

SOUTHWEST POWER POOL

MEMBERSHIP AGREEMENT

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**Southwest Power Pool
Membership Agreement**

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

1.0 Definitions

1.1 Agreement

This Membership Agreement.

1.2 Board of Directors

The Board of Directors elected pursuant to the Bylaws.

1.3 Bylaws

SPP's Bylaws or any successor document.

1.4 Distribution Facilities

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

1.5 Effective Date

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

1.6 Electric Transmission System

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

1.7 FERC

The Federal Energy Regulatory Commission, or successor organization.

1.8 Good Utility Practice

Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and

acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather to be a range of acceptable practices, methods, or acts generally accepted in the region. SPP Criteria and NERC Policies and Standards are considered Good Utility Practice.

1.9 Member

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

1.10 NERC

North American Electric Reliability Council or successor organizations.

1.11 Non-Transmission Owner

A Member that is not a Transmission Owner. A Non-Transmission Owner that owns or controls Tariff Facilities may have its status changed to a Transmission Owner under this Agreement upon notice to SPP and execution of this Agreement as a Transmission Owner.

1.12 Reliability Coordinator

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

1.13 SPP

Southwest Power Pool, Inc., or successor organization.

1.14 SPP Criteria

SPP's approved operating and planning criteria.

1.15 SPP Region

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

1.16 Standards of Conduct

SPP's Standards of Conduct that apply to the conduct of its directors, officers, employees, and consultants on file with FERC.

1.17 Tariff Facilities

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

1.18 Transmission Customer

A customer under the Open Access Transmission Tariff.

1.19 Transmission Owner

A signatory to this Agreement which transfers functional control related to the rates, terms and conditions of the OATT to SPP by executing this Agreement or appoints SPP under another agreement to provide service under the Transmission Tariff over Tariff Facilities which it owns or controls.

1.20 Open Access Transmission Tariff (OATT)

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

2.0 Rights, Powers And Obligations Of SPP

SPP possesses the rights, powers, and obligations as detailed in this Section 2.

2.1 Operation and Planning**2.1.1 General**

- a. SPP shall schedule transactions and to administer transmission service over Tariff Facilities as necessary to provide service in accordance with the SPP OATT.
- b. SPP shall function in accordance with Good Utility Practice and shall conform to applicable reliability criteria, policies, standards, rules, regulations, guidelines and other requirements of SPP and NERC, Transmission Owner's specific reliability requirements

and operating guidelines (to the extent these are not inconsistent with other requirements specified in this paragraph), and all applicable requirements of federal and state regulatory authorities.

- c. SPP shall maintain a publicly available registry of all facilities that are not classified as critical energy infrastructure information that constitute the Electric Transmission System.
- d. SPP shall review and approve, as appropriate, requests for service, schedule transmission transactions, and determine available transfer capability under the OATT, provided that SPP shall coordinate with the Transmission Owner when processing requests for service involving its Tariff Facilities.
- e. SPP shall be responsible for coordinating with neighboring regional organizations and/or non-member transmission owners or providers as appropriate.
- f. SPP shall not exercise its administration of transmission service over the Tariff Facilities in such a way as to interfere with contracts between Transmission Owner and any Transmission Customer that are in effect as of the Effective Date of this Agreement except as permitted by the OATT.
- g. SPP shall be responsible for documenting all transmission service requests, the disposition of such requests, and any supporting data required to support the decision with respect to such requests. SPP shall negotiate as appropriate to develop reciprocal service, equitable tariff application, compensation principles, and any related arrangements.
- h. SPP shall propose and file with FERC pursuant to Section 205 of the Federal Power Act modifications to the OATT and make any other necessary filings subject to approval by the Board of Directors.
- i. SPP shall develop penalties and incentives, subject to FERC filings where appropriate.
- j. SPP shall direct Transmission Owner pursuant to the provisions of Section 3.3 to construct transmission facilities in accordance with coordinated planning criteria, or if necessary under the OATT.
- k. SPP shall direct the operations of the Tariff Facilities in order to carry out its responsibilities as a Transmission Provider and Reliability Coordinator; provided, however, nothing in this Agreement or the OATT shall be construed to require a change in the physical control of any Tariff Facilities using a Party's existing facilities or equipment.

