative Committee shall be obtained by such Termination Agent before any said claim or combination of said claims against any or all Participants or such Termination Agent arising out of the same transaction or incident is settled for more than $250,000 unless the entire amount of the settlement in excess of $250,000 is
recoverable from an insurer providing Termination Insurance.

“8A.6.3.18 Keep the Participants fully and promptly advised of material changes in conditions or other material developments affecting the performance of Termination Work for such unit and furnish the Participants with copies of any notices given or received pursuant to the Project Agreements.

“8A.6.3.19 Provide the Administrative, Engineering and Operating, Termination Funding and Auditing Committees with written statistical and administrative reports, accounting records, written budgets and such other information and records relating to Termination Work for such unit which any of such committees shall request.

“8A.6.3.20 Determine, in accordance with policies, criteria and procedures established by the Engineering and Operating Committee pursuant to Section 8A.2.5.5 hereof, and keep the system dispatcher of each Participant
advised of, Termination Power and Energy to be provided by such Participant pursuant to Section 5.8 hereof.

“8A.6.3.21 Upon the request of any Participant, provide such Participant, in reasonable quantity without direct charge therefor, a copy or copies of any report, record, list, budget, manual, accounting or billing summary, classification of accounts or other documents or revisions of any of the aforesaid items, all as prepared in accordance with this Participation Agreement.

“8A.6.3.22 Establish and implement a quality assurance program to be followed in the performance of Termination Work for such unit, which shall, at a minimum, fully meet the requirements of the NRC.

“8A.6.3.23 Take custody of and maintain a suitable recovery system for all records received from the Operating Agent and provide any Participant access to such records as may be reasonably requested.
The Termination Agent for each Generating/Terminated Unit shall be responsible for (A) preparing and filing the preliminary decommissioning plan and any other reports, notices or documents required to be filed by the NRC or any other regulatory authority or other applicable law which have not been previously prepared and filed by the Operating Agent, and (B) preparing, filing and prosecuting the application to the NRC for the transfer of the NRC license then in effect for such unit from the Operating Agent to the Termination Agent and for the surrender of such license and for obtaining and continuing in effect all licenses, permits and authorizations required by applicable law to (i) perform Termination Work for such unit, (ii) release any effluents and (iii) store, ship or dispose of Nuclear Fuel not disposed of by the Operating Agent and any radioactive or nonradioactive wastes. Such Termination Agent shall furnish each Participant with copies of all documents submitted and all licenses, permits and authorizations received and shall otherwise keep each participant informed of the status of all licenses, permits and authorizations in effect and any pending or
proposed applications therefore or for changes thereto. Each Participant shall cooperate with such Termination Agent in the preparation, submission and execution of such information, records, statements or other material required to surrender such NRC license or to obtain and continue in effect any such licenses, permits or authorizations and any changes thereto.

“8A.6.5 A representative of the Termination Agent for any Generating/Terminated Unit who is not a Participant shall attend meetings of the Administrative Committee, the Engineering and Operating Committee, the Termination Funding Committee and the Auditing Committee and provide information to such committees as the respective chairmen thereof may request, but shall have no right to vote on any matter pending before any of such committees.

“8A.6.6 The Termination Agent for each Generating/Terminated Unit shall cooperate with the Operating Agent in the conduct of the Termination Work for such unit and shall not permit such Termination Work to interfere with any Operating Work conducted by the Operating Agent.
“8A.6.7 The Termination Agent for each Generating/Terminated Unit shall cooperate with the Participants in connection with the preparation of filings with any regulatory or taxing authority concerning Decommissioning, Termination Costs or Termination Work.

“8A.7. Responsibilities of Participants

“8A.7.1 In addition to those duties, responsibilities and obligations imposed upon the Participants by other provisions of this Participation Agreement, the Participants shall have the following duties, responsibilities and obligations in respect of the permanent termination of operation and removal from service of each Generating Unit and the Termination Work associated therewith.

“8A.7.2 Each Participant has the duty, responsibility and obligation to:

“8A.7.2.1 Pay its share, equal to its Generation Entitlement Share, of all Termination Costs for each Generating/ Terminated Unit and all liabilities and
obligations associated with or at any time arising from or in connection with the Termination Work for such unit.

“8A.7.2.2 Establish, not later than June 15, 1990, and maintain Termination Fund(s) for the accumulation of funds over a period not in excess of the remaining term of the operating license for each Generating Unit and the period thereafter until completion of the Termination Work for such unit in the amount or amounts, singly if only one such fund is established and maintained or collectively if more than one such fund is established and maintained, that meet the regulatory requirements of the NRC and the requirements of this Participation Agreement. Such Participant shall designate the Generating Unit or Units for which each of its Termination Fund(s) is established and maintained. Each such Termination Fund shall be held by an Independent Trustee in trust for the following purposes and no others: (i)
the payment of the costs of managing and investing such Termination Fund(s), administering the trust(s) in which Termination Fund(s) are held, including without limitation legal, accounting, actuarial and trustee expenses, and taxes, if any, levied upon such Termination Fund(s) or any investment income derived therefrom; (ii) the payment of such Participant's share, determined pursuant to Sections 8A.7.2.1 and 23.5.1 hereof, of the Termination Costs of the Generating Units designated by such Participant; and (iii) any payment to such Participant as may be permitted by Section 8A.7.2.8 or 35.7.1.2 hereof.

“8A.7.2.3 Make deposits at least annually (unless such annual deposits have been prepaid) and maintain accumulations in its Termination Fund(s) in amounts which, together with future deposits and estimated net earnings on accumulations in such fund(s), will be sufficient to pay its
pro rata share of the greater of (i) the latest estimate of the Termination Costs for each Generating Unit as determined pursuant to Section 8A.5.8 hereof or (ii) the minimum amount(s) required by the NRC. Such pro rata share of each Participant shall be equal to the sum of (A) its Generation Entitlement Share and (B) its share of the Generation Entitlement Share of a defaulting Participant as determined pursuant to Section 23.5.1 hereof.

“8A.7.2.4 Each Participant shall provide annual funding status reports of its Termination Fund(s) for each Generating Unit in accordance with the form, content and schedule established pursuant to Section 8A.4.4 hereof to the Termination Funding Committee and the Operating Agent. In addition to such annual funding status reports, on the written request of any member of the Administrative Committee made to all other members of such committee for reasonable cause (e.g., changes in
market conditions that could significantly affect the value of the Termination Fund(s) of one or more of the Participants) each Participant shall provide special funding status reports in the same form and content as annual funding status reports to the Termination Funding Committee and the Operating Agent; provided that special funding status reports shall not be required more frequently than once in any calendar quarter. Concurrently with the submittal of each such annual and special funding status report, each Participant shall provide each other Participant with a certificate, in the form established by the Termination Funding Committee pursuant to Section 8A.4.4 and signed by an officer of such Participant, to the effect that the trust agreement(s) and/or all other instruments establishing or affecting its Termination Fund(s) comply with Section 8A.7.2.2 hereof and all other provisions of this Participation Agreement. Concurrently, with the
first annual report submitted by each Participant and the first annual report submitted by such Participant after any amended or new trust agreement(s) become effective, such Participant shall furnish each other Participant a letter of opinion of counsel with respect to the matters set forth in Section 8A.7.2.2 hereof and to the effect that such trust agreement(s) are not inconsistent with this Participation Agreement. Such opinion may rely upon calculations provided by such Participant with respect to any determination of amounts required to be accumulated and expected future accumulations.

“8A.7.2.5 Advance funds or cause funds to be advanced to the Termination Agent of any Generating/Terminated Unit for the payment of Termination Costs for such unit in the manner provided in the Termination Plan for such unit or procedures established by the Auditing
Committee pursuant to Section 8A.3.4 hereof.

“8A.7.2.6 Provide to the Operating Agent or the Termination Agent of any Generating/Terminated Unit such certificates, documentation or other information as may be required to permit the Operating Agent or such Termination Agent to prepare and file any application with or report to the NRC or any other regulatory authority.

“8A.7.2.7 Provide its share, equal to its Generation Entitlement Share, of the Termination Power and Energy not otherwise provided pursuant to Section 5.8 hereof which is required for Termination Work for each Generating/Terminated Unit.

“8A.7.2.8 Nothing in this Participation Agreement shall preclude any Participant from withdrawing any funds from its Termination Fund(s) in excess of the accumulation(s) it is required
to maintain therein at any time by Section 8A.7.2.3 hereof or from adjusting its deposits in such fund(s) to reduce any such excess.

“8A.7.2.9 Each Participant shall cooperate with the Termination Agent and lend such assistance in the performance of Termination Work as the Termination Agent shall reasonably request and such Participant can reasonably perform upon such terms and conditions as are acceptable to such Participant and the Engineering and Operating Committee.

“8A.8 General Provisions

“8A.8.1 The agreement between the Participants and the Termination Agent in respect of any Generating/Terminated Unit executed pursuant to Section 8A.1.5 or 8A.1.7 and all contracts between such Termination Agent and any third party for or in the performance of Termination Work for such unit are Project Agreements.
“8A.8.2 In the event the Termination Agent in respect of one or more Generating/Terminated Unit is a Participant, then on and after the OA Discharge Date of the last Generating Unit to be permanently removed from service, the chairman of the Administrative Committee, the Engineering and Operating Committee, the Termination Funding Committee and the Auditing Committee, respectively, shall be a representative of such Participant. In the event the Termination Agent of any Generating/Terminated Unit is not a Participant, then on and after the OA Discharge Date of the last Generating Unit to be permanently removed from service, the chairman of the Administrative Committee, the Engineering and Operating Committee, the Termination Funding Committee and the Auditing Committee, respectively, shall be the representative of a Participant of each such committee selected by a majority of the members thereof. Any chairman so selected may be removed and replaced by a majority of the members of such committee.

“8A.8.3 The provisions of Section 16 hereof shall not apply in respect of any Generating/Terminated Unit.
“8A.8.4 Unless otherwise specified by the Administrative Committee, the Termination Agent in respect of each Generating/Terminated Unit shall procure and maintain in force, or cause to be procured and maintained in force, Termination Insurance against such risks, hazards and perils in such amounts and with such deductibles as may be required (i) by applicable laws, (ii) by the Termination Plan for such unit and (iii) as otherwise directed by the Administrative Committee.

“8A.8.5 Except as provided in Section 8A.6.4 hereof, each Participant shall be responsible for obtaining, at its own expense, its required authorizations and approvals, if any, relating to its participation in the Termination Work of each Generating/Terminated Unit and to its performance of the provisions of the Project Agreements, from Federal, state or local regulatory authorities having jurisdiction to issue such authorizations and approvals, and each Participant shall keep such Termination Agent informed of the status of its applications therefor.
“8A.8.6 Title to all equipment, apparatus, machinery, tools, Materials and Supplies purchased for the performance of Termination Work shall vest on delivery in the Participants as tenants in common with undivided interests in accordance with their respective Generation Entitlement Shares.”

5.31 Section 21 is amended by the deletion of Section 21.1 in its entirety and the substitution in lieu thereof of a new Section 21.1 which reads as follows:

“21.1 Except for any judgment debt for damage resulting from Willful Action and except to the extent any judgment debt is collectible from valid Project Insurance, and subject to the provisions of Sections 21.2, 21.4, 21.5, and 21.6 hereof, each Participant hereby extends to all other Participants, their directors, members of their governing bodies, officers and employees its covenant not to execute, levy or otherwise enforce a judgment obtained against any of them, including recording or effecting a judgment lien, for any direct, indirect or consequential loss, damage, claim, cost, charge or expense, whether or not resulting from the
negligence of such Participant, its directors, members of its governing bodies, officers, employees, or any person or entity whose negligence would be
imputed to such Participant from (i) Construction Work, Operating Work, the design and construction of Capital Improvements, Termination Work or the
use of or ownership of ANPP or (ii) the performance or nonperformance of the obligations of a Participant under the Project Agreements, other than the
obligation to pay any monies which have become due.”

5.32 Section 21 is further amended by the addition to Section 21.5 of a new Section 21.5.3 which reads as follows:

“21.5.3 The aggregate liability limit of $10,000,000 referenced in Sections 21.5.1 and 21.5.2 shall not apply to the failure or refusal, willful or otherwise,
of any Participant to meet its obligations under Sections 8A.7.2.1 through 8A.7.2.3, 8A.7.2.5, 10.3, 11.2, 11.3, 12.1, 12.10 through 12.14, 13, 16, 18.3,
21.3, 21.6, 23, 24.9, and Appendices F, I and K.”
Section 23.5 is amended by the deletion of Section 23.5.1 in its entirety and the substitution in lieu thereof of a new Section 23.5.1 which reads as follows:

“23.5.1 During the period that any such suspension or any suspension pursuant to Section 8A.1.11 hereof is in effect, the nondefaulting Participants (i) shall bear all of the operation and maintenance costs, insurance costs, Termination Costs, and other expenses, including Fuel Expenses and Nuclear Fuel Expenditures, otherwise payable by the defaulting Participant under the Project Agreements, (ii) shall make Deficiency Deposits in their respective Termination Fund(s) pursuant to Section 8A.7.2.3 hereof, and (iii) shall be entitled to schedule and receive for their respective accounts the Generation Entitlement Share of the defaulting Participant of the Available Generating Capability and Net Energy Generation of all Generating Units in the ratio of their respective Generation Entitlement Shares to the total of the Generation Entitlement Shares of all non-defaulting Participants.”
5.34 Section 25 is amended by the deletion of Section 25.1 in its entirety and the substitution in lieu thereof of a new Section 25.1 which reads as follows:

“25.1 If a dispute should arise which is not resolved by the Administrative Committee or the higher authorities within the Participants’ organizations, then, pending the resolution of the dispute by arbitration or judicial proceedings, the Project Manager, Operating Agent or Termination Agent shall proceed with Construction Work, Operating Work, Capital Improvements or Termination Work in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry, and the Participants shall advance the funds required to perform such Construction Work, Operating Work, Capital Improvements or Termination Work in accordance with the applicable provisions of the Project Agreements. The resolution of any dispute involving the failure of the Administrative Committee to reach agreement upon matters involving future expenditures shall have prospective application from the date of final determination, and amounts advanced by the Participants pursuant to this Section 25 during
the pendency of such dispute shall not be subject to refund except upon a final determination that the expenditures were not made in a manner consistent with the Project Agreements and generally accepted practice in the electric utility industry.”

5.35 Section 35 is amended by the deletion of Section 35.1 in its entirety and the substitution in lieu thereof of a new Section 35.1 which reads as follows:

“35.1 This Participation Agreement shall become effective on September 1, 1973, provided that it shall have been then duly executed by all of the Participants.”

5.36 Section 35 is further amended by the deletion of Section 35.7 in its entirety and the substitution in lieu thereof of a new Section 35.7 and by the addition of a new Section 35.8 which read as follows:

“35.7 This Participation Agreement shall terminate on the earlier of: (i) December 31, 2027, or (ii) the date on which all Generating Units shall have been permanently removed from service and all Termination Work in respect of

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all Generating/Terminated Units has been completed; provided however, that

(a) the Termination Responsibility of each Participant shall survive any termination of this Participation Agreement until such Participant has fully satisfied its Termination Responsibility;

(b) upon the termination of this Participation Agreement the Participants shall possess the Surviving Rights as defined in Section 35.7.1, and shall be subject to and obligated to fully satisfy the Surviving Obligations as defined in Section 35.7.2;

(c) any obligations of any participant to one or more other participants under any provision of this Participation Agreement or under any other Project Agreement, including for example and without limitation any obligation arising under Sections 8A.1.11, 21.1 through 21.6, 23.3, 23.5.2 hereof and Section K.2.9 of Appendix K to this Participation Agreement, which has not been satisfied prior to any termination of this Participation Agreement.

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Agreement shall survive and be fully enforceable against such participant after such termination; and

(d) upon any termination of this Participation Agreement the Participants shall be obligated to convey their respective interests in the fee to the land underlying the ANPP High Voltage Switchyard to the joint owners of such switchyard as tenants in common as their respective interests may appear upon the payment by the joint owners of the switchyard to the Participants of an amount equal to the then fair market value of such land exclusive of all improvements thereon and shall grant permanent easements for transmission line rights of way to the owners of the transmission lines which may be located on the Nuclear Plant Site and are connected to the ANPP High Voltage Switchyard upon the payment(s) by said owners to the Participants of an amount equal to 90% of the then fair market value of land, exclusive of all improvements, occupied by such rights of way.
“35.7.1 The Surviving Rights of each Participant shall include:

“35.7.1.1 The rights of such Participant under any Project Agreement that shall continue to be in force and effect after the termination of this Participation Agreement;

“35.7.1.2 The rights of such Participant to the unexpended balance of any contributions or deposits made by such participant to or in any Termination Fund(s) established for the payment of Termination Costs;

“35.7.1.3 The rights of such Participant in any unexpended balance of any fund or reserve established at any time by ANPP or the Participants for the payment of any liability or obligation pursuant to any Project Agreement or any insurance policy providing
Project Insurance or any ANPP self-insured arrangement which, as of the date of the termination of this Participation Agreement (“TPA Date”), is not due or payable, is the subject of a dispute, or is indeterminate or contingent, including without limitation (i) any liability or obligation arising from any litigation instituted or claims asserted or anticipated prior to the TPA Date against ANPP, any or all Participants, the Project Manager, Operating Agent or any Termination Agent with respect to any Construction Work, Operating Work, Capital Improvements or Termination Work, (ii) any contingent liability for workers’ compensation, employers’ liability, employees’ health, retirement or other benefits, (iii) any reserve or other funds held by any insurers on the TPA Date which under the terms of any insurance
policy are or may become subject to refund or otherwise payable to the Operating Agent, the Termination Agent or the Participants, including without limitation the portion of premiums paid to American Nuclear Insurers, Inc. under its Nuclear Liability Policy or Master Workers Policy that are refundable pursuant to its Industry Credit Rating Plan or Industry Retrospective Rating Plan, (iv) any reserves of Nuclear Mutual Limited, Nuclear Electric Insurance Limited or any other nuclear property insurer as may become payable to the Operating Agent, the Termination Agent or the Participants, and (v) proceeds paid or payable under any nuclear property insurance policy and held in trust or otherwise for reactor stabilization and decontamination or (vi) any liability for other claims of any nature as may be asserted subsequent to the TPA
Date against ANPP, any or all Participants, the Project Manager, Operating Agent or any Termination Agent; and

“35.7.1.4 The rights and interests of any Participant in any real, personal, tangible or intangible property or assets or rights therein of ANPP or all Participants, which is not distributed to the Participants on or before the TPA Date.