- I. SPP shall take any actions necessary for it to carry out its duties and responsibilities, subject to receiving any necessary regulatory approvals and any necessary approvals from the Board of Directors.

2.1.2 Reliability

SPP shall have responsibility for reliability of the Electric Transmission System in connection with its rights, powers, and obligations under this Agreement. SPP shall act as the Reliability Coordinator of the Electric Transmission System, and as such, shall have reliability monitoring and emergency response responsibilities pursuant to related SPP Criteria and the following requirements:

- a. SPP shall monitor real-time data to determine whether any control areas are experiencing generation capacity deficiencies. If a generation capacity deficiency event threatens the security of the Electric Transmission System, SPP is authorized to and shall direct the acquisition of generation capacity and, if that direction is not satisfied, is authorized to and shall direct the shedding of firm load in the deficient control area.
- b. SPP shall work with other reliability coordinators and non-member transmission owners or providers to develop regional reliability plans and emergency operating procedures.
- c. SPP shall maintain emergency response procedures for responding to specified critical contingencies and shall continuously analyze issues that may require the initiation of such actions.
- d. SPP is authorized to and shall direct the response to any emergency and Members shall carry out the required emergency actions as directed by SPP (except in cases involving endangerment to the safety of employees or the public), including the shedding of firm load if required for regional reliability.
- e. After the conclusion of an emergency condition, any affected entity that disagrees with SPP's handling of the emergency may resolve that disagreement pursuant to the dispute resolution procedures in the Bylaws.
- f. SPP shall monitor and coordinate the maintenance of adequate Electric Transmission System voltage levels with control areas and Transmission Owner, where appropriate.
- g. SPP shall direct redispatch of generation in accordance with the OATT and in its role as Reliability Coordinator, subject to the generator receiving appropriate compensation pursuant to an applicable rate schedule.

2.1.3 Transmission Maintenance

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

- a. SPP shall review planned transmission maintenance schedules submitted by Transmission Owner for a minimum of a rolling one-year period. These planned maintenance schedules shall be updated daily. Planned transmission maintenance requests shall be submitted to SPP at least one week in advance of an outage.
- b. SPP shall analyze a planned transmission maintenance request to determine its effect on available transfer capability, ancillary services, the reliability of the Electric Transmission System, and any other relevant effects. Within two business days of receiving a planned maintenance request, SPP shall provide a response. If SPP's response indicates that such planned transmission maintenance will have an adverse impact, Transmission Owner shall work with SPP to minimize the impact of such planned maintenance, up to and including re-scheduling the maintenance.
- c. SPP shall notify Transmission Owner of the need to change previously reviewed planned transmission maintenance outages if forced transmission outages or other circumstances compromise the integrity or reliability of the Electric Transmission System. If Transmission Owner is fully compensated for any additional costs resulting from any changes in maintenance schedules as provided in an applicable rate schedule, Transmission Owner shall revise maintenance outages to address such emergency circumstances.
- d. As part of its review process, SPP shall identify planned transmission maintenance schedules that limit available transfer capability. If requested by a Transmission Customer, SPP shall identify opportunities and associated costs for rescheduling planned maintenance to enhance available transfer capability. Transmission Owner shall be compensated for the additional costs of rescheduled maintenance as provided in the SPP OATT.
- e. SPP shall be responsible for documenting all planned transmission maintenance requests, the disposition of those requests, and all data supporting the disposition of each request.
- f. SPP shall coordinate with Transmission Owner to the extent practicable to implement schedules for unplanned transmission maintenance when conditions endanger the safety of employees or the public, may result in damage to facilities, or may result in the unsatisfactory operation of its transmission system or any other transmission system.

2.1.4 Generation Maintenance

SPP shall coordinate the maintenance of generating units as appropriate to the extent such generation maintenance directly affects the capacity or reliability of the Electric Transmission System and the generation is located in the SPP Region as follows:

- a. SPP shall review planned generating unit maintenance schedules submitted by generation owners for a minimum of a rolling one-year period. The planned maintenance schedules shall be updated daily. SPP shall keep such information confidential.
- b. SPP shall analyze a planned generating unit maintenance schedule to determine its effect on available transfer capability, ancillary services, the reliability of the Electric Transmission System, and any other relevant effects. SPP shall inform a generation owner if its maintenance schedule is expected to have an impact on the reliability of the Electric Transmission System.
- c. As part of its review process, SPP shall identify generating unit maintenance schedules that limit available transfer capability and shall identify opportunities and associated costs for rescheduling planned maintenance to enhance available transfer capability.
- d. A generation owner that changes planned maintenance at the request of SPP pursuant to this Section 2.1.4 shall be compensated in accordance with the SPP OATT.
- e. SPP shall be responsible for documenting all planned generating unit maintenance schedules, all schedule changes, and all SPP studies and services performed with respect to planned generation maintenance.

2.1.5 Planning Activities

- a. SPP shall engage in such planning activities, in coordination with Member, as are necessary to fulfill its obligations under this Agreement, SPP Criteria and the OATT. Such planning shall conform to applicable reliability requirements of SPP, NERC, Transmission Owner's specific reliability requirements and operating guidelines (to the extent these are not inconsistent with other requirements), and all applicable requirements of federal or state regulatory authorities. Such planning shall seek to minimize costs, consistent with the reliability and other requirements set forth in this Agreement. The division of responsibility for planning between Member and SPP is set forth in the SPP Criteria.

- b. As part of its planning activities, SPP shall be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and to coordinate such efforts with the appropriate state authorities.

2.2 Non-Discriminatory Transmission Service

SPP shall offer and administer transmission service over Tariff Facilities as specified in the OATT.

2.2.1 Pricing

In connection with its administration of the OATT, SPP on behalf of its Members may propose to FERC such transmission pricing for transmission service as is necessary to fulfill its obligations under this Agreement, and may propose to FERC such changes in prices, pricing methods, terms, and conditions as are necessary to continue to fulfill such obligations. The Board of Directors must approve such filings. The OATT rates shall be designed and administered so as to recover full cost of service to the greatest extent practicable associated with the provision of transmission service under the OATT for Tariff Facilities. Notwithstanding the foregoing, Transmission Owner possesses the right to revise certain rates as provided in Section 3.10 of this Agreement.

2.2.2 Standards of Conduct

SPP, its directors, officers, employees, contractors, and agents shall adhere to the Standards of Conduct.

2.2.3 OASIS

SPP shall administer an Open Access Same-time Information System (OASIS) or successor systems for administration of transmission service. The OASIS, or any successor system, shall conform to the requirements for such systems as specified by FERC.

2.2.4 Ancillary Services

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

2.2.5 Transmission Service Scheduling

- a. SPP shall schedule and curtail transmission service in accordance with the OATT.
- b. SPP shall, in consultation with its Members, develop and from time-to-time amend when necessary, detailed scheduling protocols and procedures for service under the OATT, which shall be provided to all Members and be made publicly available.

2.3 Fiduciary Responsibilities and Duties of Southwest Power Pool to Members

SPP shall have the following fiduciary responsibilities and duties to Member under this Agreement:

- a. Using best efforts to avoid damage to the Tariff Facilities or any other facilities of the Member affected by SPP activities;
- b. Collecting and distributing revenues to Member in accordance with the Transmission Tariff and any other applicable documents;
- c. Using best efforts to maximize transmission service revenues associated with such transmission services in discounting transmission services in accordance with the Transmission Tariff; and
- d. Using best efforts to promote the design and development of Transmission Tariff rates to assure recovery by Transmission Owner of transmission revenue requirements to the greatest extent practicable and subject to receiving necessary regulatory approvals.

2.4 Additional Obligations of SPP

2.4.1 Inspection and Auditing Procedures

SPP shall grant Member, its employees, agents, or external auditors, and federal and state regulatory authorities having jurisdiction over SPP or Member, such access to SPP's books, records, business practices, control procedures and required audit test results, and related financial transactions and settlement activities as is necessary to verify compliance by SPP with this Agreement, to audit and verify transactions under this Agreement, and to assist Member in complying with its statutory and regulatory requirements. Such access shall be at reasonable times and under reasonable conditions. SPP shall also comply with the reporting requirements of federal and state regulatory authorities having jurisdiction over SPP with respect to the business aspects of its operations. Contact between officers, employees, and agents of Member and those of SPP shall comply with the Standards of Conduct.

2.4.2 Stranded Cost Recovery Charges

SPP shall collect and distribute, as appropriate, any stranded cost recovery charges pursuant to applicable schedules accepted by appropriate regulatory entities.