“35.7.2 The Surviving Obligations of each Participant shall include:

“35.7.2.1 The obligations of such Participant under any Project Agreement that shall continue to be in force and effect after the termination of this Participation Agreement;

“35.7.2.2 Such Participant's pro rata share, equal to its
Generation Entitlement Share, of any liability identified in Section 35.7.1.3 for which no fund or reserve is established on or prior to the TPA Date or which is in excess of any fund or reserve established on or prior to the TPA Date.

“35.8 Any Participant may assign any or all of its Surviving Rights to any party without the consent of the other Participants.”

5.37 Except as provided herein, the Participation Agreement, as amended by this Amendment No. 13, shall remain in full force and effect.

6. Execution by Counterparts:

6.1 This Amendment No. 13 may be executed in any number of counterparts, and upon execution by all Participants, each executed counterpart shall have the same force and effect as an original instrument and as if all Participants had signed the same instrument. Any signature page of this Amendment No. 13 may be detached from any counterpart of this Amendment No. 13 without impairing the legal
effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 13 identical in form hereto but having attached to it one or more signature pages.

7. Signature Clause:

7.1 The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 13 on behalf of the Party for whom they sign. This Amendment No. 13 is hereby executed as of the 22nd day of April, 1991.

ARIZONA PUBLIC SERVICE COMPANY

By

[Signature]

Its Executive Vice President, Nuclear

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

By

[Signature]

Its

-103-
effect of any signatures thereon, and may be attached to another counterpart of this Amendment No. 13 identical in form hereto but having attached to it one or more signature pages.

7. Signature Clause:

7.1 The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 13 on behalf of the Party for whom they sign. This Amendment No. 13 is hereby executed as of the ___ day of _______, 19___.

ARIZONA PUBLIC SERVICE COMPANY

By __________________________________________________________

Its _________________________________________________________

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

ATTEST AND COUNTERSIGN:

[Signature]

Its SECRETARY

By __________________________________________________________

Its PRESIDENT

APPROVED AS TO [ILLEGIBLE]

SALT RIVER PROJECT LAW DEPARTMENT

BY _________________________________________________________

DATE 10/23/90

-103-
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its Senior Vice President

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation in the State of California

ATTEST:

By

Its
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation in the State of California

ATTEST:

By

Its
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its Sr Vice President

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation in the State of California

ATTEST:

By

Its

1668c

-104-
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation in the State of California

ATTEST:

By

Its

1668c

-104-
SOUTHERN CALIFORNIA EDISON COMPANY

By

Its

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

Its

EL PASO ELECTRIC COMPANY

By

Its

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, doing business in the State of Arizona as SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION

ATTEST:

By

Its

DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES.

By

Its

1668c

-104-
STATE OF ARIZONA )
   ) SS.
County of Maricopa )

On this 22nd day of April, 1991, before me, the undersigned Notary Public, personally appeared William F. Conway who acknowledged himself to be the Exec. Vice President, Nuclear of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Exec. Vice President, Nuclear.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________
Notary Public

My Commission Expires:
My Commission Expires Oct. 18, 1994

---

STATE OF ARIZONA )
   ) SS.
County of Maricopa )

On this _______ day of ______, 1990, before me, the undersigned Notary Public, personally appeared ____________ who acknowledged himself to be the ____________ of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ____________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________
Notary Public

My Commission Expires:

---
STATE OF ARIZONA  
)  
) SS.
County of Maricopa  
)

On this ______ day of ______, 1990, before me, the undersigned Notary Public, personally appeared __________________ who acknowledged himself to be the __________________ of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such __________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

______________________________
Notary Public

My Commission Expires:

____________________________________

STATE OF ARIZONA  
)  
) SS.
County of Maricopa  
)

On this 24th day of October, 1990, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN who acknowledged himself to be the President of SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an Arizona agricultural improvement district, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

______________________________
Notary Public

My Commission Expires:
April 29, 1991
STATE OF CALIFORNIA  )  
)  SS.  
County of Los Angeles  )

On this 14 day of February, 1991, before me, the undersigned Notary Public, personally appeared Harold B. Ray who acknowledged himself to be the Sr. Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Sr. Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:
9-24-93

STATE OF NEW MEXICO  )  
)  SS.  
County of Bernalillo  )

On this ___ day of __________, 1990, before me, the undersigned Notary Public, personally appeared ______________ who acknowledged himself to be the __________________ of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ___________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

-106-
STATE OF CALIFORNIA

County of Los Angeles

On this ______ day of __________, 1990, before me, the undersigned Notary Public, personally appeared __________ who acknowledged himself to be the __________________ of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

STATE OF NEW MEXICO

County of Bernalillo

On this 11th day of December, 1990, before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] who acknowledged himself to be the Vice President of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

2-1-91

-106-
STATE OF TEXAS

County of El Paso

On this 20th day of September, 1990, before me, the undersigned Notary Public, personally appeared [ILLEGIBLE] who acknowledged himself to be the Sr. Vice President of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Sr. Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:
2-27-91

STATE OF CALIFORNIA

County of Los Angeles

On this ___ day of ______, 1990, before me, the undersigned Notary Public, personally appeared ________ who acknowledged himself to be the ________ of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:

-107-
STATE OF TEXAS  )
   )  SS.
County of El Paso  )

On this _____ day of ________, 1990, before me, the undersigned Notary Public, personally appeared __________ who acknowledged himself to be the __________ of EL PASO ELECTRIC COMPANY, a Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ______________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________________________
Notary Public

My Commission Expires:

__________________________________________
Notary Public

STATE OF CALIFORNIA  )
   )  SS.
County of Los Angeles )

On this 3rd day of October, 1990, before me, the undersigned Notary Public, personally appeared Gale A. Drews who acknowledged himself to be the President of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (doing business in the State of Arizona as SOUTHERN CALIFORNIA POWER AUTHORITY ASSOCIATION), a California joint powers agency, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

__________________________________________
Notary Public

My Commission Expires:

9-30-92

-107-
STATE OF CALIFORNIA

County of Los Angeles

On this 2nd day of October, 1990, before me, the undersigned Notary Public, personally appeared Eldon A. Cotton who acknowledged himself to be the Asst. Gen. Mgr. - Power of DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a department organized and existing under the Charter of the City of Los Angeles, a California municipal corporation, and that as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such ________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:
Nov. 18, 1992

1668c

-108-
AMENDMENT NO. 1

TO THE

ANPP HIGH VOLTAGE SWITCHYARD

PARTICIPATION AGREEMENT

EXECUTION COPY
November 20, 1986
PARTIES: The Parties to this Amendment No. 1 to the ANPP High Voltage Switchyard Participation Agreement (Amendment No. 1) are: ARIZONA PUBLIC SERVICE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Arizona”, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Salt River Project”, PUBLIC SERVICE COMPANY OF NEW MEXICO, a corporation organized and existing under and by virtue of the laws of the State of New Mexico, hereinafter referred to as “PNM”, EL PASO ELECTRIC COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Texas, hereinafter referred to as “El Paso”, SOUTHERN CALIFORNIA EDISON, a corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as “Edison”, SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a public entity organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as “Southern California Public Power Authority”. The Parties may be referred to individually as a “Party” and collectively as the “Parties”.
laws of the state of California, doing business in the State of Arizona as Southern California Public Power Authority Association, hereinafter referred to as “SCPPA”; and DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a municipal corporation of the State of California, hereinafter referred to as “LADWP”; hereinafter referred to singularly as “Participant” or collectively as “Participants”.

2. EFFECTIVE DATE: This Amendment No. 1 shall become effective when executed by all Participants.

3. RECITALS:

3.1 Pursuant to the Salt River Project - Authority/Palo Verde Nuclear Generating Station Assignment Agreement, by and between Salt River Project and SCPPA, dated August 14, 1981, and amended by Amendment No. 1 dated April 26, 1983, Salt River Project assigned and transferred to SCPPA an undivided 5.56% interest in the ANPP High Voltage Switchyard. SCPPA has accepted said assignment and transfer and has become, and assumed the rights and obligations of, a Participant in the ANPP High Voltage Switchyard to the extent of SCPPA’s interest therein. The Participants desire to amend the ANPP High Voltage Switchyard Participation Agreement to reflect Salt River Project’s assignment and transfer of an
3.2 Pursuant to the Salt River Project-Los Angeles Palo Verde Station Assignment Agreement, dated January 29, 1986, by and between Salt River Project and LADWP, on January 29, 1986, Salt River Project assigned and transferred to LADWP an undivided 5.7% interest in the generation side of the ANPP High Voltage Switchyard. LADWP has accepted said assignment and transfer and has become, and assumed the rights and obligations of, a Participant in the ANPP High Voltage Switchyard to the extent of LADWP’s interest therein. The Participants desire to amend the ANPP High Voltage Switchyard Participation Agreement to reflect Salt River Project’s assignment and transfer of an undivided 5.7% interest in the generation side of the ANPP High Voltage Switchyard to LADWP.

3.3 Arizona, Salt River Project, PNM and El Paso have executed Amendment No. 1 dated August 4, 1982 to the ANPP Valley Transmission System Participation Agreement which provides the terms and conditions for the ownership, construction, operation, maintenance and capital improvements associated with the second Palo Verde-Westwing 500kV transmission line. The Participants desire to
amend the ANPP High Voltage Switchyard Agreement to provide for the termination of the second Palo Verde-Westwing 500kV transmission line in Bay No. 3 of the ANPP High Voltage Switchyard.

4. AGREEMENT: The Participants agree that the ANPP High Voltage Switchyard Participation Agreement be and is hereby amended as follows:

4.1 Section 2.4 shall be deleted in its entirety and rewritten as “(reserved)”.

4.2 Section 4.4 shall be deleted in its entirety and a new Section 4.4 shall be added as follows:

“4.4 ANPP High Voltage Switchyard: Those facilities to be constructed and operated for the Participants herein, consisting generally of a breaker-and-a-half scheme comprising the termination facilities for the Transmission System, Edison’s Palo Verde-Devers 500kV transmission line, the start-up transformer high voltage leads, and the generator step-up transformer high voltage leads, including, but not limited to, the high voltage buses, structures, power circuit breakers, disconnect switches, control building, switchyard auxiliary and protection systems and fencing, all as more particularly described in Appendix A hereto, and sometimes referred to herein as the High Voltage Switchyard.”

- 4 -
4.3 Section 4.23 shall be deleted in its entirety and a new Section 4.23 shall be added as follows:

“4.23 Generation Entitlement Share: The percentage ownership interest of each Participant in ANPP Units 1, 2 and 3. Each Participant’s Generation Entitlement share is as follows:

<table>
<thead>
<tr>
<th>Participant</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>29.10%</td>
</tr>
<tr>
<td>Salt River Project</td>
<td>17.49%</td>
</tr>
<tr>
<td>PNM</td>
<td>10.20%</td>
</tr>
<tr>
<td>El Paso</td>
<td>15.80%</td>
</tr>
<tr>
<td>Edison</td>
<td>15.80%</td>
</tr>
<tr>
<td>SCPPA</td>
<td>5.91%</td>
</tr>
<tr>
<td>LADWP</td>
<td>5.70%</td>
</tr>
</tbody>
</table>

4.4 Section 4.32 shall be deleted in its entirety and rewritten as “(reserved)”.

4.5 Section 4.40 shall be deleted in its entirety and a new Section 4.40 shall be added as follows:

“4.40 Transmission System: The following transmission facilities, including associated land and land rights, as described in Appendix A of the ANPP Valley Transmission System Participation Agreement, to be constructed and operated by the Participants except Edison, SCPPA and LADWP: (i) the first Palo Verde-Westwing 500kV line; (ii) the second Palo Verde-Westwing 500kV line; (iii) the Palo Verde-Kyrene 500kV line; (iv) the Westwing...
500kV Switchyard expansion; (v) the Westwing 230kV Switchyard expansion; and (vi) the existing Kyrene 230kV Switchyard expansion and new Kyrene 230kV Switchyard.”

4.6 Section 4.42 shall be deleted in its entirety and new Section 4.42 shall be added as follows:

“4.42 Willful Action:

4.42.1 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom.

4.42.2 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its
governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default under any of the Project Agreements and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default or, if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default.

4.42.3 Action taken or not taken by a Participant (including the Operating Agent), at the direction of its directors, members of its governing bodies, officers or employees having management or administrative responsibility affecting its performance under any of the Project Agreements, which action is
knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under any of the Project Agreements.

4.42.4 The phrase ‘employees having management or administrative responsibility’ as used in this Section 4.42 means employees of a participant who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Participant’s performance under any of the Project Agreements; provided however, that, with respect to employees of the Operating Agent acting in its capacity as such and not in its capacity as a Participant, such phrase shall refer only to (i) the senior employee of the Operating Agent who is responsible for the operation of the High Voltage Switchyard and (ii) anyone in the organizational
structure of the Operating Agent between such senior employee and an officer.

4.42.5 Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.”

4.7 Section 6.1 shall be deleted in its entirety and a new section 6.1 shall be added as follows:

“6.1 Under normal operating conditions, each Participant shall have the firm right to use Capacity in the High Voltage Switchyard as follows:

6.1.1 To transmit its Generation Entitlement Share of ANPP Power and Energy, or to substitute said Power and Energy without regard to origin, source or ownership of such substituted Power and Energy, through the components of the High Voltage Switchyard; and

6.1.2 To transmit Power and Energy through the components of the High Voltage Switchyard up to an amount equal to such Participant’s transmission rights in the

- 9 -
4.8 Section 6.5 shall be deleted in its entirety and rewritten as “(reserved)”.  

4.9 Section 7.1.2 shall be deleted in its entirety and a new Section 7.1.2 shall be added as follows:

“7.1.2 It is the intent of the Participants except for Edison, SCPPA, and LADWP, that the representatives appointed to the Administrative, Engineering and Operating, and Auditing Committees established under this Section 7 shall also act as representatives to the Administrative, Engineering and Operating, and Auditing Committees established under the ANPP Valley Transmission System Participation Agreement. It is further intended by the Participants that any obligation or authority granted to said representatives under this Agreement shall only apply to this Agreement and that any obligation or authority granted to such representatives under said ANPP Valley Transmission
4.10 Section 13.3 shall be deleted in its entirety and a new Section 13.3 shall be added as follows:

“13.3 Upon execution of this Participation Agreement or any appropriate amendment hereto, all costs incurred prior to such execution by the Project Manager for Construction Work hereunder shall be reallocated among the Participants hereunder in proportion to the Participants’ Ownership Responsibility.”

4.11 Section 41.1 shall be deleted in its entirety and a new Section 41.1 shall be added as follows:

“41.1 Except as set forth in Section 41.2 hereof, any notice, demand or request provided for in this Participation Agreement or any other Project Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

- 11 -
Arizona Public Service Company  
c/o Secretary  
P. O. Box 53999  
Phoenix, Arizona 85072-3999

Salt River Project Agricultural Improvement and Power District  
c/o Secretary  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

Public Service Co. of New Mexico  
c/o Secretary  
Alvarado Square  
Albuquerque, New Mexico 87158

El Paso Electric Company  
c/o Secretary  
P. O. Box 982  
El Paso, Texas 79960

Southern California Edison  
c/o Secretary  
P. O. Box 800  
Rosemead, California 91770

Southern California Public Power Authority  
c/o Executive Director  
613 East Broadway, Room 300  
Glendale, California 91205

The Department of Water & Power of the City of Los Angeles  
c/o Assistant General Manager-Power  
P. O. Box 111  
Los Angeles, CA 90051
4.12 Appendix A shall be deleted in its entirety and a new Appendix A shall be attached:
APPENDIX A

DESCRIPTION OF ANPP HIGH VOLTAGE SWITCHYARD

The ANPP High Voltage Switchyard will be located adjacent to ANPP Generating Units 1, 2 and 3 and will be designed and constructed as a breaker-and-a-half bus scheme as shown on Page A-3 hereof. Terminations provided for in the ANPP High Voltage Switchyard include the following:

1. Westwing 500kV Transmission Line 1
2. Westwing 500kV Transmission Line 2
3. Unit #1 start-up transformer
4. Unit #1 generator step-up transformer
5. Kyrene 500kV Transmission Line
6. Unit #2 start-up transformer
7. Devers 500kV Transmission Line
8. Unit #2 generator step-up transformer
9. Unit #3 start-up transformer
10. Unit #3 generator step-up transformer

In addition to the ten items listed, termination space is available in bays 1, 7, and any future bays.