3.0 Commitments, Rights, Powers, And Obligations Of Member

Member has made the following commitments, and shall have the following rights and shall be responsible for the following functions, some of which apply only to a Transmission Owner, some only to a Non-Transmission Owner.

- a. Transmission Owner shall transfer functional control related to the rates, terms and conditions of the OATT of its Transmission Facilities, subject to receiving all necessary regulatory authorizations, thereby allowing SPP to (i) direct the operation of the Transmission Facilities in accordance with the terms of this Agreement and (ii) to administer transmission service under the Transmission Tariff over that Transmission Owner's Tariff Facilities; and (iii) in receiving funds from Transmission Customers relating to transmission service over Tariff Facilities and in distributing funds to it. Where Member, owns generators within the SPP Region which directly affect the capacity or reliability of the Electric Transmission System, it shall offer to provide the ancillary services required under the OATT at rates approved by regulatory authorities, where appropriate, to the extent such generators are able to provide such ancillary services.
- b. Transmission Owner shall operate and maintain its Tariff Facilities subject to the requirements of this Agreement.
- c. Where Transmission Owner is a control area operator, it shall continue to operate its control areas for local generation control and economic dispatch, and shall be responsible for identifying and addressing local problems in a reliable manner.
- d. Transmission Owner shall provide transmission service over its Tariff Facilities at the direction of SPP pursuant to the terms of the OATT.
- e. Member agrees to comply with the instructions of SPP in its role as Reliability Coordinator.
- f. Transmission Owner shall retain all rights of ownership, including legal and equitable title in its Tariff Facilities, subject to the provisions of this Agreement. Transmission Owner, or one acting under its authority, shall retain all rights to access to its Tariff Facilities so long as such access is consistent with the provisions of this Agreement.
- g. Notwithstanding any other provision in this Agreement, Transmission Owner shall not be obligated or be considered as allowing transmission over its facilities if such

transmission would cause the loss of the tax-exempt status of Transmission Owner or any bonds or other debt of Transmission Owner.

3.1 Redispatch and Curtailment

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

3.2 Transmission and Generation Maintenance Practices

Transmission Owner shall maintain its Tariff Facilities in accordance with Good Utility Practice. Member shall maintain its generation facilities subject to this Agreement in accordance with Good Utility Practice. Transmission Owner shall coordinate and obtain SPP approval for maintenance on its Tariff Facilities in accordance with Section 2.1.3 of this Agreement. Where Member owns or controls generation facilities within the SPP Region directly affecting Electric Transmission System capability or reliability, it shall coordinate maintenance of such facilities with SPP in accordance with Section 2.1.4 of this Agreement.

3.3 Construction

- a. As part of its planning activities, SPP shall be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and to coordinate such efforts with the appropriate state authorities. Transmission Owner shall use due diligence to construct transmission facilities as directed by SPP in accordance with the OATT and this Agreement, subject to such siting, permitting, and environmental constraints as may be imposed by state, local and federal laws and regulations, and subject to the receipt of any necessary federal or state regulatory approvals. Such construction shall be performed in accordance with Good Utility Practice, applicable SPP Criteria, industry standards, Transmission Owner's specific reliability requirements

and operating guidelines (to the extent these are not inconsistent with other requirements), and in accordance with all applicable requirements of federal or state regulatory authorities. Transmission Owner shall be fully compensated to the greatest extent permitted by FERC, or other regulatory authority for the costs of construction undertaken in accordance with the OATT.

- b. After a new transmission project has received the required approvals and been approved by SPP, SPP will direct the appropriate Transmission Owner(s) to begin implementation of the project. If the project forms a connection between facilities of a single Transmission Owner, that Transmission Owner will be designated to provide the new facilities. If the project forms a connection between facilities owned by multiple parties, all parties will be designated to provide their respective new facilities. The parties will agree among themselves as to how much of the project will be provided by each entity. If agreement cannot be reached, SPP will facilitate the ownership determination process.
- c. A designated provider for a project can elect to arrange for a new entity or another Transmission Owner to build and/or own the project in its place. If a designated provider(s) does not or cannot agree to implement the project in a timely manner, SPP will solicit and evaluate proposals for the project from other entities and select a replacement.

3.4 Use of Distribution Facilities

Transmission Owner shall provide such service over its Distribution Facilities, where applicable, as is necessary to effectuate transmission transactions administered by SPP, at approved rates, and subject to a separate tariff or agreement as appropriate.

3.5 Providing Information

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

3.6 Facilities Access

Transmission Owner shall allow SPP such access to Tariff Facilities as is necessary for SPP to perform its obligations under this Agreement. Such access shall be at reasonable times and under reasonable conditions.

3.7 Inspection and Auditing Procedures

Transmission Owner shall grant SPP such access to its books and records as is necessary for SPP to perform its obligations under this Agreement and to audit and verify transactions under this Agreement. Such access shall be at reasonable times and under reasonable conditions. Transmission Owner shall not be required to provide access to confidential information unless it consents, which consent will not be unreasonably withheld. Transmission Owner may require reasonable disclosure conditions before giving its consent. Disclosure of confidential information shall be made consistent with such disclosure conditions or in accordance with any effective order requiring production of such confidential information issued by a court or regulatory authority. SPP shall provide Transmission Owner immediate notice of any request by an entity to review any such confidential information.

3.8 Compliance with Bylaws and Other Policies and Procedures

- a. Member agrees to and will comply with and abide by the provisions of the SPP Bylaws and pay, when due, any dues, assessments, OATT charges, and other amounts owing to SPP.
- b. Member shall comply with all approved and applicable SPP and NERC policies, principles, criteria, standards, and guides and monitoring and certification procedures.
- c. Where Member is also a member of another NERC regional reliability council it may, at its request and upon approval of the President, be granted a waiver of responsibilities associated with SPP Criteria and/or Bylaws that are duplicative of or inconsistent with responsibilities of membership in another council. Where Member receives such a waiver, it agrees to forgo voting privileges on issues before any organizational group pertaining to waived responsibilities.

3.9 Planning and Participation

Transmission Owner shall participate in regional joint planning and coordinated operation of the Electric Transmission System. Non-Transmission Owner shall be entitled to participate in regional joint planning and coordinated operation of the Electric Transmission System.

3.10 Pricing

Transmission Owner shall possess the unilateral right to file with FERC pursuant to Section 205 of the Federal Power Act modifications to change the rates or rate structure for transmission service over its Tariff Facilities and to submit proposals or filings governing new construction with FERC; provided, however, Transmission Owner may not submit a proposal which results in a Transmission Customer paying two or more transmission charges for transmission for one transaction under the OATT (excluding Distribution Facilities for which an additional charge may be imposed, and Grandfathered Agreements as defined in the OATT). Transmission Owner shall notify SPP in advance of its intention to submit a filing to FERC and provide SPP with a copy of the filing. No approval from SPP is required for such filings.

4.0 Withdrawal Of Member

4.1 Notice

4.1.1 Transmission Owner

Transmission Owner may withdraw upon providing twelve months written notice to the President. The President will advise the Membership and the Board of Directors of any withdrawal notices received. A notice rescinds any previous notices of withdrawal. With regard to any such withdrawal by a FERC jurisdictional utility, the withdrawal shall not become effective until FERC has accepted the notice of withdrawal or otherwise allowed such withdrawal, if applicable. If the withdrawal of Transmission Owner creates a situation in which another Transmission Owner is no longer physically interconnected with the SPP Region, SPP shall determine the ability of such Transmission Owner to continue its membership as a Transmission Owner. Transmission Owner shall pay all existing obligations as defined in Section 4.2.

4.1.2 Non-Transmission Owner

Non-Transmission Owner may withdraw upon providing twelve months written notice to the President. The President will advise the Membership and the Board of Directors of any

withdrawal notices received. A notice rescinds any previous notices of withdrawal. Non-Transmission Owner shall pay all existing obligations as defined in Section 4.2.

4.2 Effect of Withdrawal

This Section 4.2 applies to withdrawals under both Sections 4.0 and 5.0 of this Agreement as well as any termination pursuant to Section 6.0.

4.2.1 Users Held Harmless

Transmission Customers taking service which involves facilities being withdrawn by Transmission Owner from SPP's administration and which involves transmission contracts executed before Transmission Owner provided notice of its withdrawal shall continue to receive the same service for the remaining term of the contract at the same rates, terms, and conditions that would have been applicable if there were no withdrawal of facilities. Transmission Owner agrees to continue providing service to such Transmission Customers, and shall receive revenues calculated in accordance with the OATT but no more in revenues for that service than if there had been no withdrawal of its facilities.