Common facilities for the ANPP High Voltage Switchyard will include, but will not be limited to, site preparation including grading and fill, fencing, grounding system, station lighting, auxiliary power system, trench and conduit,
control building facilities, oscillograph, supervisory and telemetering system and alarm system.

Each 500kV termination, 500kV power circuit breaker and 500kV bus will be provided with an appropriate protection system.

Space will be provided for series and shunt compensation on transmission lines requiring this type of equipment.
ANPP HIGH VOLTAGE SWITCHYARD

NOTE 1 - THE PALO VERDE - NORTH GILA 500KV AND FUTURE DEVERS #2 TRANSMISSION LINE TERMINATIONS ARE NOT PART OF THE ANPP HIGH VOLTAGE SWITCHYARD AGREEMENT

[ILLEGIBLE] NOTE 2 - INDICATES FACILITIES NOT YET CONSTRUCTED

LJ 5/6/85
Appendix B shall be deleted in its entirety and a new Appendix B shall be attached:
APPENDIX B

PARTICIPANTS PERCENTAGE

OWNERSHIP RESPONSIBILITY IN THE ANPP HIGH VOLTAGE SWITCHYARD

OWNERSHIP RESPONSIBILITY

<table>
<thead>
<tr>
<th></th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>27.41 %</td>
</tr>
<tr>
<td>Salt River Project</td>
<td>18.78 %</td>
</tr>
<tr>
<td>El Paso</td>
<td>14.86 %</td>
</tr>
<tr>
<td>PNM</td>
<td>9.60 %</td>
</tr>
<tr>
<td>Edison</td>
<td>20.72 %</td>
</tr>
<tr>
<td>SCPPA</td>
<td>5.56 %</td>
</tr>
<tr>
<td>LADWP</td>
<td>3.07 %</td>
</tr>
</tbody>
</table>

B-1
Appendix C shall be deleted in its entirety and a new Appendix C shall be attached:
APPENDIX C

CONSTRUCTION SCHEDULE

The construction of the ANPP High Voltage Switchyard will be scheduled so as to permit the 500kV terminations to be in-service as follows:

<table>
<thead>
<tr>
<th>Termination</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Westwing 500kV Transmission Line</td>
<td>08/15/81</td>
</tr>
<tr>
<td>Unit #1 start-up transformer</td>
<td>08/15/81</td>
</tr>
<tr>
<td>Unit #1 generator step-up transformer</td>
<td>04/30/82</td>
</tr>
<tr>
<td>Devers 500kV Transmission Line</td>
<td>05/01/82</td>
</tr>
<tr>
<td>Unit #2 start-up transformer</td>
<td>05/30/82</td>
</tr>
<tr>
<td>Kyrene 500kV Transmission Line</td>
<td>11/01/82</td>
</tr>
<tr>
<td>Unit #2 generator step-up transformer</td>
<td>01/01/84</td>
</tr>
<tr>
<td>Unit #3 start-up transformer</td>
<td>05/30/84</td>
</tr>
<tr>
<td>Unit #3 generator step-up transformer</td>
<td>09/01/85</td>
</tr>
<tr>
<td>Second Westwing 500kV Transmission Line</td>
<td>06/01/86</td>
</tr>
</tbody>
</table>
5. EXECUTION BY COUNTERPARTS: This Amendment No. 1 may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Amendment No. 1 may be detached from any counterpart of this Amendment No. 1 without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Amendment No. 1 identical in form hereto but having attached to it one or more signature pages.

6. FULL FORCE AND EFFECT: Except as provided herein, the ANPP High Voltage Switchyard Participation Agreement, as amended by this Amendment No. 1, shall remain in full force and effect.

7. SIGNATURE CLAUSE: The signatories hereto represent that they have been appropriately authorized to enter into this Amendment No. 1 to the ANPP High Voltage Switchyard participation Agreement on behalf of the Parties for whom they sign. This Amendment No. 1 is hereby executed as of the 20th day of November, 1986.
ATTEST AND COUNTERSIGN

By ________________________________  By ________________________________

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT

By ________________________________

SOUTHERN CALIFORNIA EDISON COMPANY

By ________________________________

PUBLIC SERVICE COMPANY OF NEW MEXICO

By ________________________________

EL PASO ELECTRIC COMPANY

By ________________________________

ATTEST

By ________________________________  By ________________________________

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY, DOING BUSINESS
IN THE STATE OF ARIZONA AS
SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY ASSOCIATION

By ________________________________  By ________________________________

ARIZONA PUBLIC SERVICE COMPANY

By ________________________________

DGS
ARIZONA PUBLIC SERVICE COMPANY

By

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT

By

SOUTHERN CALIFORNIA EDISON COMPANY

By

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

EL PASO ELECTRIC COMPANY

By

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY, DOING BUSINESS
IN THE STATE OF ARIZONA AS
SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY ASSOCIATION

By

By
ATTEST AND COUNTERSIGN

ARIZONA PUBLIC SERVICE COMPANY
By

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT
By

SOUTHERN CALIFORNIA EDISON COMPANY
By

PUBLIC SERVICE COMPANY OF NEW MEXICO
By

EL PASO ELECTRIC COMPANY
By

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, DOING BUSINESS IN THE STATE OF ARIZONA AS SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ASSOCIATION
By
ARIZONA PUBLIC SERVICE COMPANY

By

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SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT

By

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SOUTHERN CALIFORNIA EDISON COMPANY

By

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PUBLIC SERVICE COMPANY OF NEW MEXICO

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EL PASO ELECTRIC COMPANY

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SOUTHERN CALIFORNIA PUBLIC
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SOUTHERN CALIFORNIA PUBLIC POWER
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ATTEST AND COUNTERSIGN

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SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT

By

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SOUTHERN CALIFORNIA EDISON COMPANY

By

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PUBLIC SERVICE COMPANY OF NEW MEXICO

By

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EL PASO ELECTRIC COMPANY

By

______________________________

Vice President

ATTEST

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY, DOING BUSINESS
IN THE STATE OF ARIZONA AS
SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY ASSOCIATION

By

______________________________

By

______________________________
ARIZONA PUBLIC SERVICE COMPANY

ATTEST AND COUNTERSIGN

By

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT

By

SOUTHERN CALIFORNIA EDISON COMPANY

By

PUBLIC SERVICE COMPANY OF NEW MEXICO

By

EL PASO ELECTRIC COMPANY

By

ATTEST

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY, DOING BUSINESS
IN THE STATE OF ARIZONA AS
SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY ASSOCIATION

By

asst Secretary

By

President
DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES

By

CHARLES W. SULLIVAN
Assistant City Attorney
On this the 25th day of July, 1986, before me, the undersigned Notary Public, personally appeared Russell D. Hulse, who acknowledges himself to be the Vice President of ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

Notary Public

My Commission Expires:

My Commission Expires April 9, 1980
On this the 28th day of August, 1986, before me, the undersigned Notary Public, personally appeared JOHN R. LASSEN and PAUL D. LUKE who acknowledged themselves to be the PRESIDENT and SECRETARY of the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, an agricultural improvement district organized and existing under the laws of the State of Arizona, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such PRESIDENT and SECRETARY.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:
April 29, 1987

[Signature]
Notary Public
On this the 26th day of August, 1986, before me, the undersigned Notary Public personally appeared G. J. Bjorklund, who acknowledges himself to be the Vice President of SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:
August 19, 1987
On this the 18th day of August, 1986, before me, the undersigned Notary Public, personally appeared Jeffry Sterba who acknowledges himself to be the Vice President of PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself, as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

April 5, 1989
On this the 17th day of July, 1986, before me, the undersigned Notary Public, personally appeared James P. Maloney, who acknowledged himself to be the Vice President of EL PASO ELECTRIC COMPANY, A Texas corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: 7-3-89
On this the 20th day of Nov, 1986, before me, the undersigned Notary Public personally appeared Gale A. Drews and Frank Salas, who acknowledged themselves to be the President and asst. sec., of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a California corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by themselves as such President and asst. sec..

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

- 24 -
On this 29th day of October, 1986, before me, the undersigned Notary Public, personally appeared Eldon A. Cotton who acknowledged himself to be the Assistant Chief Engineer - Power of DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, a California municipal corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the company by himself as such Assistant Chief Engineer - Power.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

NOTARY PUBLIC

My Commission expires:
November 18, 1988
Subject: SWNMT LETTER AGREEMENT – AMENDMENT #6

Public Service Company of New Mexico (“PNM”), Texas-New Mexico Power Company (“TNMP”) and El Paso Electric Company (“EPE”) (herein Individually the “Party” and collectively the “Parties”) are parties to the Southwest New Mexico Transmission Project Participation Agreement “SWNMT Agreement”, dated April 11, 1977, and amended and supplemented at various times by the Parties. Section 10.0 of the SWNMT Agreement sets forth the terms and conditions under which the Parties may interconnect facilities and/or equipment with the Southwest New Mexico Transmission (“SWNMT”) Project.

This SWNMT Letter Agreement - Amendment #6 sets forth the terms and conditions under which the Parties agree to the interconnection of TNMP’s Hidalgo 345-115 kV autotransformer and associated equipment and agree to supplement the SWNMT Agreement.

Texas-New Mexico Power Company formally notified the Parties by letter dated March 5, 1993, of its plans to install a second 345-115 kV 200 MVA autotransformer at Hidalgo Substation. The facilities and particulars for the installation were identified in that letter. The letter specifically stated, “For the immediate future, this second autotransformer shall be considered a deenergized spare for TNMP’s existing Hidalgo 345-115 kV, 200 MVA autotransformer”. Additionally, the March 5, 1993 letter explained the location and rationale behind the proposed installation plans. The letter also indicated that in the future, the second autotransformer would be electrically interconnected on a continuous basis to the 345 kV bus in accordance with the original plans for expansion of the Hidalgo 345 kV Substation.

With the above being known, TNMP requests that the other Parties (PNM and EPE) approve interconnection of the second 345-115 kV, 200 MVA autotransformer in its final configuration (the “New Autotransformer”) at the Hidalgo 345 kV Substation. Such an interconnection will require the installation of one (1) 345 kV circuit breaker, two (2) 345 kV motor operated disconnects, and one (1) 345 kV circuit-switcher (collectively, the “Related Equipment”).

I. In connection with such approval, the Parties agree:

a) TNMP will be responsible for all design, construction and equipment costs for interconnecting the New Autotransformer, Installing the Related Equipment, moving of the phases of the existing strain bus, bus work, protective relaying and other necessary items directly associated with this project.

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER05-427-000, issued March 4, 2005.
b) TNMP will interconnect the New Autotransformer and Related Equipment to the SWNMT facilities in the manner displayed in the drawings attached to and incorporated into this Letter Agreement (refer to drawing numbers: Hidalgo 1, 2 and 3). TNMP shall submit its interconnection design plans to the SWNMT Project Coordinating Committee for review and approval prior to the interconnection to SWNMT.

c) i) The New Autotransformer shall be wholly owned by TNMP, shall not be part of the SWNMT, and shall be for the sole use of TNMP.

ii) TNMP shall be the sole owner of the Related Equipment and any other equipment installed by TNMP for the interconnection of the New Autotransformer, and such Related Equipment shall not be part of the SWNMT facilities. Notwithstanding the foregoing, the 345 kV circuit breaker and 345 kV motor operated disconnect shall be controlled by EPE acting in its role as Operating Agent of the SWNMT facilities. The 345 kV circuit-switcher will remain under the control of TNMP.

iii) TNMP shall be responsible for the cost of operating and maintaining the equipment associated with this interconnection.

iv) TNMP shall be responsible for the cost of installing sufficient equipment such that the line flows (MW and MVAR) over the New Autotransformer will be sent to EPE’s Energy Management System (EMS) for SCADA purposes. The above line flows will be made available to PNM at the Luna Substation.

v) TNMP shall be responsible for the cost of installing sufficient equipment such that operating status indications for the 345 kV circuit breaker and 345 kV motor operated disconnect for SCADA purposes and operating status indication for the 345 kV circuit-switcher for SCADA and control purposes will be sent to EPE’s EMS. The above operating status indications will be made available to PNM at the Luna Substation.

II. In consideration of the Parties granting the interconnection of the New Autotransformer to the SWNMT facilities as proposed, TNMP hereby agrees to the following:

a) TNMP shall cooperate with EPE in performance of EPE’s responsibilities as Operating Agent and with EPE and PNM as SWNMT participants to minimize the potential for unforeseen difficulties resulting from TNMP’s planned interconnection to the SWNMT facilities.
b) The installation of the New Autotransformer and Related Equipment will not (i) increase TNMP’s firm transmission rights into the Southern New Mexico Transmission system above the firm transmission rights of 110 MW as delineated in Amendment #5 of the SWNMT Agreement, or (ii) in any way limit TNMP from pursuing additional transmission rights in the event such transmission rights become available on the SWNMT Project at a future date pursuant to the SWNMT Agreement.

c) Metering shall be at the 115 kV level and such metered amounts will be adjusted as appropriate to account for losses in the New Autotransformer.

d) TNMP shall ensure that with the interconnection of the proposed facilities, the two future positions planned for terminations of the Greenlee-Hidalgo-Luna 345 kV #2 line as part of the SWNMT shall not be compromised.

e) TNMP will make available, at its cost, two communication channels for the Greenlee-Hidalgo-Luna 345 kV #2 line when the line is constructed.

f) TNMP will provide first response activities regarding SWNMT facilities in the Hidalgo Switchyard.

g) TNMP will perform the routine inspections and maintenance for the SWNMT facilities at Hidalgo Substation, with the exception of the relaying and communication facilities. Records of these activities shall be kept in accordance with the requirements of EPE as Operating Agent.

III. In the event of a conflict between this Amendment #6 and the SWNMT Agreement, as amended in Amendments #1 through #5, the provisions of this Amendment #6 shall control. The remaining terms and conditions of the SWNMT Agreement, as amended in Amendments #1 through #5, shall remain in full force and effect, as if fully set forth in this letter.

If the foregoing terms and conditions are acceptable to the Parties, please so indicate by signing this Letter Agreement and returning one original to TNMP.

Texas-New Mexico Power Company

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: June 17, 1999
Accepted and agreed to this 17th day of June, 1999.

[Signature]

Public Service Company of New Mexico

[Signature]

El Paso Electric Company

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: June 17, 1999
El Paso Electric Company
Rate Schedule FERC No. 78

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: June 17, 1999
El Paso Electric Company
Rate Schedule FERC No. 78

Issued by: John A. Whitacre, Vice President, Transmission and Distribution
Issued on: April 1, 2005
Filed to comply with order of the Federal Energy Regulatory Commission,
Docket No. ER05-427-000, issued March 4, 2005.

Effective: June 17, 1999
El Paso Electric Company
Computation of Ratios of Earnings to Fixed Charges
(Dollars in Thousands)

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td><strong>Earnings from Continuing Operations (a)</strong></td>
<td>$149,265</td>
<td>$150,686</td>
<td>$116,813</td>
<td>$132,516</td>
<td>$132,238</td>
</tr>
<tr>
<td><strong>Fixed Charges (b)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest charges</td>
<td>75,358</td>
<td>72,847</td>
<td>67,164</td>
<td>60,278</td>
<td>59,066</td>
</tr>
<tr>
<td>Interest portion of rent expense</td>
<td>443</td>
<td>607</td>
<td>857</td>
<td>829</td>
<td>823</td>
</tr>
<tr>
<td><strong>Total Fixed Charges</strong></td>
<td>75,801</td>
<td>73,454</td>
<td>68,021</td>
<td>61,107</td>
<td>59,889</td>
</tr>
<tr>
<td><strong>Capitalized Interest</strong></td>
<td>(11,022)</td>
<td>(16,996)</td>
<td>(22,544)</td>
<td>(28,122)</td>
<td>(21,362)</td>
</tr>
<tr>
<td><strong>Earnings (c)</strong></td>
<td>$214,044</td>
<td>$207,144</td>
<td>$162,290</td>
<td>$165,501</td>
<td>$170,765</td>
</tr>
<tr>
<td><strong>Ratio of Earnings to Fixed Charges</strong></td>
<td>2.8</td>
<td>2.8</td>
<td>2.4</td>
<td>2.7</td>
<td>2.9</td>
</tr>
</tbody>
</table>

(a) Earnings from continuing operations consist of income from continuing operations before income taxes, extraordinary item and cumulative effects of accounting changes.
(b) Fixed charges consist of all interest on indebtedness, amortization of debt discount and expense and the estimated portion of rental expense that represents an interest factor.
(c) Earnings consist of earnings from continuing operations and fixed charges less AFUDC and capitalized interest.
Consent of Independent Registered Public Accounting Firm

The Shareholders and Board of Directors
El Paso Electric Company:

We consent to the incorporation by reference in the registration statements on Form S-8 (Nos. 333-196628 and 333-142557) and on Form S-3 (No. 333-220642) of El Paso Electric Company of our report dated February 28, 2018, with respect to the balance sheets of El Paso Electric Company as of December 31, 2017 and 2016, and the related statements of operations, comprehensive operations, changes in common stock equity, and cash flows for each of the years in the three-year period ended December 31, 2017, and the related notes, (collectively, the financial statements), and the effectiveness of internal control over financial reporting as of December 31, 2017, which report appears in the December 31, 2017 annual report on Form 10-K of El Paso Electric Company.