4.2.2 Existing Obligations

The "existing obligations" of a withdrawing or terminated Member shall mean:

- a. Member's unpaid membership fee, if any;
- b. any assessments imposed on Member in respect of SPP's costs or expenses incurred prior to the effective time of Member's withdrawal or termination;
- c. any costs or expenses imposed upon SPP as a direct consequence of Member's withdrawal or termination, whether payable prior to or after Member's withdrawal or termination and including, without limitation, any prepayment premium or penalty in respect of SPP's debt;
- d. Member's share (computed in accordance with the SPP Bylaws) of SPP's long-term obligations as of the effective time of Member's withdrawal or termination, with long-term obligations defined as amounts outstanding and payable under negotiated financing obligations, including but not limited to operating leases, capital leases, debt obligations, and debt instruments; and
- e. Member's share (computed in accordance with the SPP Bylaws) of interest scheduled to accrue ("future interest") on SPP's long-term obligations between the effective date of

Member's withdrawal or termination and the scheduled maturity of each long-term obligation (in the event that an obligation carries a variable interest rate, the interest rate in effect at the effective date of Member's withdrawal or termination shall be used for purposes of this paragraph); provided, however, that in computing the Member's share of future interest under this paragraph (e), SPP shall take into account SPP's ability to mitigate the Member's share of future interest by a commercially reasonable application (such as prepayment of debt or investment in an interest-bearing instrument) of the Member's share of debt obligations and debt instruments due under the immediately preceding paragraph (d).

SPP shall invoice Member for existing obligations as soon as reasonably practical after the effective date of Member's withdrawal or termination, and Member shall pay its existing obligations to SPP within 30 days after receipt of the invoice. Any amounts owed by SPP to Member shall be, at SPP's election, offset against Member's existing obligations or paid to Member concurrently with issuance of the invoice for existing obligations. Member acknowledges and agrees that existing obligations include amounts that may accrue and be payable by SPP following Member's withdrawal or termination, and that no part of a payment of existing obligations shall be refundable to Member under any circumstances, including (except as provided in paragraph (e) above) any mitigation by SPP of its long-term obligations in connection with Member's withdrawal or termination. Any disagreement as to existing obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws.

4.2.3 Construction of Facilities

Obligations relating to the construction of new facilities pursuant to an approved plan of SPP shall be renegotiated between SPP and the withdrawing Member, where applicable. If such obligations cannot be resolved through negotiations, they shall be resolved in accordance with the dispute resolution procedures in the Bylaws.

4.2.4 Regulatory and Other Approvals or Procedures

Withdrawal by Transmission Owner from SPP shall also be subject to applicable federal and state law and regulatory approvals or procedures.

5.0 Regulatory, Tax, And Other Authorities

5.1 Regulatory and Other Authorities

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

- a. In the event FERC disapproves or refuses to accept this Agreement or the changes to the OATT developed together with this Agreement, then this Agreement shall cease to be effective except that the signatories shall be obligated to attempt expeditiously and in good faith to negotiate a substitute agreement and OATT which address the reasons for such FERC action. If, despite such good faith negotiation, the signatories are unable to produce such a substitute agreement and OATT, then the signatories shall have no further obligations under this Agreement or any filing associated herewith.
- b. In the event of any order or decision by FERC or by a court modifying this Agreement or the OATT submitted as part of the initial filing seeking FERC acceptance or approval, that in the judgment of Member adversely affects it, then Member, at its sole discretion, may withdraw from this Agreement by providing written notice to the President of SPP no later than thirty days after such order or decision without receiving any FERC authorization. In such event, Member will in good faith negotiate to determine whether changes should be made to the Agreement or OATT to address the reasons for Member's withdrawal.

5.2 Tax Authorities

If the Internal Revenue Service or any other federal, state, or local taxing authority issues, or fails to issue, any ruling, or imposes any requirement or obligation, in connection with this Agreement on Member adverse to Member (in its sole judgment), or if adherence to this Agreement jeopardizes the tax-exempt status of Member or its bonds, then Member may, within 30 days of the date of such final order, or a good faith belief of such adverse consequences, withdraw from this Agreement subject to receiving any necessary regulatory approvals. In such event, the Member and SPP will, in good faith, negotiate to determine whether changes should be made to the Agreement to address the reasons for Member's withdrawal.

5.3 Effectiveness as to Certain Members

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

- a. Receipt of an unqualified opinion of a nationally recognized bond counsel to the effect that the provisions of this Agreement do not adversely affect the exclusion from gross income of interest on any such outstanding bonds issued to finance generation, transmission, and Distribution Facilities under the Internal Revenue code of 1986, as amended;
- b. Receipt of an unqualified opinion of a nationally recognized bond counsel or general counsel to Member to the effect that the provisions of this Agreement do not constitute a breach or impairment of, or a default under, any agreement to which it is a party, including, but not limited to, its master bond resolution, as amended, and any power sales contracts with its municipal transmission users (if any), as amended, or other agreements;
- c. Receipt of a certificate of the trustee for any such outstanding bonds issued for generation, transmission and Distribution Facilities to the effect that Member's entry into this Agreement is permitted under the master bond resolution, as amended; and
- d. Receipt of an opinion of nationally recognized bond counsel or general counsel to Member that it has full constitutional and statutory authority to enter into this Agreement.

In the event that any of the foregoing conditions are not satisfied or waived by Member, then it shall promptly give notice of its objections or conditions which have not been satisfied to SPP, and SPP shall expeditiously attempt in good faith to negotiate a substitute agreement.

6.0 Removal Of Members

The Board of Directors may terminate the membership of Member for cause, including but not limited to material violation of the Bylaws or nonpayment of obligations, subject to any applicable regulatory approvals. Such Board of Directors termination shall be after an affirmative vote consistent with the voting procedures in the Bylaws. Where membership is

terminated by the Board, Member shall comply with the requirements of Section 4.2 of this Agreement as if it had voluntarily withdrawn from SPP.

7.0 Effective Date, Duration, And Transition

- a. This Agreement shall be effective on the Effective Date and shall remain in force until Member's withdrawal becomes effective or this Agreement is terminated. In the event of termination of this Agreement, all financial obligations incurred and payments applicable to time periods prior to the effective date of such termination shall be honored by SPP and Member as of the date of termination. In addition, all obligations incurred pursuant to Section 4.2 of this Agreement shall survive such termination.
- b. Where Member has, prior to the Effective Date of this Agreement, executed an agency agreement and/or a membership agreement with SPP, upon the Effective Date of this Agreement any prior agreements shall be considered terminated between Member and SPP.

8.0 Miscellaneous Provisions

8.1 Governing Law

This Agreement shall be interpreted, construed, and governed by the laws of the State of Arkansas, except to the extent preempted by the law and/or unless a court with jurisdiction rules otherwise, provided, however, that all matters relating to real property or any interest in realty shall be governed by the laws of the State wherein such real property or interest in realty is physically located.

8.2 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon SPP and Member, their respective successors and assigns permitted hereunder, but shall not be assignable by Member, by operation of law or otherwise, without the approval of the Board of Directors which approval shall not be unreasonably withheld, except that no Board of Directors approval is required as to a successor in the operation of Transmission Owner's Tariff Facilities committed to administration by SPP by reason of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which substantially all such transmission facilities are acquired by such successor, and such successor becomes a Transmission Owner under this Agreement.

8.3 No Implied Waivers

The failure of Member or SPP to insist upon or enforce strict performance of any of the specific provisions of this Agreement at any time shall not be construed as a waiver or relinquishment to any extent of Member's or SPP's rights to assert or rely upon any such provisions, rights, or remedies in that or any other instance, or as a waiver to any extent of any specific provision of this Agreement; rather the same shall be and remain in full force and effect.

8.4 Severability

Each provision of this Agreement shall be considered severable, and if for any reason any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is determined by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired, or invalidated, and such invalid, void, or unenforceable provision shall be replaced with a suitable and equitable provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid, void, or unenforceable provision. This Section 8.4 does not modify or change in any way the right of Member to withdraw as provided elsewhere in this Agreement.

8.5 Renegotiation

If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, Member and SPP shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification, or condition. If after 60 days such negotiations are unsuccessful, Member or SPP may exercise any withdrawal or termination rights available under Sections 4, 5 or 6 of this Agreement.