/s/ KPMG LLP

Houston, Texas
February 28, 2018
EL PASO ELECTRIC COMPANY
CERTIFICATE OF RESOLUTION

I, Jessica Goldman, Corporate Secretary of El Paso Electric Company, a Texas corporation (the “Company”), do hereby certify that attached hereto is a true, correct and complete copy of the resolution authorizing signatures pursuant to a Power of Attorney for the 2017 Annual Report on Form 10-K, duly adopted by the Board of Directors of the Company at a meeting of said Board duly convened and held on February 1, 2018.

IN WITNESS THEREOF, I have hereunto set my hand and have affixed the seal of the Company this 16th day of February 2018.

/s/ JESSICA GOLDMAN
Jessica Goldman
Corporate Secretary

(Corporate Seal)
RESOLVED, that Mary E. Kipp, Nathan T. Hirschi, Adrian J. Rodriguez and Russell G. Gibson are hereby duly appointed the Company’s, and its Officers’ and Directors’, true and lawful attorneys-in-fact and agents, for their place and stead, in any and all capacities, with full power to act alone, to sign the Company’s 2017 Annual Report on Form 10-K, and in any and all amendments thereto, and to file such 2017 Annual Report on Form 10-K and each such amendment, with all exhibits thereto, and any and all documents in connection therewith, with the Securities and Exchange Commission, hereby granting unto each of the said attorneys-in-fact and agents, full power and authority to do and perform any and all acts and things requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof.
CERTIFICATIONS

I, Mary E. Kipp, certify that:

1. I have reviewed this annual report on Form 10-K of El Paso Electric Company (the "Company");

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;

4. The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the Company's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

5. The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: February 28, 2018

EL PASO ELECTRIC COMPANY

By: /s/ Mary E. Kipp

Mary E. Kipp
President and Chief Executive Officer
(Principal Executive Officer)
I, Nathan T. Hirschi, certify that:

1. I have reviewed this annual report on Form 10-K of El Paso Electric Company (the "Company"): 

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report; 

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report; 

4. The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared; 
   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles; 
   c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and 
   d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the Company's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and 

5. The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and 
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: February 28, 2018

EL PASO ELECTRIC COMPANY

By: /s/ Nathan T. Hirschi

Nathan T. Hirschi
Senior Vice President -
Chief Financial Officer
(Principal Financial Officer)
The certification set forth below is being submitted in connection with the Annual Report on Form 10-K for the fiscal year ended December 31, 2017 (the "Report") of El Paso Electric Company (the "Company") for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code.

Mary E. Kipp and Nathan T. Hirschi, each certifies that, to the best of their knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Mary E. Kipp  
Mary E. Kipp  
President and Chief Executive Officer

/s/ Nathan T. Hirschi  
Nathan T. Hirschi  
Senior Vice President -  
Chief Financial Officer
AGREED ORDER

In open meeting at its offices in Austin, Texas, on August 30, 1995, the Public Utility Commission of Texas ("Commission") finds that this docket was processed by the Presiding Officers and Commission in accordance with applicable statutes and Commission rules. On July 27, 1995, El Paso Electric Company ("Company") and the City of El Paso ("City") executed a Stipulation and Settlement Agreement ("Stipulation") contemplating an increase in rates for the Company's Texas service territory. The Stipulation also has been signed by: the Commission General Counsel, the Office of Public Utility Counsel ("OPC"), the State of Texas ("State"), ASARCO Incorporated ("ASARCO"), Phelps-Dodge Refining Corporation ("Phelps-Dodge"), Border Steel Rolling Mills, Inc. and El Paso Iron & Metal Company ("Border Steel"), the Department of Defense ("DOD"), and the International Brotherhood of Electrical Workers ("IBEW") (collectively "Signatories"). Consistent with the Stipulation, the Commission issues the following order:

1. Pursuant to P.U.C. PROC. R § 22.263, this Order SHALL become effective on the date that a Company plan of reorganization consistent with the terms of the Stipulation becomes effective. Provided that the City has not given notice to the Commission that the plan of reorganization is inconsistent with the Stipulation, upon written notification by the Company that the plan has become effective, the Commission will, pursuant to Gov’t Code § 2001.142(b), send a copy of this Order and the Company's notice to the service list by first class mail. The notice provisions of this ordering paragraph shall be the sole mechanism for complying with Gov’t Code § 2001.142. Pursuant to Gov’t Code § 2001.146, motions for rehearing, if any, must be filed no later than the 20th day following such notification. If a plan
of reorganization consistent with the terms of the Stipulation does not become effective or the Stipulation becomes null and void, then this Order and the two prior interim rate orders entered in this docket SHALL BE be null and void, except for Ordering Paragraph 10 of the Second Interim Order; provided, however, the Company may continue to charge the rates approved in this Order on an interim basis until such time as the Commission orders otherwise. The Commission specifically retains jurisdiction over this docket until such time as this Order becomes final and non-appealable or all motions for rehearing have been overruled. The Company has agreed, and the Commission hereby ORDERS, that each working day between the date of this order and the date this order becomes final SHALL BE considered a day of hearing pursuant to the provisions of the Public Utility Regulatory Act of 1995, S.B. 319, 74th Leg., R S. 1995 ("PURA") § 2.212(d) (formerly § 43(d)).

2. The Commission hereby APPROVES those portions of the Stipulation which address the regulation and supervision of the business of the Company consistent with the jurisdiction granted by PURA § 1.101(a), and ADOPTS this Order setting rates which are consistent with the Stipulation.

3. Because the Company's proposed merger with Central and South West Corporation ("CSW") under the Third Amended Plan of Reorganization has been terminated, the Commission hereby DISMISSES the application filed by the Company and CSW for a determination under PURA § 1.251 (formerly PURA § 63) that the acquisition of the common stock of the Company by CSW is in the public interest.

4. The Company SHALL receive a $24.946 million annual base rate increase in this docket, applicable in all portions of the Company's service area over which the Commission has original or appellate jurisdiction. The distribution of the rate increase agreed to in the Stipulation is reasonable. The tariffs currently on file that became effective on an interim basis on August 3, 1995 are APPROVED.
5. The Company SHALL retain all base rate revenues collected under its bonded and interim rates, with no refunds or surcharges, and upon the effective date of this Order the Company shall be released from its obligations under any bond supporting such bonded and interim rates.

6. The Commission ACKNOWLEDGES that the Stipulation provides that the Company's Texas base rates will be maintained at the levels ordered in this docket during the ten-year period beginning August 2, 1995 (the "Freeze Period") subject to certain limited exceptions provided therein. The ten-year rate freeze agreed to in the Stipulation is unopposed, it is the product of negotiation between the Company and a broad cross-section of its customers, and it is reflective of the relative value to all the parties of the benefits obtained through settlement negotiations.

7. The rate moderation plan ("RMP") established in Docket No. 7460 is TERMINATED effective June 30, 1993, and the balance of RMP deferrals in the sum of $68,070,000, less related ADFIT, as of that date is placed in rate base as of June 30, 1993, and SHALL be fully amortized by the end of the Freeze Period, so that there is no balance to be included in rates that may be effective after August 1, 2005. There SHALL be no additional Mirror CWIP approved, utilized or amortized for purposes of amortizing the RMP deferrals.

8. Deferred carrying charges and deferred lease payments are ELIMINATED from the accounting deferrals for Palo Verde Unit 3, resulting in a balance of $4,308,000 of Unit 3 accounting deferrals, less $1,457,000 of related ADFIT, as of June 30, 1993, which will be placed in rate base as of June 30, 1993, and SHALL be fully amortized by the end of the Freeze Period. The Company shall recover all remaining Palo Verde Unit 1 and 2 accounting deferrals, subject to the rate freeze limitations under the Stipulation, with the unamortized balance ($83,312,000, less related ADFIT, as of June 30, 1993) in rate base fully amortized by the end of the Freeze Period, so that all Palo Verde accounting deferrals are ELIMINATED.
from the Company's books at the end of the Freeze Period and there SHALL be no balance to be included in rates that may be effective after August 1, 2005. ADFIT associated with disallowed Unit 3 deferrals SHALL NOT be included as an offset to rate base.

9. The application of the Company for a determination that the reacquisition of the leased portions of the Palo Verde assets is consistent with the public interest pursuant to PURA § 1.251 (formerly § 63) is APPROVED. Except as provided in Paragraph 13, the reacquired leased Palo Verde assets SHALL be included in rate base at their original cost, less accumulated depreciation, as reflected in Schedule A attached to this Order.

10. Palo Verde Unit 3 is deemed to be 100% used and useful in providing service to the public.

11. It is hereby ORDERED that, except as provided in paragraphs 12 and 13 below, during the Freeze Period the rate base recognized in Schedule A shall be used as the initial basis for purposes of any cost of service analysis for the Company, including any PURA § 2.211 rate inquiry (or its equivalent) or earnings monitoring evaluation.

12. It is hereby ORDERED, that in any proceeding brought by the General Counsel, OPC or the State of Texas during the Freeze Period, pursuant to PURA § 2.211 (formerly § 42) or its equivalent, the Company's rate base SHALL include, in addition to the assets recognized in Schedule A to this Order: (1) Palo Verde Unit 3 accounting deferrals in the amount of $66,654,000, as of June 30, 1993 and (2) additional Docket No. 7460 RMP deferrals (which would have accrued but for termination of the RMP as of June 30, 1993) in the amount of $25,041,000 for the period of July 1, 1993, through December 31, 1994.

13. It is hereby ORDERED that should the Company, its successors or assigns, contrary to the terms of the Stipulation, file for a rate increase effective on a date within the Freeze Period,
then the previously leased Palo Verde assets SHALL be assigned the values recognized in Schedule B of this Order for purposes of any such proceeding.

14. It is hereby ORDERED that in any proceeding brought under PURA §§ 2.211 or 2.212 (formerly §§ 42 or 43) or its equivalent, for an effective date of the proposed change on or after August 2, 2005 but before August 2, 2006, the Company's tariff or tariffs SHALL be designed to collect $17 million less in base revenues ("Exclusion Factor") than the otherwise authorized revenue requirement. The Exclusion Factor in such a proceeding for an effective date of the proposed change on or after August 2, 2006 but before August 2, 2007 SHALL be $8 million. For rates with an effective date of the proposed change after August 1, 2007 the Exclusion Factor SHALL be zero. The Exclusion Factor SHALL NOT be considered for financial integrity analysis or cash flow analysis in any proceeding before a Texas regulatory authority.

15. In the event the Company sells, transfers, leases or assigns any operating asset for a value of $10,000,000 or more during the Freeze Period, it is hereby ORDERED that the Texas jurisdictional share of the net gain on such sale SHALL be paid to ratepayers as a credit to the base rates notwithstanding the rate freeze over what would have been the remaining life of the asset, unless the City and Company otherwise agree and the Commission approves an alternate treatment. It is further ORDERED that ratepayers SHALL be credited with a return on the unamortized portion of such gain at the Company's last approved rate of return.

16. The Commission ACKNOWLEDGES the Stipulation provides that the Company will file tariffs to implement the discount required by Senate Bill 373, Public Utility Regulatory Act of 1995, S.B. 319, as amended by S.B. 373, § 2.2141, 74th Leg. RS. 1995. Nothing in this Order prevents such tariffs from becoming effective on October 1, 1995 and remaining effective thereafter consistent with the Stipulation and subject to the right of the State or the Company to seek to adjust base rates on account of a change in such law.
17. The performance standards for the Company detailed in Docket No. 8892 with respect to Palo Verde SHALL be used as the mechanism for any future assessments of Palo Verde Units 1, 2 and 3 operations and performance; provided, however, during the Freeze Period under the Stipulation (i) Palo Verde rate base SHALL NOT be reduced on account of performance or operations, unless the capacity factor, as measured on a station basis for any consecutive 24 month period, shall fall below 35% and (ii) penalties and rewards for all three Units SHALL be reported and evaluated on a calendar year basis using the three-year rolling average dictated by Docket No. 8892. The first such reporting period shall run from January 1, 1993 to December 31, 1995. Any penalties or rewards accruing under the performance standards SHALL be incorporated in the Company's fuel reconciliation proceedings during the Freeze Period.

18. The amounts of Palo Verde decommissioning expense allowed on an annual basis in the Company's cost of service SHALL be those described in Schedule C to this Order. Such amounts shall be adjusted in any future rate proceeding or earnings monitoring evaluation as necessary to reflect the cost estimate of the most recent official decommissioning study prepared for the Palo Verde participants and to enable the Company to secure an exemption pursuant to section 468A of the Internal Revenue Code from federal income tax liability in connection with its nuclear decommissioning trust. The Company's decommissioning expense shall be recognized as reasonable and necessary in any rate proceeding or earnings monitoring evaluation initiated during the Freeze Period.

19. There SHALL be no surcharge of rate case expenses associated with this docket or any previous doockets, including any amounts paid to the City as reimbursement of the City's expenses. The Company SHALL NOT recover from Texas retail ratepayers any bankruptcy reorganization costs arising from Case No. 92-10148-FM.
20. Any recovery from the Company's pending lawsuit No. 95-7153, or causes of action that accrued to the Company as a result of the failure of its proposed merger or arising out of the Company's bankruptcy, shall be **RETAINED** by the Company and not passed through to ratepayers. Any costs incurred by the Company in connection with such litigation **SHALL NOT** be considered reasonable and necessary operating expenses for ratemaking purposes in accordance with PURA § 2.203(a) (formerly § 39(a)). Any liabilities incurred by the Company in connection with such litigation **SHALL** be borne by the Company and **SHALL NOT** be recovered from ratepayers.

21. The Commission **ACKNOWLEDGES** the joint stipulation entered into by the Company and the General Counsel to resolve issues related to the Company's Demand Side Management ("DSM") and Energy Efficiency Plan ("EEP"). Consistent with the joint stipulation, the Company **SHALL** make the following filings in Project No. 13750, *Compliance with Docket No. 12700 DSM/EEP Joint Stipulation*:

   a. Within nine months of this Order becoming effective, the Company shall furnish the Commission Staff and the City a report or manual which demonstrates the savings maintenance or savings persistence of its DSM programs for those customers receiving demand-related savings.

   b. The Company shall furnish to the Staff and the City copies of all program designs and procedures as they are adopted and/or implemented by the Company.

   c. Within 12 months of this Order becoming effective, the Company shall provide to the Staff and the City its evaluation of an Energy Efficient Electric Appliance Incentive Program for residential and small commercial customers located in residential-type buildings.

   d. The Company's residential audit program follow-up procedure is appropriate and necessary and should be continued in its current form.

   e. An informal approach of providing the Commission Staff with copies of the Company's program design and implementation is appropriate and effective. The Company will continue to send the Staff copies of all program designs and procedures as they are adopted and/or implemented. No prior approval is requested or required by
this procedure but is intended to provide the Commission Staff with appropriate updated information with respect to the Company's programs on an ongoing basis.

f. Based upon EPEC's demonstrated substantial compliance related to its DSM and EEP programs and the agreements contained in the Joint Stipulation, the parties agree that all requirements of previous final orders have been met. The General Counsel agrees that the Staff will evaluate the Company's DSM or EEP program in the future based on the merits of the program and agreements contained in the Joint Stipulation and not in any way based on EPEC's actions prior to the entry of a final order in this docket.

g. To the extent that any testimony filed by a party hereto is inconsistent with the terms the parties' Joint Stipulation, the Joint Stipulation will supersede the inconsistent testimony.

22. The Company SHALL make monthly payments to the decommissioning funds for Palo Verde Units 1, 2, and 3 as prescribed by P.U.C. SUBST. R 23.21(b)(1)(F) and 23.59.

23. The Company SHALL comply with the directives set forth below:

a. If any person should initiate a rate proceeding during the Freeze Period that affects Rate 30 or Rate 27, the Company SHALL provide direct cost support for Rate 30 and Rate 27.

b. Within 18 months after the implementation date of its Low Income Rider program under Rate 01, the Company SHALL demonstrate the actual participation rate and file a report in Project No. 13774, Reconciliation of Number of Participants in El Paso Electric Company's Low Income Rider Program, which SHALL be provided to General Counsel, OPC and the City. This reconciliation shall compare the 50 percent estimation to actual participation levels and the revenue difference, if any.

c. In its next rate case, the Company SHALL file testimony concerning the participation rate for its Experimental Off-Peak Rider under Rate 24.

d. The Company SHALL continue its monitoring of Rate 41 school customers to assess the impact of year round schools. The Company SHALL also assess the impact of including non-public schools in Rate 41. The Company SHALL file the results in the first rate case after the Freeze Period. In that filing, the Company also SHALL present testimony redesigning the applicability clause of Rate 41 to reflect the removal of non-
school customers. The Company is not limited in its right to present testimony and may file testimony supporting other alternatives or proposed changes in its Rate 41 rate design. To the extent any City of El Paso or El Paso County account, which was not in Rate 41 at the time of the Commission's Order in Docket No. 9945, receives service under Rate Class 41, the Commission hereby ORDERS that all state accounts become eligible for Rate 41.

24. The Commission hereby ADOPTS and INCORPORATES by reference in this Order the findings of fact and conclusions of law attached to this Order as Attachment 1. All motions, applications, and requests for entry of specific findings of fact and conclusions of law and other requests for relief, both general and specific, that are not expressly granted herein are hereby DENIED. No rights, liabilities or obligations SHALL arise under this Agreed Order until it becomes effective according to paragraph 1. Pending the effective date of this Agreed Order, the Company SHALL continue to comply with paragraph 33 of the Commission's Interim Order, Severance Order and Order of Remand signed March 3, 1995 (the "First Interim Order"). On the effective date of this Order, this Order shall SUPERSEDE the Commission's First Interim Order and the Second Interim Order signed August 2, 1995, except for paragraph 35 of the First Interim Order, which severs from this docket issues relating to the Company's fuel factor and fuel reconciliation. If a Company plan of reorganization consistent with the terms of this Order does not become effective, then it is expressly agreed and stipulated by the parties, and the Commission hereby ORDERS that, unless adopted in a subsequent final order,
no part of any prior interim order or this Order, including the attached findings of fact and conclusions of law, shall have any collateral estoppel, res judicata, or other preclusive effect in any administrative or judicial proceedings.

SIGNED AT AUSTIN, TEXAS the 30th day of August 1995.

PUBLIC UTILITY COMMISSION OF TEXAS

/s/ Pat Wood III
PAT WOOD, III, Chairman

/s/ Robert W. Gee
ROBERT W. GEE, Commissioner

/s/ Judy Walsh
JUDY WALSH, Commissioner

ATTEST:

/s/ Paula Mueller
PAULA MUELLER
SECRETARY OF THE COMMISSION
Agreed to and accepted by:

**EL PASO ELECTRIC COMPANY**

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**PHELPS DODGE REFINING CORPORATION & CHEVRON U.S.A., INC.**

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**PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL**

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**BORDER STEEL ROLLING MILLS, INC. AND EL PASO IRON & METAL COMPANY**

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The execution of this Agreed Order by Border Steel Rolling Mills, Inc. and El Paso Iron & Metal Company is subject to the approval of the U.S. Bankruptcy Court for the Western District of Texas, El Paso Division.

**OFFICE OF PUBLIC UTILITY COUNSEL**

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**CITY OF EL PASO**

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**DEPARTMENT OF DEFENSE**

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**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS**

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EL PASO ELECTRIC COMPANY

By: __________________________________________
Name: _______________________________________
Title: ________________________________________

PHELPS DODGE REFINING CORPORATION & CHEVRON U.S.A., INC.

By: __________________________________________
Name: _______________________________________
Title: ________________________________________

PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL

By: /s/ Charles E. Johnson
Name: Charles E. Johnson
Title: Assistant General Counsel

BORDER STEEL ROLLING MILLS, INC. AND EL PASO IRON & METAL COMPANY

By: __________________________________________
Name: _______________________________________
Title: ________________________________________

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OFFICE OF PUBLIC UTILITY COUNSEL

By: /s/ Marion T. Drew
Name: Marion T. Drew
Title: Asst. Public Counsel

CITY OF EL PASO

By: __________________________________________
Name: _______________________________________
Title: ________________________________________

DEPARTMENT OF DEFENSE

By: __________________________________________
Name: _______________________________________
Title: ________________________________________

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

By: /s/ J. Alan Holman
Name: Attorney-of-Record
Title: J. Alan Holman

STATE OF TEXAS

By: __________________________________________
Name: _______________________________________
Title: ________________________________________
Agreed to and accepted by:

**EL PASO ELECTRIC COMPANY**

By: 
Name: 
Title: 

**PHELPS DODGE REFINING CORPORATION & CHEVRON U.S.A., INC.**

By: 
Name: 
Title: 

**PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL**

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**OFFICE OF PUBLIC UTILITY COUNSEL**

By: 
Name: 
Title: 

**DEPARTMENT OF DEFENSE**

By: /s/ David A. McCormick 
Name: David A. McCormick 
Title: General Attorney 

**CITY OF EL PASO**

By: 
Name: 
Title: 

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS**

By: 
Name: 
Title: 

**STATE OF TEXAS**

By: 
Name: 
Title: 

**ASARCO INCORPORATED**

By: 
Name: 
Title: 

**STATE OF TEXAS**

By: 
Name: 
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By: ________________________________
Name: ______________________________
Title: ______________________________

**STATE OF TEXAS**

By: /s/ Richard A. Muscat
Name: Richard A. Muscat
Title: Assistant Attorney General
Agreed to and accepted by:

**EL PASO ELECTRIC COMPANY**

By: ____________________________
Name: __________________________
Title: __________________________

**PHELPS DODGE REFINING CORPORATION & CHEVRON U.S.A., INC.**

By: /s/ [ILLEGIBLE]
Name: __________________________
Title: __________________________

**PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL**

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Title: __________________________

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Name: __________________________
Title: __________________________

**DEPARTMENT OF DEFENSE**

By: /s/ David A. McCormick
Name: David A. McCormick
Title: General Attorney

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Name: __________________________
Title: __________________________

**PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL**

By: /s/ Charles E. Johnson
Name: Charles E. Johnson
Title: Assistant General Counsel

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By: /s/ Marion T. Drew
Name: Marion T. Drew
Title: Asst. Public Counsel

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Name: __________________________
Title: __________________________

**CITY OF EL PASO**

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Name: __________________________
Title: __________________________

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS**

By: /s/ J. Alan Holman
Name: Attorney-of-Record
Title: J. Alan Holman

**STATE OF TEXAS**

By: __________________________
Name: __________________________
Title: __________________________
Findings of Fact

Introduction and Procedural Matters

1. On January 10, 1994, Central and South West Corporation ("CSW") and El Paso Electric Company (the "Company") jointly referred to as "Applicants") filed two applications under PURA § 1.251 (formerly § 63) requesting that the Commission find their proposed reacquisition of the previously leased Palo Verde assets to be in the public interest and that the proposed acquisition of 100 percent of the Company's stock by CSW to be in the public interest.

2. On the same date, the Applicants filed an application under PURA § 2.212 (formerly § 43) seeking a base rate increase for the Company and implementation of certain regulatory, ratemaking, and accounting treatments to satisfy conditions to the effectiveness of the merger.

3. The hearing on the merits was convened on April 20, 1994, and was finally recessed, but not adjourned, on November 1, 1994.

4. The Applicants published notice of the requested rate increase in English and Spanish once a week for four consecutive weeks in newspapers of general circulation in El Paso, Culberson, and Hudspeth Counties in Texas, the three counties in which the Company provides electric service. Applicants also provided individual notice by mail to all affected utility customers, and provided notice to the county judges of the three affected counties and to all affected municipalities.

Stipulation and Settlement Agreement

6. On July 27, 1995, the Company and the City executed a Stipulation and Settlement Agreement ("Stipulation") contemplating an increase in rates for the Company. A copy of the Stipulation is attached as Schedule D hereto. The Stipulation was admitted into evidence at the Commission's final order meeting on August 2, 1995.

7. All parties to this docket that participated in matters resolved by the Agreed Order, except Chevron U.S.A., Inc., have signed the Stipulation or withdrawn as parties. No party to this docket opposes the Stipulation.

8. The record developed in this case, as well as the intensive negotiations that preceded the Stipulation, the careful scrutiny of the rates resulting from the Stipulation by all parties, including General Counsel, the OPC and the City, and the fact that the Order contemplated by the Stipulation is acceptable to the Company and a diverse group of ratepayers who represent the entire spectrum of the Company's customers, combine to demonstrate that this Order, setting rates consistent with the Stipulation, results in just and reasonable rates. Furthermore, the adoption of rates consistent with the Stipulation serves the public interest in that it promotes the adequate and efficient provision of service, is in accordance with applicable law, conserves resources, avoids the uncertainties inherent in future litigation and reduces rate case expenses now and in the future.

9. The Commission signed on August 2, 1995 a Second Interim Order that approved interim rates for the Company consistent with the Stipulation.

The Company's Bankruptcy

Description of the Company

11. The Company is an investor-owned electric utility engaged in the generation, transmission and distribution of electricity to retail customers in the states of Texas and New Mexico, wholesale customers (other utilities), and to the national utility of the Republic of Mexico (the "Comisión Federal de Electricidad" or "CFE").

12. The Company owns or has an interest in 1,497 MW of installed generation capacity, including 600 MW of nuclear capacity, 793 MW of gas capacity, and 104 MW of coal capacity. The Palo Verde Nuclear Generating Station ("Palo Verde") consists of three 1,270 MW nuclear units that have total capability of 3,810 MW. The Company owns or leases 15.8 percent of Palo Verde which represents approximately a 200 MW share of each unit, or 600 MW total.

13. The Company's three major FERC jurisdictional wholesale customers are Imperial Irrigation District ("IID"), Texas-New Mexico Power Co. ("TNP") and Rio Grande Electric Cooperative, Inc. ("RGEC").

Reacquisition of the Leased Palo Verde Assets

14. In 1986 and 1987, the Company entered into sale and leaseback transactions involving 100 percent of its 15.8 percent interest in Palo Verde Unit 2 and 39.5 percent of its 15.8 percent interest in Palo Verde Unit 3.

15. Applying the PURA § 2.206 (formerly § 41(a)) standard, the reasonable rate base value of the reacquired Palo Verde plant is the prudent original cost of $718,944,000 less depreciation of $141,452,000 through December 1994, for a total rate base of $577,492,000.

16. Pursuant to the Stipulation, the Company's decision to reacquire the Palo Verde assets is prudent and reasonable, and the reacquisition of the Palo Verde assets is in the public interest.
Revenue Requirement Phase

17. The Company's quality and continuity of service are high.

18. On November 3, 1994, the Company and the General Counsel filed a Joint Stipulation of issues related to the Company's Demand Side Management ("DSM") and Energy Efficiency Plan ("EEP"). The terms of the Joint Stipulation are as follows:
   
a. The Company is in substantial compliance with all previous Commission recommendations and orders relating to the DSM and EEP programs, including Docket Nos. 9165 and 9945.
   
b. Given the Company's demonstrated substantial compliance with all previous Commission orders relating to the DSM and EEP programs, no reporting is necessary in any future Company case with regard to any Commission order or Commission Staff finding prior to entry of an order in this case.
   
c. The Company's residential audit program follow-up procedure is appropriate and necessary and should be continued in its current form.
   
d. Based upon the Company's demonstrated substantial compliance related to its DSM and EEP programs and the agreements contained in the Joint Stipulation, the parties agree that all requirements of previous final orders have been met. The General Counsel agrees that the Staff will evaluate a Company DSM or EEP program in the future based on the merits of the program and agreements contained in the Joint Stipulation and not in any way based on the Company's actions prior to the entry of a final order in this docket.

Miscellaneous Revenue Requirement

19. As part of the overall settlement of this case, a reasonable sharing beginning July 1, 1995 and continuing during the Freeze Period of all margins on off-system sales (as defined in the Stipulation) and wheeling revenues will allow ratepayers to receive (i) 25 percent of such margins and revenues in the form of a credit to their fuel costs during the five-year period commencing July 1, 1995 and (ii) 50 percent of such margins and revenues during the remainder of the Freeze Period. Incremental costs associated with off-
system sales shall not reduce the Company's reconcilable fuel costs, and the Company shall not be required to calculate any incremental costs it incurs in connection with off-system sales.

20. As part of the overall settlement of this case, a reasonable sharing from July 1, 1995 and continuing during the Freeze Period of margins on off-system sales made by affiliates or subsidiaries of the Company will allow ratepayers to receive 25% of such margins.

**Compliance Orders**

21. The Company has satisfactorily complied with all outstanding Commission compliance orders.

**Accounting Deferrals**

22. It is appropriate to adjust Palo Verde Unit 3 accounting deferrals to remove the deferred lease payments and carrying charges on Palo Verde Unit 3 plant costs. Therefore, a balance of $4,308,000 Unit 3 accounting deferrals, less $1,457,000 of related ADFIT, as of June 30, 1993, will be included in rate base and amortized by the end of the Freeze Period.

23. ADFIT related to disallowed Unit 3 deferrals should not be reflected as a reduction to the Unit 3 deferral balance.

24. It is appropriate to include Palo Verde Units 1 and 2 accounting deferrals in rate base and to amortize these deferrals by the end of the Freeze Period.

**Invested Capital**

25. The Company's invested capital is properly calculated as presented on Schedule A of the Order.

26. One hundred percent of Palo Verde Unit 3 is deemed used and useful and included in rate base.
27. It is reasonable to recognize for rate purposes certain assets as a mechanism to implement the intent of the Signatories that the Company's base rates during the Freeze Period will not be changed regardless of future increases or decreases in the Company's cost of service. The assets so recognized are detailed in ordering paragraphs 11, 12 and 13.

**Cost of Capital**

28. The reasonable cost of equity for the Company is 12.0 percent.

29. The appropriate weighted overall cost of capital is 9.14 percent.

**Decommissioning Expense**

30. The reasonable decommissioning expense for the Palo Verde units is reflected in Schedule C to this Order.

31. State agencies are responsible for establishing an appropriate level of decommissioning funding and the mechanism for collecting and retaining funds above the NRC minimum required amount.

32. An escalation rate of 4.30 percent, as recommended by Staff, should be used to adjust decommissioning expense for inflation.
33. Decommissioning expense should be calculated using the existing inflation-adjusted method using a 3.90 percent inflation rate and using the following investment earnings rates:

**Decommissioning Funds**

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/1995 - 1/1/996</td>
<td>5.10 percent</td>
</tr>
<tr>
<td>1/1/1996 - 1/1/2000</td>
<td>5.11 percent</td>
</tr>
<tr>
<td>1/1/2000 - 1/1/2001</td>
<td>5.72 percent</td>
</tr>
<tr>
<td>1/1/2001– thereafter</td>
<td>6.20 percent</td>
</tr>
</tbody>
</table>

**Spent Fuel Fund**

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/1995</td>
<td>5.49 percent</td>
</tr>
</tbody>
</table>

34. The Company's beginning fund balances for Palo Verde Units 1, 2 and 3 decommissioning funds, as described in Schedule C, are appropriate and should be used. The Company's requested D-1 allocator, 0.6998166, is reasonable to determine the Texas jurisdictional portion of the approved expenses.

**Depreciation and Amortization Expense**

35. Staff's proposed (i) remaining life and (ii) depreciation rates for the Palo Verde plant are reasonable. The Company's proposed depreciation rates for non-nuclear plant are appropriate.

36. Amortization of the existing Mirror CWIP over 33 years is appropriate resulting in an amortization expense for the existing Mirror CWIP asset of $1,128,000 and for the existing Mirror CWIP liability of ($698,000).

**Rate Moderation Plan and Mirror CWIP**

37. It is in the public interest to terminate the Docket No. 7460 RMP as of June 30, 1993, include the balance of the deferrals in rate base, and amortize them by the end of the Freeze Period. Accordingly, the amount of the RMP deferrals and existing Mirror CWIP contained in Schedule A are appropriate.
38. Pursuant to the Stipulation, the City's rate case expenses addressed in this docket are found to be reasonable, reimbursable to the City, and are deemed recovered by the Company. The Company's rate case expenses addressed in this docket are also deemed recovered by the Company.

Jurisdictional Cost Allocation

39. The Company's use of the 12-CP method for jurisdictional cost allocation is reasonable.

40. The Company's exclusion of CFE and IID-C sales from its jurisdictional cost study is reasonable.

41. It is reasonable to allocate Accounts 519 and 520 on the basis of the Company's energy allocator.

42. The Company's non-allocation of Accounts 907-910 to FERC customers is reasonable.

43. It is reasonable for the Company to exclude amortization expense when allocating its depreciation expense.

Class Cost Allocation

44. The Company's use of the A&E-4CP methodology to allocate demand-related costs to its various customer classes is reasonable.

45. The Company's exclusion of non-firm sales from its class cost allocation process is reasonable.

Assignment of Class Allocators
46. It is reasonable to make a corresponding adjustment to the Company's class allocator to reflect the jurisdictional assignment of Account 519 and Account 520.

47. It is reasonable to classify fuel inventory as energy-related.

48. The Company's allocation of its distribution plant accounts using a non-coincident peak demand allocator is reasonable.

**Revenue Distribution**

49. The Company's annualization method, used to adjust the test year billing determinants for the effects of customer growth or decline, is reasonable.

**Rate Design**

50. The tariffs approved in connection with the Second Interim Order entered in this docket on August 2, 1995 reflect the appropriate and reasonable resolution of all cost allocation, revenues distribution, and rate design issues.

51. The Company's proposed modifications to Rate 08 are reasonable.

52. The Company's proposed changes to the Off-Peak Rider m Rate 24, as modified by Staff's recommendation to increase the energy charge, are reasonable.

53. The Company's optional demand billing service for customers taking under Rate 02 is reasonable and beneficial to the Company's customers.

54. The Company's proposed hours-use rate, which is applicable to Rate 25 customers, is reasonable.
55. The Company's separately metered rate for thermal energy storage systems under a rider to Rate 24 and Rate 25, as modified by the stipulation between General Counsel and the Company, is reasonable.

56. The Company's proposal to offer interruptible power service under Rate 27 and Rate 38 is reasonable.

57. The changes recommended by the DOD to the Company's Rate 31 are reasonable because they move the demand and energy components of the rate closer to unit costs.

58. The Company's proposal to broaden the applicability clause in Rate 33 is reasonable. The proposed tariff adequately addresses the potential for a free rider taking under this rate.

59. A 2,000 kW minimum demand level for Rate 43, as stipulated to by the State and the Company, is reasonable.

60. The changes to the Company's cogeneration rates, Rate 45, Rate 46, and Rate 47, as modified by the stipulation between the State and the Company, are reasonable.

61. The Company's changes to the tariff language in Rate 99, as modified by Staff, are reasonable.

62. The Company's proposed changes to its service rules and regulations, as modified by the uncontested recommendations of the State, Staff, and the Company's rebuttal witness, are reasonable.

63. The Company filed a notice of intent to implement rates under bond in connection with its application in this docket to change rates. The bonded rates went into effect on July 16, 1994 upon approval of the bond by the Commission's Hearings Division.

64. It is reasonable to assign no base rate increase to Rate 30 because Border Steel is currently in Chapter 11 bankruptcy and any base rate increase in Rate 30 will likely cause it to go out of business.
65. With the exception of limiting the low income rider to persons age 65 or older, it is reasonable to adopt Staff's proposed changes to the Company's low income rider. Accordingly, the low income rider program will apply to all Company residential customers who have an active service account and meet the qualifications for income assistance, as defined by the Department of Human Services.

66. Until the Company submits additional testimony in its next rate filing package concerning the removal of non-school customers, the Company's proposal to limit the applicability of Rate 41 to current non-school customers and to public school accounts, grades kindergarten through 12, is reasonable. To the extent, however, that any City or County account, which was not in Rate 41 at the time of the Commission's Docket No. 9945 Order, receives service under Rate Class 41, it is reasonable that all state agency accounts become eligible for Rate 41.

**Stipulation as Settlement**

67. The Stipulation, as approved by the Commission, represents a fair, just and reasonable solution to the issues being resolved. Consistent with the Stipulation and the record in this proceeding, the ten year rate freeze agreed to by the signatories to the Stipulation is in the public interest and results in just and reasonable rates. Moreover, the Stipulation will serve the purpose of moderating the rates of the Company in the Texas jurisdiction during the Freeze Period. The Stipulation reflects settlement discussions. It is recognized and agreed by the Signatories that the Stipulation is made and filed solely in connection with the compromise and settlement of rate matters related to the Company and is subject to the specific approval of the Commission of the matters therein stipulated. By entering into the Stipulation, none of the Signatories is deemed to have approved or acquiesced in any ratemaking principle, valuation methodology, method of cost-of-service determination, method of revenue calculation, or cost allocation or rate design principle underlying any of the provisions and agreements contained therein. It is the result of a unique fact situation, and its resolution is specific to the circumstances presented. The Stipulation does not prejudice, bind, or affect any Signatory, or constitute an admission, except to the extent necessary to give effect to or enforce the terms of the Stipulation or unless otherwise specifically stated therein.
Conclusions of Law

1. The Company is a public utility as defined in the Public Utility Regulatory Act of 1995, S.B. 319, 74th Leg., R.S. 1995 ("PURAct") § 2.001 (formerly § 3(c)) and is therefore subject to the Commission's jurisdiction and authority.

2. The Commission has jurisdiction over this docket pursuant to PURA §§ 1.101, 2.101, 2.108, 2.201, 2.212, 2.214, 2.216 and 1.251 (formerly §§ 16, 17, 26, 37, 43, 45, 47 and 63).

3. The Applicants provided notice of this proceeding as required by PURA § 2.212 (formerly § 43) and P.U.C. PROC. R. 22 51(a).

4. The Company is a debtor-in-possession under the Bankruptcy Code and is subject to the ongoing jurisdiction of the United States Bankruptcy Court for the Western District of Texas, Austin Division.

5. The Bankruptcy Code prohibits discrimination against the debtor based on the filing of the bankruptcy, and no action taken in this proceeding violates that prohibition. 11 U.S.C. § 525.

6. Pursuant to the Stipulation, the reacquisition of the leased Palo Verde Units 2 and 3 assets is in the public interest, and the decisions attendant to the reacquisition were reasonable and prudent when made.

7. The rate filing package filed by the Company meets the requirements of PURA § 2.212(a) (formerly § 43(a)) regarding the contents of a statement of intent.

8. The Company has complied with the requirements of P.U.C. SUBST R. 23.22 regarding energy efficiency plans.
9. One hundred percent of Palo Verde Unit 3 is used and useful.

10. As required by PURA § 2.206 (formerly § 41(a)) the net plant component of the Company's invested capital as set forth in Schedule A of the Order, is based on the original cost of property used and useful to the Company in providing electric utility service.

11. The Company must comply with P.U.C. SUBST. R. 23.21(b)(1)(F) and 23.59, which require all utilities to deposit monthly, in irrevocable trust funds external to the utility, the funds they collect from ratepayers for decommissioning.

12. The resolution of issues in this docket by the Stipulation is authorized by the Administrative Procedure Act, Tex. Gov't Code Ann. § 2001.056 (Vernon 1994) and is supported by evidence in the record. The Commission finds that the rates approved by this Order are just and reasonable and are in the public interest as specified in Conclusions of Law 13-15. Because this Order sets rates consistent with an unopposed settlement agreement among the parties, it is not necessary to resolve, and this Order does not resolve, issues that would have been presented for resolution on a contested basis. By entering this Order setting rates consistent with the Stipulation, the Commission does not approve or acquiesce in any specific ratemaking principle, valuation methodology, method of cost-of-service determination, method of revenue calculation, or cost allocation or rate design principle. This Order is the result of a unique fact situation, and the rates hereby approved are specific to the circumstances presented. This Order does not prejudice, bind, or affect the Commission in other pending or future cases except as may be appropriate to give effect to the terms of the Order.

13. The rates provided for in this Order, together with all the terms of the Stipulation, will result in overall revenue that will permit the Company a reasonable opportunity to earn a reasonable return over and above its reasonable and necessary operating expenses, within the intent of PURA § 2.203(a) (formerly § 39(a)).
14. The rates and rate design provided in this Order and the Commission's findings of fact are just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, but sufficient, equitable, and consistent in application to each group of customers, as required by PURA § 2.202 (formerly § 38).

15. Rates and rate design provided in this Order and the Commission's findings of fact do not grant an unreasonable preference or advantage to any customer within a classification, subject any customer within a classification to any unreasonable prejudice or disadvantage, or establish unreasonable differences as to rates and services between localities or between classes of service within the meaning of PURA § 2.214 (formerly § 45).

16. The Company has met its burden of proof under PURA § 2.204 (formerly § 40) in demonstrating it is entitled to the level of revenue agreed to in the Stipulation.
### Invested Capital Test Year Ended June 30, 1993

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>COMPANY PER BOOKS</th>
<th>TO TEST YEAR</th>
<th>COMPANY TO REQUEST</th>
<th>STIPULATED TO REQUEST</th>
<th>STIPULATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant in Service</td>
<td>1,546,063</td>
<td>667,227</td>
<td>2,213,290</td>
<td>77,726</td>
<td>2,291,016</td>
</tr>
<tr>
<td>Accumulated Depreciation</td>
<td>(401,251)</td>
<td>(60,752)</td>
<td>(462,003)</td>
<td>(21,245)</td>
<td>(483,248)</td>
</tr>
<tr>
<td>Net Plant in Service</td>
<td>1,144,812</td>
<td>606,475</td>
<td>1,751,287</td>
<td>56,481</td>
<td>1,807,768</td>
</tr>
<tr>
<td>Construction Work in Progress</td>
<td>41,928</td>
<td>(41,928)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Nuclear Fuel</td>
<td>49,028</td>
<td>(49,028)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Cash Working Capital Allowance</td>
<td>29,064</td>
<td>(77,639)</td>
<td>(48,575)</td>
<td>619</td>
<td>(47,956)</td>
</tr>
<tr>
<td>Materials and Supplies</td>
<td>35,820</td>
<td>(3,717)</td>
<td>32,103</td>
<td>0</td>
<td>32,103</td>
</tr>
<tr>
<td>Prepayments</td>
<td>6,287</td>
<td>(1,254)</td>
<td>5,033</td>
<td>524</td>
<td>5,557</td>
</tr>
<tr>
<td>Fuel Inventory</td>
<td>3,387</td>
<td>(2,423)</td>
<td>964</td>
<td>0</td>
<td>964</td>
</tr>
<tr>
<td>PV Deferred Costs</td>
<td>163,403</td>
<td>(13,455)</td>
<td>149,948</td>
<td>(62,328)</td>
<td>87,620</td>
</tr>
<tr>
<td>TX Capitalized Unit 3</td>
<td>82,664</td>
<td>(82,664)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Mirror CWIP Asset</td>
<td>38,595</td>
<td>0</td>
<td>38,595</td>
<td>0</td>
<td>38,595</td>
</tr>
<tr>
<td>Mirror CWIP Liability</td>
<td>(31,647)</td>
<td>0</td>
<td>(31,647)</td>
<td>0</td>
<td>(31,647)</td>
</tr>
<tr>
<td>Deferred Depreciation</td>
<td>27,238</td>
<td>(27,238)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Loc Draws</td>
<td>288,416</td>
<td>(288,416)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Decommissioning Costs</td>
<td>11,512</td>
<td>(11,512)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Bankruptcy Costs</td>
<td>30,625</td>
<td>(30,625)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Regulatory Study Costs - Palo Verde</td>
<td>5,039</td>
<td>(5,039)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>SAF 109 Assets/ Liabilities</td>
<td>40,311</td>
<td>(25,094)</td>
<td>15,217</td>
<td>(15,217)</td>
<td>0</td>
</tr>
<tr>
<td>Pre 1971 Investment Tax Credits</td>
<td>(287)</td>
<td>0</td>
<td>(287)</td>
<td>0</td>
<td>(287)</td>
</tr>
<tr>
<td>Customer Deposits</td>
<td>(4,880)</td>
<td>139</td>
<td>(4,741)</td>
<td>0</td>
<td>(4,741)</td>
</tr>
<tr>
<td>Rate Moderation Deferrals</td>
<td>0</td>
<td>0</td>
<td>68,070</td>
<td>68,070</td>
<td>0</td>
</tr>
<tr>
<td>Injuries and Damages Reserve</td>
<td>(100)</td>
<td>0</td>
<td>(100)</td>
<td>0</td>
<td>(100)</td>
</tr>
<tr>
<td>Accum Deferrred SIT</td>
<td>(43,671)</td>
<td>4,875</td>
<td>(38,796)</td>
<td>38,796</td>
<td>0</td>
</tr>
<tr>
<td>Unamort PV3 Gain on Sale</td>
<td>(36,619)</td>
<td>36,619</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Comm. Fed Fin DEF CR</td>
<td>(3,782)</td>
<td>3,782</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Copper 1 Lease DEF CR</td>
<td>(5,381)</td>
<td>5,381</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Cust Adv Cons/OTH DEF CR - Copper 1</td>
<td>(1,834)</td>
<td>0</td>
<td>(1,834)</td>
<td>0</td>
<td>(1,834)</td>
</tr>
<tr>
<td>Total Invested Capital</td>
<td>1,696,685</td>
<td>(64,532)</td>
<td>1,632,153</td>
<td>62,554</td>
<td>1,694,707</td>
</tr>
</tbody>
</table>
The net Texas jurisdictional value for the previously leased Palo Verde assets will be reduced by the following amounts:

For any test year ending on or before December 31, 1994 $289,604,000
For any test year ending after December 31, 1994 but before December 31, 1995 $257,562,000
For any test year ending after December 31, 1995 but before December 31, 1996 $212,562,000
For any test year ending after December 31, 1996 but before December 31, 1997 $189,408,000
For any test year ending after December 31, 1997 but before December 31, 1998 $154,158,000
For any test year ending after December 31, 1998 but before December 31, 1999 $110,498,000
For any test year ending after December 31, 1999 but before December 31, 2000 $120,343,000
For any test year ending after December 31, 2000 but before December 31, 2001 $184,313,000
For any test year ending after December 31, 2001 but before December 31, 2002 $205,173,000
For any test year ending after December 31, 2002 but before December 31, 2003 $229,725,000
For any test year ending after December 31, 2003 but before December 31, 2004 $154,752,000

These reductions, if applied, represent a reduction to Texas jurisdictional invested capital (rate base).
## DECOMMISSIONING FUNDING PLAN - ANNUAL
### UNIT 1, UNIT 2, UNIT 3 AND SPENT FUEL

<table>
<thead>
<tr>
<th>Period</th>
<th>Year</th>
<th>Contributions</th>
<th>Net Fund</th>
<th>Decommissioning Outlays</th>
<th>Endings</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1994</td>
<td>1,590,426</td>
<td>450,295</td>
<td>—</td>
<td>19,270,914</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>1995</td>
<td>4,374,814</td>
<td>1,084,993</td>
<td>—</td>
<td>24,730,722</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>1996</td>
<td>4,545,432</td>
<td>1,373,990</td>
<td>—</td>
<td>30,650,143</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1997</td>
<td>4,722,704</td>
<td>1,685,172</td>
<td>—</td>
<td>37,058,019</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>1998</td>
<td>4,906,889</td>
<td>2,021,896</td>
<td>—</td>
<td>43,986,805</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>1999</td>
<td>5,098,258</td>
<td>2,385,856</td>
<td>—</td>
<td>51,470,918</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>2000</td>
<td>5,297,090</td>
<td>3,065,826</td>
<td>—</td>
<td>59,833,834</td>
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</tr>
<tr>
<td>8</td>
<td>2001</td>
<td>5,503,676</td>
<td>3,796,618</td>
<td>—</td>
<td>69,134,128</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>2002</td>
<td>5,718,320</td>
<td>4,365,391</td>
<td>—</td>
<td>79,217,839</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>2003</td>
<td>5,941,334</td>
<td>4,981,813</td>
<td>—</td>
<td>90,140,986</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>2005</td>
<td>6,413,795</td>
<td>6,371,439</td>
<td>—</td>
<td>114,748,551</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>2006</td>
<td>6,663,933</td>
<td>7,152,144</td>
<td>—</td>
<td>128,564,628</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>2007</td>
<td>6,923,826</td>
<td>7,995,529</td>
<td>—</td>
<td>143,483,984</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>2008</td>
<td>7,193,856</td>
<td>8,905,995</td>
<td>—</td>
<td>159,583,834</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>2009</td>
<td>7,474,416</td>
<td>9,888,232</td>
<td>—</td>
<td>176,946,482</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>2010</td>
<td>7,765,918</td>
<td>10,947,241</td>
<td>—</td>
<td>195,659,641</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>2011</td>
<td>8,068,789</td>
<td>12,088,353</td>
<td>—</td>
<td>215,816,783</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>2012</td>
<td>8,383,472</td>
<td>13,317,245</td>
<td>—</td>
<td>237,517,500</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>2013</td>
<td>8,710,427</td>
<td>14,639,971</td>
<td>—</td>
<td>260,867,898</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>2014</td>
<td>9,050,134</td>
<td>16,062,977</td>
<td>—</td>
<td>285,981,008</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>2015</td>
<td>9,403,089</td>
<td>17,593,132</td>
<td>—</td>
<td>312,977,229</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>2016</td>
<td>9,769,810</td>
<td>19,237,752</td>
<td>—</td>
<td>341,984,791</td>
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</tr>
<tr>
<td>24</td>
<td>2017</td>
<td>10,150,832</td>
<td>21,004,632</td>
<td>—</td>
<td>373,140,255</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>2018</td>
<td>10,546,715</td>
<td>22,902,070</td>
<td>—</td>
<td>406,589,039</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>2019</td>
<td>10,958,036</td>
<td>24,938,903</td>
<td>—</td>
<td>442,485,979</td>
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</tr>
<tr>
<td>27</td>
<td>2020</td>
<td>11,385,400</td>
<td>27,124,544</td>
<td>—</td>
<td>480,995,923</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>2021</td>
<td>11,829,430</td>
<td>29,469,013</td>
<td>—</td>
<td>522,294,366</td>
<td></td>
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## DECOMMISSIONING FUNDING PLAN - ANNUAL
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### Decommissioning Funding Plan - Annual

**Unit 1, Unit 2, Unit 3 and Spent Fuel**

**Palo Verde Unit 1**

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### DECOMMISSIONING FUNDING PLAN - ANNUAL
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The Company's beginning balances for Palo Verde Units 1, 2, and 3 decommissioning funds are as follows:

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<th>Unit</th>
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<td>Unit 2</td>
<td>7,335,637.35</td>
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<tr>
<td>Unit 3</td>
<td>3,683,296.65</td>
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STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, on January 10, 1994, El Paso Electric Company (the "Company") filed with the Public Utility Commission of Texas (the "Commission") (i) a petition to increase rates pursuant to Section 43 of the Public Utility Regulatory Act ("PURA"), Tex. Rev. Civ. Stat. Ann. art. 1446c (recodified as the Public Utility Regulatory Act of 1995, S.B. 319, 74th Leg., R.S. 1995), (ii) a petition to reconcile fuel and purchased power costs for the period April 1, 1989 through June 30, 1993, and to revise the Company's fixed fuel factors (the "fuel matters"), and (iii) applications pursuant to Section 63 of PURA for public interest determinations with respect to the Company's request to (a) reacquire the Palo Verde Nuclear Generating Station ("Palo Verde") leased assets and (b) merge with a utility holding company subject to certain regulatory and accounting conditions, which petitions and applications were assigned Docket No. 12700; and

WHEREAS, the Company also filed its PURA § 43 (recodified as PURA § 2.212) petition to increase rates within the City of El Paso (the "City") and other municipalities in the Company's service territory retaining original jurisdiction over the Company's rates; and

WHEREAS, the City and such municipalities have taken action concerning the Company's rates, the Company has appealed those actions to the Commission, and those appeals have been consolidated under Docket No. 12700; and

WHEREAS, on March 3, 1995, the Commission issued its Interim Order, Severance Order, and Order of Remand (the "Interim Order") in Docket No. 12700, wherein the Commission entered its Interim Order in the merger, reacquisition and rate cases and severed the fuel matters from Docket No. 12700 into a new docket. Docket No. 13966, for which the
Commission separately issued a final order, which several parties have now appealed to the Travis County District Court; and

WHEREAS, there are currently pending in the Texas courts several appeals of prior Commission dockets concerning the Company's rates, including Docket Nos. 8018, 8078, 8363, 9945 and 13966; and

WHEREAS, there are currently pending on remand at the Commission, following judicial review, two Commission dockets, Docket No. 8363 and Docket No. 8588, which have been assigned Docket Nos. 14000 and 14120, respectively; and

WHEREAS, the parties desire to resolve the above-described regulatory matters and appeals on a comprehensive basis; and

WHEREAS, the public interest will be served by the adoption of orders consistent with this Stipulation because it provides for the expeditious implementation of rates that are just and reasonable for the Company and its Texas customers, promotes the adequate and efficient provision of service, and is in accordance with applicable law, and

WHEREAS, resolution on a stipulated basis of the matters set forth herein would conserve resources, avoid the uncertainties inherent in future litigation, and reduce rate case expenses now and in the future;

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties (the "Signatories") to this Stipulation and Settlement Agreement (the "Stipulation"), through their undersigned authorized representatives, stipulate and agree as follows:

1. (a) The Company will receive a $24,946 million annual base rate increase in this docket. Docket No. 12700 shall serve as the vehicle for implementing and obtaining approval of the base rate terms of this Stipulation.

   (b) Pending a final order consistent with this Stipulation, the Signatories agree that the Company will implement interim rates consistent with this Stipulation, subject to

   2
refund and bond, upon entry of a second interim order (the "Second Interim Order") by the Commission, which order shall be issued as soon as possible after execution of this Stipulation. EPE agrees to use best efforts to obtain authority from the Bankruptcy Court to increase the existing bond by an amount equal to the annual base rate increase agreed to in this Stipulation.

(c) Except as described in this Paragraph, the Signatories agree that the rate design and cost allocation for such rate increase will be consistent with the Interim Order and the tariffs filed thereunder.

(i) To the extent any City or County account, which was not in Rate 41 at the time of the Commission's Order in Docket No. 9945, receives service under Rate Class 41, all state accounts become eligible for Rate 41.

(ii) Within 30 days after the Commission issues the Second Interim Order, the Company, OPC, General Counsel and the City agree to meet and discuss changes in implementation of the low income rider. The changes will be solely intended to improve and enhance the procedures that the Company will use to establish that persons qualify for the rider. Upon the agreement of the Company, OPC, General Counsel and the City, the Company will file a new residential tariff consistent with such process.

(d) Upon entry of a final order, the Company will retain all base rate revenues collected under its bonded rate increase through the date the Commission approves this Stipulation and the interim rates consistent with this Stipulation, with no refunds or surcharges.

(e) No order of the Commission will be final until the Company's Amended Plan of Reorganization becomes confirmed and effective. The Company agrees to grant sufficient hearing days to extend the jurisdictional deadline in Docket No. 12700 to
a date subsequent to the confirmation order date and effective date. If the Company's Amended Plan of Reorganization should not become effective by
April 2, 1996 (which date shall be automatically extended to a date 30 days after the City gives notice that the effective date shall not be further extended), then this Stipulation is null and void "ab initio"; the Signatories are not bound by any of its terms; and the Signatories are free to seek appropriate remedies at the Commission and such other forums as may be appropriate.

2. (a) Subject to the terms of this Stipulation, during the first ten (10) years after implementation of interim rates consistent with this Stipulation (the "Freeze Period"), the Company's Texas base rates will be maintained in accordance with the final order in Docket No. 12700 except for customers taking service under the following tariffs: rate classes 15, 26, 27, 29, 30, 31 and 38, as to which this rate freeze does not apply and for whom rates may be decreased or increased in accordance with applicable contracts and law during the Freeze Period. Except for those rate classes discussed above, the Company agrees during the Freeze Period not to increase base rates for any reason save and except for an event of Force Majeure (as defined in Paragraph 2(c) hereof) or as provided in Paragraphs 2(e)(ii) and 2(d)(i).

(b) During the Freeze Period, and to the extent consistent with the freeze level, the Company may make filings that: (i) modify tariffs, riders and terms and conditions while not increasing Texas retail base rate revenues for any customer class subject to the rate freeze; provided, however, for any customer class subject to the rate freeze such modifications may neither exclude customers currently on the rate schedule nor force a customer to be moved to another rate class, (ii) add or modify tariffs, riders, and terms and conditions to address competitive conditions or secure additional load or (iii) change fixed fuel factors or otherwise provide for the recovery of fuel costs and the disposition of fuel over-recoveries and underrecoveries. Miscellaneous tariff filings, such as for incentive and load retention rates or special services, are not subject to the rate freeze, so long as there is no
increase to the Texas retail tariffs charged any rate class subject to the rate freeze. Nothing in this Paragraph shall be construed as a predetermination of the appropriate ratemaking treatment of any such changes.

(c) Except as otherwise provided in Paragraphs 2(e)(ii) and 2(d)(i), neither the Company nor any successor in interest or assignee may request from its Texas regulatory authorities nor support an increase in base rates above the freeze level with an effective date prior to the expiration of the Freeze Period, except to address an event of Force Majeure. The term "Force Majeure" as used in this Stipulation shall be limited to the effect of a natural disaster, act of war or act of God. The Company agrees to bind its successors or assignees to the terms of this Paragraph.

(d) (i) Subject to the provisions of Paragraph 2(f), the Signatories agree that if, during the Freeze Period, the fuel factor or fuel reconciliation process should be changed or eliminated in Texas, they will implement the fuel cost recovery mechanism as authorized by law or rule. In the absence of such a law or rule, the Signatories will devise a mechanism to allow the Company to recover reasonable and necessary fuel costs that it would otherwise have been allowed to recover through the fuel factor or fuel reconciliation process.

(ii) The Signatories recognize that the Federal Energy Regulatory Commission ("FERC"), or other regulatory authority with jurisdiction, may require the "unbundling of utility services by utilities subject to its jurisdiction, including the Company. Subject to the provisions of Paragraphs 2(f), if such unbundling of services occurs by FERC order or otherwise, the components of the rates to the Company's customers covered by this Stipulation will be set at levels which will collect neither more nor less than the base rates established pursuant to this Stipulation notwithstanding the unbundling.
Subject to Paragraphs 20 and 24, the Signatories (except the Public Utility Commission of Texas General Counsel ("General Counsel"), the Office of Public Utility Counsel ("OPC") and the State of Texas ("State")) agree not to seek to institute or institute on their own motion during the Freeze Period an inquiry into the reasonableness of the Company's rates under PURA § 2.211 (formerly PURA § 42). If a complaint is filed with the Commission or any other Texas regulatory authority requesting an inquiry into the reasonableness of the Company's rates under PURA § 2.211, and the Commission and any other regulatory authority institutes such an inquiry, the Signatories (except General Counsel, OPC and State) commit to support the provisions of this Stipulation. In the course of any such PURA § 2.211 proceeding, the Company shall be entitled to defend against a rate reduction in any manner it deems appropriate.

All Signatories, including General Counsel, OPC, and the State, understand and agree that it is the Company's reasonable expectation that during the Freeze Period the Company's base rates for rate classes subject to the freeze will not be changed regardless of any circumstances that could increase or decrease the Company's cost of service. The Company has given valuable consideration, and assumed substantial business risks, in exchange for the expectation hereunder that its base rates for rate classes subject to the freeze will not be reduced during the Freeze Period. General Counsel, OPC and the State, accordingly, agree that if any of them should seek to institute, directly or indirectly, an inquiry into the reasonableness of the Company's rates under PURA § 2.211 (formerly PURA § 42) then in that event, the Company's rate base shall include, in addition to the assets otherwise contemplated hereunder, the following: (A) Palo Verde Unit 3 accounting deferrals in the amount of $66,654,000 as of June 30, 1993; and (B) additional Docket
No. 7460 Rate Moderation Plan ("RMP") deferrals in the amount of $25,041,000 for the period from July 1, 1993 through December 31,
1994. Such assets shall be amortized over a ten (10) year period beginning with the date of the Second Interim Order. Any change in rates from the freeze level as a result of a proceeding initiated by General Counsel or OPC will apply solely to ratepayers over which the Commission exercises original jurisdiction.

(f) During the Freeze Period the Company and its customers in Texas will be protected from the effects of transactions that shift costs between base rates and fuel or to other rates not subject to the freeze. During the Freeze Period, the only costs that may be recovered from Texas ratepayers other than through base rates are those costs recovered as reconcilable fuel costs according to the Commission's substantive rules in effect on July 1, 1995 (as applied to the Company) and in this Stipulation. The recovery of any other costs through the fuel factor, any other special factor, or surcharge, shall be considered a shift in costs between base rates and fuel. If any Signatory believes that the Company has engaged in a transaction that is inconsistent with the foregoing intent, the Signatory shall provide notice to the Company of the alleged violation of this Paragraph. If the Company does not cure the alleged violation within 30 days of the receipt of such notice, a Signatory may initiate a complaint with the appropriate regulatory authority to recover any and all additional costs charged or to be charged to customers on account of the violation. The Signatories agree that the Company's regulatory authorities have primary jurisdiction over such matters and that the appropriate forum for such a determination is a proceeding at the appropriate regulatory authority, subject to appeal, including as allowed by law de novo appeal to the Commission, for the limited purpose of adjusting the fuel factor, fuel balance and/or reducing base rates by the amount so shifted. If the regulatory authority does not have jurisdiction, the parties agree that venue lies in the state district court in El Paso County, Texas.
(g) Notwithstanding any other provision of this Stipulation, the Company understands that on September 1, 1995, Senate Bill 373, Public Utility Regulatory Act of 1995, S.B. 319, as amended by S.B. 373, §2.2141, 74th Leg., R. S. 1995 ("Senate Bill 373"), will become effective and, pursuant to Section 2.2141 of that bill, the Company will be required to provide discounted rates for certain state institutions of higher education. No later than October 1, 1995, the Company agrees to file tariffs to be effective October 1, 1995 necessary to implement the discount required by Senate Bill 373. Nothing in this Stipulation shall be construed as limiting any right of the State or the Company to seek to adjust base rates on account of a change in such law.

(h) Based on current projections, the Company may be entitled to a $17 million revenue increase at the end of the Freeze Period. In order to avoid such an increase, the Company agrees that in any proceeding instituted pursuant to PURA Sections 2.211 or 2.212, or their equivalent, for an effective date on or after August 2, 2005 but before August 1, 2006, the tariff or tariffs will be designed to collect $17 million less in base revenues ("Exclusion Factor") than the otherwise authorized revenue requirement. The Exclusion Factor for a proceeding instituted pursuant to PURA § 2.211 or 2.212, or their equivalent, for an effective date between August 2, 2006 and August 1, 2007 shall be $8 million. This Exclusion Factor will not be considered for financial integrity analysis or cash flow analysis in any proceeding before a Texas regulatory authority.

(i) Should the Company, contrary to the terms of this Stipulation, file for a rate increase in Texas during the Freeze Period, the Signatories agree that the value for the previously leased Palo Verde assets described in paragraph 7(a) of this Stipulation will not apply; and that instead the values for previously leased Palo Verde assets will be applied according to the table in Attachment "A" to this Stipulation for any determination of the Company's rate increase request.
(j) In the event the Company sells, transfers, leases or assigns any operating asset for a value of $10,000,000 or more during the Freeze Period, unless the City and Company otherwise agree, the Texas jurisdictional share of the net gain on such sale shall be paid to ratepayers as a credit to the base rates over what would have been the remaining life of the asset. Ratepayers will be credited with a "return" on the unamortized portion of such gain at the Company's last approved rate of return.

3. The Signatories agree to settle all base rate issues, including cost allocation and rate design issues, not specifically addressed herein in accordance with the Interim Order.

4. Except as otherwise provided in Paragraph 2(e)(ii), the Docket No. 7460 RMP will be terminated effective June 30, 1993, and the balance of RMP deferrals as of that date will be placed in rate base and fully amortized over the 10 year freeze period, so that there is no balance to be included in rates that may be effective on or after August 1, 2005. There will be no additional Mirror CWIP (Construction Work in Progress) approved, utilized or amortized for purposes of amortizing the RMP deferrals.

5. The Company shall not recover from its Texas retail ratepayers any bankruptcy reorganization costs in the pending Chapter 11 case in the Bankruptcy Court for the Western District of Texas, Austin Division, Case No. 92-10148-FM. For purposes of this Stipulation only, the Company agrees that such costs are not reasonable and necessary operating expenses within the meaning of PURA §2.203(a). "Retail ratepayers" includes the industrial customers who are Signatories.

6. Deferred carrying charges and deferred lease payments will be eliminated from the accounting deferrals for Palo Verde Unit 3 according to the Interim Order resulting in a balance of $4,308,000 Unit 3 accounting deferrals, less $1,457,000 of related ADFIT, as of July 1, 1993, which will be amortized over the Freeze Period. The Company will otherwise recover all remaining Palo Verde Unit I and 2 accounting deferrals subject to the freeze limitations discussed in Paragraph 2(a) supra, with the unamortized balance.
included in rate base according to the Interim Order and fully amortized over the Freeze Period such that all Palo Verde accounting deferrals will be eliminated from the Company's books at the end of the Freeze Period and there will be no balance to be included in rates that may be effective on or after August 1, 2005. For the purposes of this Stipulation only, the Signatories agree that they will not raise any future challenges to the Company's right to recover the Unit 1 and 2 accounting deferrals during the Freeze Period. ADFIT associated with disallowed Unit 3 deferrals will not be included as an offset to rate base.

7. Subject to the limitations in Paragraphs 2(a) through 2(j) supra:

   (a) The previously leased Palo Verde assets will be valued in rate base at original cost, less accumulated depreciation, according to the Interim Order.

   (b) Palo Verde Unit 3 will be deemed to be 100% used and useful as of a final order in this docket.

   (c) The Company's rate base shall be as determined by the terms of the Interim Order, except that (i) the remaining 15% of Palo Verde Unit 3 will be included in rate base, (ii) rate base will not be reduced to reflect the tax benefits of the Palo Verde lease rejection damages, and (iii) rate base will include any other adjustments required by the terms of the Stipulation. Such adjusted rate base shall be used as the initial basis for purposes of any cost of service analysis for the Company, including any PURA § 2.211 rate inquiry which may be permitted by the terms of this Stipulation or any earnings monitoring report.

   (d) Consistent with the Commission's order in Docket No. 8892, the performance standards in effect for the Company with respect to Palo Verde will be used as the mechanism for any future assessments of Palo Verde Unit 1, 2 and 3 operations and performance; provided, however, during the Freeze Period penalties and rewards for all three Units will be reported and evaluated on a calendar year basis using the three-year rolling average dictated by Docket No. 8892. The first such
reporting period shall run from January 1, 1993 to December 31, 1995. Any penalties or rewards accruing under the performance standards will be incorporated in the Company's fuel reconciliation proceedings during the Freeze Period. Further, during the Freeze Period, the Company's base rates will not be reduced below the freeze level on account of Palo Verde performance or operations, unless the capacity factor, as measured on a station basis for any consecutive 24 month period, shall fall below 35%. In the event that the foregoing should occur, the Signatories shall be free to urge whatever rate base adjustment they believe is appropriate.

8. Except for ADFIT associated with disallowed Palo Verde Unit 3 deferrals, which is addressed in Paragraph 6, there will be no findings with respect to federal income tax issues, and the parties can assert whatever positions they desire with respect to the calculation of the Company's federal income tax expense in future rate cases.

9. The revenues from the Company's providing wheeling service and from margins on off-system sales (other than those off-system sales allocated a full slice of system costs in Docket No. 12700 [i.e., Imperial Irrigation District firm, Texas New Mexico Power, and Rio Grande Electric Cooperative, Inc.]) made by the Company will be divided as follows during the Freeze Period:

   (a) For the first five (5) years of the Freeze Period, the Company will be entitled to retain 75% of the margins and wheeling revenues and 25% of the margins and wheeling revenues will be credited to ratepayers. Margins shall mean revenues from any capacity, demand or non-fuel energy charge included in an off-system sale net of any such charges as well as wheeling charges incurred by the Company in connection with making the off-system sale.

   (b) During the second five (5) years of the Freeze Period, the sharing will be 50% to the Company and 50% to the ratepayers.
(c) Incremental costs associated with off-system sales shall not reduce the Company's reconcilable fuel costs, and the Company will not be required to calculate any incremental costs it incurs in connection with off-system sales.

(d) During the Freeze Period, the Company will retain 75% of the margins on off-system sales made by affiliates or subsidiaries of the Company and 25% of the margins will be credited to ratepayers. The mechanism for such sharing (margins and wheeling revenues) will be in the fuel factor and fuel reconciliation process. If, during the course of the Freeze Period or any time prior to a reconciliation of margins through the end of the Freeze Period, the fuel factor or fuel reconciliation process should be eliminated, the Company agrees to devise a mechanism to reduce rates by the appropriate customer share of such margins.

10. The Signatories agree that the amounts of decommissioning expense allowed on an annual basis in the Company's cost of service shall be described in a schedule to be attached to the Second Interim Order. Such amounts shall be adjusted in any future rate proceeding or earnings monitoring report as necessary to reflect the cost estimate of the most recent official decommissioning study prepared for the Palo Verde participants and to enable the Company to secure an exemption pursuant to § 468A of the Internal Revenue Code of 1986 from federal income tax liability in connection with its nuclear decommissioning trust. The Company agrees to fund such amounts pursuant to its contractual obligations under the Arizona Nuclear Power Project Participation Agreement. Such decommissioning expense shall be recognized as a reasonable and necessary expense in any rate proceeding or earnings monitoring report initiated during the Freeze Period and, during such period, no Signatory shall contest the inclusion of such amounts in the Company's cost of service. After the Freeze Period, Ratepayers are to be in no worse position as to decommissioning expense than they would have been had rates not been frozen.
11. The Company will reimburse the City for all its outstanding rate case expenses billed and unreimbursed as of July 17, 1995 of $1,081,229.14 within ten (10) days following issuance of the final order consistent with this Stipulation. Additional expenses of the City incurred in Docket No. 12700 as well as any proceedings resolved by this Stipulation will be paid by the Company to the City within thirty (30) days of the submittal of a bill or ten (10) days following the issuance of a final order consistent with this Stipulation, whichever is later. The Company agrees to indemnify the City against any claims made pursuant to the City's agreement dated May 3, 1994 relating to reimbursement of rate case expenses. There shall be no surcharge to ratepayers in any class whatsoever as a result of such payments.

12. (a) With respect to the fuel matters initially presented in Docket No. 12700, the Signatories agree to settle all fuel reconciliation issues and fuel factor issues in accordance with the Commission's final order in Docket No. 13966, subject to the provisions of Paragraph 9 above.

          (b) The Signatories further agree that the Company's fuel and purchased power costs for the period July 1, 1993 through June 30, 1995 will be deemed reconciled and that, taken in conjunction with the purchased power capacity charges at issue in the remand of Docket No. 8588 (Docket No. 14120), discussed below, there shall be no net refund or surcharge to ratepayers as a result of such fuel reconciliation. The Company's over/under recovery fuel balance shall be $0 as of June 30, 1995. The Signatories agree to implement their agreement in this Paragraph with a fuel reconciliation filing, to be made by the Company within thirty (30) days following the effective date of the Company's Amended Plan of Reorganization. The Signatories will urge that such reconciliation be processed administratively, by agreement, without the need for the Company to develop and file the fuel reconciliation schedules and supporting testimony otherwise required by Commission rules.
(c) The Company will make filings during and after the Freeze Period to reconcile its fuel and purchased power costs incurred during the Freeze Period in accordance with PURA and Commission rules and procedures, subject to Paragraph 9 above.

(d) The Company will initiate a proceeding to implement a revised composite fixed fuel factor as appropriately adjusted for voltage levels, effective as soon as practicable following the entry of the Second Interim Order by the Commission.

13. The Signatories agree that the Company shall withdraw its application filed in Docket No. 12700 for a determination by the Commission that the proposed acquisition of the common stock of the Company is in the public interest.

14. The Signatories agree that reacquisition of the Palo Verde leased assets is in the public interest as that term is defined by PURA § 63 (recodified as PURA § 1.251), and each Signatory agrees to support a determination by the Commission that such reacquisition is in the public interest and that the previously leased assets be included in rate base at their original cost less depreciation, consistent with the Interim Order and further subject to the provisions of Paragraph 2(i) above.

15. The Signatories agree to use their best efforts to finalize the PURA § 43 (recodified as PURA § 2.212) rate order in this docket in accordance with this Stipulation.

16. Upon the date the City signs this Stipulation, the City agrees to have its staff begin the process of presenting to the City Council a new franchise for the Company in substantially the same form as the current franchise (granted by ordinance dated March 25, 1971 for a 30 year period), except for a provision recognizing the City's option to decline to purchase the Company's property under certain circumstances. If the City Council does not grant the Company a franchise consistent with this Paragraph within 45 days of inception of the process, then the Company may declare this Stipulation null and void. If a new franchise is granted, it will become effective upon the termination of the current franchise and extend through August 1, 2005. The new franchise will be
null and void if the Amended Plan of Reorganization does not become effective consistent with this Stipulation.

17. The Company agrees to dismiss without prejudice its Adversary Proceeding No. 94-1148- FM in the Bankruptcy Court for the Western District of Texas, Austin Division against the Commission, the City, the New Mexico Public Utility Commission and the OPC within 10 days of the Commission's entry of the Second Interim Order.

18. (a) As further detailed below, the Signatories agree to dismiss their pending appeals of the Commission's orders in Docket Nos. 8018, 8078, 8363, and 9945, and the Company agrees to dismiss the pending remand of Docket No. 8363 (Docket No. 14000) (the "Resolved Appeals"). Within ten (10) days after the date of execution of this Stipulation, all Signatories who are parties to any of the Resolved Appeals shall file a motion jointly notifying the court or Commission in which the matter is now pending that it is likely that the issues in the cases will be resolved. Such notice shall request that action be delayed pending further motion by the parties.

(b) Subject to the qualifications set out below, within ten (10) days after the effective date of the Company's Amended Plan of Reorganization, the Signatories who are parties to the Resolved Appeals shall file appropriate motions with each applicable court, or the Commission, to dismiss with prejudice each of the Resolved Appeals brought by any one of the Signatories. The precise form of the motions shall be tailored to each case, but will be substantially as described below with respect to each Signatory and proceeding:

(1) With respect to the appeal of Docket No. 8018, now pending in the Austin Court of Appeals, the City agrees to move to dismiss with prejudice its appeal. If the Austin Court of Appeals has already issued its decision in this appeal prior to the filing of the City's motion to dismiss, the Signatories who are parties to the appeal will jointly move the Austin
(2) With respect to the appeal of Docket No. 8078, now pending in the Austin Court of Appeals, the City agrees to move to dismiss with prejudice its appeal. If the Austin Court of Appeals has already issued its decision in this appeal prior to the filing of the City's motion to dismiss, the Signatories who are parties to the appeal will jointly move the Austin Court of Appeals, or the Texas Supreme Court, as appropriate, to vacate the court judgments and opinions issued in this case and dismiss the appeal.

(3) With respect to the appeal of Docket No. 8363, now pending in the Travis County District Court, the Company, the City and OPC agree to dismiss with prejudice their appeals. The Company further agrees to move for dismissal of Commission Docket No. 14000, which is pending on limited remand from the appeal of Docket No. 8363.

(4) With respect to the appeal of Docket No. 9945, now pending in the Austin Court of Appeals, the Company, the City, the State of Texas and OPC agree to jointly file a motion requesting that the Court of Appeals, or the Texas Supreme Court, as appropriate, (i) vacate all court opinions and judgments issued in the case, (ii) dismiss all appeals of the Commission's order and (iii) refrain from publishing any opinions. The Signatories (except General Counsel) agree to use their best efforts to prevail on the Commission to concur in this motion and to likewise dismiss its appeal concerning Docket No. 9945.

(5) With respect to the appeal of Docket No. 13966, now pending in the Travis County District Court, the Signatories who are parties to these
appeals agree to jointly request a remand to the Commission of such appeal, so that the Commission may delete any language inconsistent with the intent of the Signatories with respect to the treatment of off-system sales revenues and wheeling revenues as provided in Paragraph 9 above.

The Signatories (except General Counsel) will exercise best efforts to obtain the Commission's concurrence in all the foregoing motions.

(c) The Signatories agree to finalize the pending remand of Docket No. 8588 (Docket No. 14120). The resolution will take the form of a request by the Signatories that the proceeding be stayed, and that the Commission take no further action on such docket pending a final order in Docket No. 12700. In the event the order in Docket No. 12700 becomes final as contemplated by this Stipulation, the Signatories who are parties to Docket No. 14120 agree to file notification in that docket that they have stipulated that the purchased power capacity charges at issue in the remand of Docket No. 8588 shall be credited to the Company's July 1, 1993 to June 30, 1995 over/under recovery fuel balance, and to request that the Commission enter a final order in Docket No. 14120 consistent therewith. As discussed above in Paragraph 12, the charges at issue in Docket No. 14120 will be treated consistent with the reconciliation of the Company's fuel and purchased power costs for the period July 1, 1993 through June 30, 1995.

19. Any recovery from the Company's pending lawsuit No. 95-7153, or causes of action that accrued to the Company as a result of the failure of its proposed merger or arising out of the Company's bankruptcy shall be retained wholly and exclusively by the Company and not passed through to ratepayers. Any costs incurred by the Company in connection with such litigation shall not be considered reasonable and necessary operating expenses for ratemaking purposes in accordance with PURA §2.203(a). Any liabilities incurred by the Company in
connection with such litigation shall be borne by the Company shareholders and shall not be recovered from ratepayers.
20. This Stipulation is the result of an extended and highly complex course of negotiations among the Signatories. It necessarily represents many compromises made by the Signatories on all of the issues involved. The Stipulation covers several separate Company proceedings pending before the Commission and the courts, each of which involves a number of discrete issues. The entire Stipulation should be viewed as a unitary, whole agreement, and not separate agreements on discrete issues or phases of any particular case. The resolution of each issue is interrelated to the resolution of all other issues. The Signatories understand and agree that each term of this Stipulation is in consideration and support of every other term. As a result, the Stipulation is indivisible because of the comprehensive nature of the compromises made.

21. This Stipulation, if approved by the Commission, represents a fair, just and reasonable solution to the issues being resolved. Moreover, this Stipulation will serve the purpose of moderating the rates of the Company in the Texas jurisdiction during the Freeze Period. This Stipulation reflects settlement discussions. It is recognized and agreed by the Signatories that this Stipulation is made and filed solely in connection with the compromise and settlement of rate matters related to the Company and is subject to the specific approval of the Commission of the matters herein stipulated. By entering into this Stipulation, none of the Signatories shall be deemed to have approved or acquiesced in any ratemaking principle, valuation methodology, method of cost-of-service determination, method of revenue calculation or cost allocation or rate design principle underlying any of the provisions and agreements contained herein. It is the result of a unique fact situation, and its resolution is specific to the circumstances presented. This Stipulation shall not prejudice, bind, or affect any Signatory, or be viewed as an admission, except to the extent necessary to give effect to or enforce the terms of this Stipulation or unless otherwise specifically, stated herein.
22. The Signatories agree that they will use their best efforts to obtain expeditious implementation of this Stipulation by the entry of appropriate final orders in Docket
Nos. 12700, 14000 and 14120 and in the judicial appeals of Docket Nos. 8018, 8078, 8363, 9945 and 13966. This Stipulation assumes the legality of the treatments and methodologies set out herein. Should any such treatment or methodology be rejected or declared illegal by either the Commission or a court, any Signatory shall have the right to withdraw from this Stipulation; however, the Signatories agree to negotiate in good faith to substitute a treatment or methodology with the same economic effect as that rejected or declared illegal.

23. The Signatories further agree that, upon the Commission's entry of the Second Interim Order, they will engage in good faith efforts to obtain approval of a consensual plan of reorganization that will allow the Company to emerge from bankruptcy on a stand-alone basis, consistent with the matters agreed to herein. This undertaking includes, but is not limited to, the exercise of reasonable efforts by the Signatories to obtain the support and cooperation of the Bankruptcy Court, the Commission, the Company's creditors and other parties-in-interest in the Company's bankruptcy case.

24. This Stipulation shall be unaffected by and shall not be changed or invalidated based upon the creditor and equity holder distributions or capital structure ultimately provided by the new plan of reorganization unless (i) the Plan does not comply with and implement this Stipulation, (ii) prior to confirmation the City is not satisfied that the reorganized company will be financially sound (a preliminary credit rating issued by one of the four (4) major rating agencies, that the credit quality of the first mortgage bonds to be issued by the reorganized company will be not less than BB- (as defined by Standard & Poor's) or its equivalent will establish that the reorganized company is financially sound); or (iii) debt of the reorganized company exceeds $1.3 billion. In any of such events, the City has the right to withdraw from the terms of this Stipulation and terminate it. The Signatories recognize that the Company will emerge from bankruptcy on a stand-alone basis and that the Company will be free to engage in a merger or other business combination with a third party after emerging from bankruptcy. In the event of such a
merger, the Signatories retain all the rights provided in this Stipulation, their rights as a party in a proceeding pursuant to PURA § 1.251 (formerly §63) as well as the right to pursue a reduction in rates below the freeze level. However, such right shall be limited to urging rate reductions based on post-merger synergy savings. In the event the Company seeks a merger or other business combination, General Counsel retains all authority consistent with PURA, § 1.251. Nothing in this paragraph shall be construed as a pre-determination of the appropriate ratemaking treatment of any such synergy-based reductions in cost.

25. Where this Stipulation requires a Signatory to "participate," "support" or "urge" regulatory or judicial action, and where the Signatory is not a governmental body or agency, then such obligation shall be limited to no more than reasonable efforts involving minimal expense.

26. Unless the context otherwise indicates, references to ratemaking items including, but not limited to, rate base, expense, margin and gain, shall mean the Texas jurisdictional share of such items.

27. Each person executing this Stipulation represents that (s)he is authorized to sign this Stipulation on behalf of the party represented. Facsimile copies of signatures are valid for purposes of evidencing this Stipulation. This Stipulation may be executed in multiple counterparts.
EXECUTED THIS 27th day of July, 1995.

Agreed to and accepted by:

EL PASO ELECTRIC COMPANY

By: ________________________________
Name: ______________________________
Title: ______________________________

PHELPS DODGE REFINING
CORPORATION & CHEVRON U.S.A., INC.

By: ________________________________
Name: ______________________________
Title: ______________________________

PUBLIC UTILITY COMMISSION OF
TEXAS GENERAL COUNSEL

By: ________________________________
Name: ______________________________
Title: ______________________________

BORDER STEEL ROLLING MILLS,
INC. AND EL PASO IRON & METAL
COMPANY

By: ________________________________
Name: ______________________________
Title: ______________________________

The execution of this Agreed Order by Border Steel Rolling Mills, Inc. and El Paso Iron & Metal Company is subject to the approval of the U.S. Bankruptcy Court for the Western District of Texas, El Paso Division.

OFFICE OF PUBLIC UTILITY COUNSEL

By: ________________________________
Name: ______________________________
Title: ______________________________

DEPARTMENT OF DEFENSE

By: /s/ David A. McCormick
Name: David A. McCormick
Title: General Attorney

CITY OF EL PASO

By: ________________________________
Name: ______________________________
Title: ______________________________

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS

By: ________________________________
Name: ______________________________
Title: ______________________________

ASARCO INCORPORATED

By: ________________________________
Name: ______________________________
Title: ______________________________

TEXAS STATE AGENCIES

By: ________________________________
Name: ______________________________
Title: ______________________________

Approved as to form:

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________
EXECUTED THIS 27th day of July, 1995.

Agreed to and accepted by:

EL PASO ELECTRIC COMPANY

By: /s/ David H. Wiggs Jr.
Name: David H. Wiggs, Jr.
Title: Chairman & C.E.O.

PHELPS DODGE REFINING CORPORATION & CHEVRON U.S.A., INC.

By: ________________________________
Name: ______________________________
Title: ______________________________

PUBLIC UTILITY COMMISSION OF TEXAS GENERAL COUNSEL

By: /s/ Charles E. Johnson
Name: Charles E. Johnson
Title: Assistant General Counsel

BORDER STEEL ROLLING MILLS, INC. AND EL PASO IRON & METAL COMPANY

By: ________________________________
Name: ______________________________
Title: ______________________________

The execution of this Agreed Order by Border Steel Rolling Mills, Inc. and El Paso Iron & Metal Company is subject to the approval of the U.S. Bankruptcy Court for the Western District of Texas, El Paso Division.

By: /s/ Marion T. Drew
Name: Marion T. Drew
Title: Asst. Public Counsel

OFFICE OF PUBLIC UTILITY COUNSEL

By: /s/ Larry Francis
Name: Larry Francis
Title: Mayor

CITY OF EL PASO

DEPARTMENT OF DEFENSE

By: ________________________________
Name: ______________________________
Title: ______________________________

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

By: ________________________________
Name: ______________________________
Title: ______________________________

ASARCO INCORPORATED

By: ________________________________
Name: ______________________________
Title: ______________________________

TEXAS STATE AGENCIES

By: ________________________________
Name: ______________________________
Title: ______________________________

**OPC's signature is contingent upon there being no opposition to this Stipulation and Settlement Agreement by other parties in this Docket. If by August 16, 1995 no such opposition becomes known, OPC's signature is unconditional.**
The net Texas jurisdictional value for the previously leased Palo Verde assets will be reduced by the following amounts:

- For any test year ending on or before December 31, 1994: $289,604,000
- For any test year ending after December 31, 1994 but before December 31, 1995: $257,562,000
- For any test year ending after December 31, 1995 but before December 31, 1996: $212,562,000
- For any test year ending after December 31, 1996 but before December 31, 1997: $189,408,000
- For any test year ending after December 31, 1997 but before December 31, 1998: $154,158,000
- For any test year ending after December 31, 1998 but before December 31, 1999: $110,498,000
- For any test year ending after December 31, 1999 but before December 31, 2000: $120,343,000
- For any test year ending after December 31, 2000 but before December 31, 2001: $184,313,000
- For any test year ending after December 31, 2001 but before December 31, 2002: $205,173,000
- For any test year ending after December 31, 2002 but before December 31, 2003: $229,725,000
- For any test year ending after December 31, 2003 but before December 31, 2004: $154,752,000

These reductions, if applied, represent a reduction to Texas jurisdictional invested capital (rate base).