8.6 Representations and Warranties

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

- a. It is duly organized, validly existing, and in good standing under the laws of the jurisdiction where organized;
- b. Subject to any necessary approvals by federal or state regulatory authorities of SPP, the execution and delivery by Member and SPP of this Agreement, and the performance of its respective obligations hereunder have been duly and validly authorized by all requisite action on the part of the signatories and does not conflict with any applicable law or with any other agreement binding upon the signatories, other than third party joint agreements covered in this Agreement. This Agreement has been duly executed and delivered by Member and SPP, and, subject to the conditions set forth in this Agreement, constitutes the legal, valid, and binding obligation on the part of Member and SPP, enforceable against it in accordance with its terms except insofar as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws affecting the enforcement of creditor's rights generally, and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity; and
- c. There are no actions at law, suits in equity, proceedings, or claims pending or, to the knowledge of Member or SPP, threatened against Member or SPP before or by any federal, state, foreign or local court, tribunal, or governmental agency or authority that might materially delay, prevent, or hinder the performance by such entity of its obligations hereunder.

8.7 Further Assurances

Member and SPP agree that each shall hereafter execute and deliver such further instruments, provide all information, and take or forbear such further acts and things as may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the provisions of this Agreement.

8.8 Delivery of Notices

Except as otherwise expressly provided herein, notices required under this Agreement shall be in writing and shall be sent to Member or SPP by U.S. mail, overnight courier, hand delivery, facsimile, or other reliable electronic means. Any notice required under this Agreement shall be deemed to have been given either upon delivery, if by U.S. mail, overnight courier, or hand delivery, or upon confirmation, if given by facsimile or other reliable electronic means.

8.9 Entire Agreement

This Agreement constitutes the entire agreement between Member and SPP with respect to the subject matter of this Agreement, and no previous oral or written representations, agreements, or understandings made by any officer, agent, or employee of Member or SPP shall be binding upon either party unless contained in this Agreement.

8.10 Good Faith Efforts

Member and SPP agree that each shall in good faith take all reasonable actions necessary to fulfill its respective obligations under this Agreement. Where the consent, agreement, or approval of Member or SPP must be obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, conditioned, or delayed. Where Member or SPP is required or permitted to act, or omit to act, based on its opinion or judgment, such opinion or judgment shall not be unreasonably exercised. To the extent that the jurisdiction of any federal or state regulatory authority applies to any part of this Agreement and/or the transactions or actions covered by this Agreement, Member and SPP secure any necessary or desirable approval or acceptance of such regulatory authorities of such part of this Agreement and/or such transactions or actions.

8.11 Third Party Joint Agreements

This Agreement shall not be construed, interpreted, or applied in such a manner as to cause Member to be in material breach, anticipatory or otherwise, of any agreement (in effect on the later of the Effective Date of this Agreement or the date that it becomes a Member under this Agreement) between Member and one or more third parties who are not signatories (regardless of the inclusion of one or more other Members as parties to such agreement) for the joint transmission, operation, or maintenance of any electrical facilities covered by this Agreement or the OATT. Where Member has such a third party joint agreement, it shall discuss with the Board of Directors any material conflict between such third party joint agreement and this Agreement, but the resolution of such a conflict shall be and remains within the sole discretion of Member; provided, however, that Member shall, if otherwise unresolved, utilize the available remedies and dispute resolution procedures to resolve such conflict, including, but not limited to, submitting such conflict to FERC for resolution; provided, further, that in no event shall Member enter into a resolution of such conflict which would impair the reliability of the Electric Transmission System.

8.12 Amendment

This Agreement may be amended, repealed, or added to by the Board of Directors, only upon 30 days written notice to the Membership of the proposed modification(s), and subject to any necessary regulatory approvals. Approval of amendments to this Agreement by the Board of Directors must be by an affirmative vote of at least five directors. Member agrees to be bound by this Agreement as it may be amended, provided that Member possesses the right to challenge any amendments at FERC and to exercise any withdrawal rights that it possesses under this Agreement if it is dissatisfied with the amendment.

8.13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument, binding upon Member and SPP.

[SIGNATURE PAGE FOLLOWS]

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

MEMBER:

Name of Member

Type of Entity (Transmission Owner or Non-Transmission Owner)

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution

SOUTHWEST POWER POOL, INC.:

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution