SEATTLE CITY COUNCIL

Legislative Summary

CB 118444

Record No.: CB 118444
Version: 1
Type: Ordinance (Ord) 124819
Status: Passed
In Control: City Clerk
File Created: 07/02/2015
Final Action: 07/29/2015

Title: AN ORDINANCE related to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light to execute a Reliability Coordinator Funding Agreement with Peak Reliability, Inc.

Notes:

Sponsors: Sawant

Attachments:

Drafter: mike.haynes@seattle.gov

	Date
Filed with City Clerk:	
Mayor's Signature:	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	07/14/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	07/14/2015	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	07/15/2015	sent for review	Energy Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Energy Committee						
	Notes:						
1	Full Council	07/20/2015	referred	Energy Committee			
	Action Text: The Council Bill (CB) was referred. to the Energy Committee						
	Notes:						
1	Energy Committee	07/22/2015	pass				Pass
	Action Text: The Committee recommends that Full Council pass the Council Bill (CB).						

Notes:

In Favor: 3 Chair Sawant, Vice Chair Okamoto, Member O'Brien

Opposed: 0

1	Full Council	07/27/2015	passed	Pass

Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:

Notes:

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

1	City Clerk	07/28/2015	submitted for Mayor's signature	Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor

Notes:

1	Mayor	07/29/2015	Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

1	Mayor	07/29/2015	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

1	City Clerk	07/29/2015	attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 124819

COUNCIL BILL 118444

AN ORDINANCE related to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light to execute a Reliability Coordinator Funding Agreement with Peak Reliability, Inc.

WHEREAS, Peak Reliability, Inc. ("Peak") is registered and certified with the North American Electric Reliability Corporation as the Reliability Coordinator ("RC") and Interchange Authority functions for all or parts of 14 western states, British Columbia, and the northern portion of Baja California, Mexico; and

WHEREAS, Peak is required by applicable law, including NERC Reliability Standards, to perform monitoring for registered balancing authorities ("BA") and transmission operators ("TOP") entities within the U.S. portion of the Western Interconnection; and

WHEREAS, Peak's services include situational awareness and real-time monitoring and regional coordination of energy and transmission resources of the RC Area to certain electric utilities within the Western Interconnection, in order to minimize disruptions, provide leadership, and assure reliability of the bulk electric system; and

WHEREAS, as part of its ongoing federal reliability obligations, The City of Seattle, by and through its City Light Department ("City Light"), is registered and certified by NERC as a BA and a TOP, and must be an active member of Peak for RC services ; and

WHEREAS, prior to Peak's existence, City Light paid for and received its RC services from Western Electric Coordinating Council ("WECC"), who previously performed RC functions within the Western Interconnection; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The General Manager and Chief Executive Officer of the City Light Department, or the General Manager and Chief Executive Officer's designee, is hereby authorized to execute for and on behalf of The City of Seattle the Reliability Coordinator Funding Agreement, substantially in the form attached hereto as Attachment 1.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 27th day of July, 2015, and signed by me in open session in authentication of its passage this 27th day of July, 2015.

President _____ of the City Council

Approved by me this 29th day of July, 2015.

Edward B. Murray, Mayor

Filed by me this 29th day of July, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Attachment 1- Reliability Coordinator Funding Agreement Among Peak Reliability, Inc. and Funding Parties
Attachment 2 - Map – NERC Interconnections

RELIABILITY COORDINATOR FUNDING AGREEMENT

AMONG

PEAK RELIABILITY, INC.

AND

FUNDING PARTIES

[[As of _____, 20__]]

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ATTACHMENTS

Attachment A Intentionally Left Blank

Attachment B List of Funding Parties, BA Funded TOPs and Associated TOPs

Attachment C Federal Government Contract Provisions

RELIABILITY COORDINATOR FUNDING AGREEMENT

This Reliability Coordinator Funding Agreement ("Agreement") is entered into as of the ___ day of _____, 20__ (the "Execution Date"), by and among Peak Reliability, Inc. ("Peak"), a not-for-profit corporation organized pursuant to the laws of the State of Utah, and each of the Funding Parties. Peak and the Funding Parties may sometimes be referred to herein in the singular as a "Party" and in the plural as "Parties."

RECITALS

WHEREAS, Peak will perform the Reliability Coordinator Functions for the Peak Reliability Coordinator Area;

WHEREAS, Peak has registered with and is certified by NERC as a Reliability Coordinator to perform the Reliability Coordinator Functions;

WHEREAS, the Funding Parties are willing to fund Peak's performance of the Reliability Coordinator Functions in accordance with this Agreement; and

WHEREAS, each Funding Party is registered with and is certified by NERC as a Balancing Authority or Transmission Operator or both, or could be registered as such by NERC if operating within the United States, all within the Western Interconnection.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

Section 1. Definitions

Except as otherwise expressly provided herein, all capitalized terms shall have the meanings provided in the NERC Glossary.

1.1 "Agreement" means this Reliability Coordinator Funding Agreement (including any exhibits attached hereto), as may be amended or modified from time to time in accordance with the terms of this Agreement.

1.2 "Articles of Incorporation" or "Articles" means the Articles of Incorporation of Peak, as may be amended from time to time.

1.3 "Associated TOP" shall have the meaning provided in Section 13.2 of this Agreement. Each TOP that is an Associated TOP shall be listed as an Associated TOP in Attachment B and Attachment B shall identify the BAA in which such TOP is located as an Associated TOP.

1.4 "BA Funded TOP" shall have the meaning provided in Section 13.3 of this Agreement. Each TOP that is a BA Funded TOP shall be listed as a BA Funded TOP in Attachment B and Attachment B shall identify the BAA in which such TOP is located as a BA Funded TOP.

1.5 "Balancing Authority" or "BA" shall have the meaning given "Balancing Authority" in the NERC Glossary.

1.6 "Balancing Authority Area" or "BAA" shall have the meaning given "Balancing Authority Area" in the NERC Glossary.

1.7 "Bankrupt" means that an entity has (a) filed a petition or otherwise commenced, or authorized the commencement of, a proceeding or cause under any bankruptcy, insolvency, receivership or similar law for the protection of creditors, or (b) has such a petition filed or proceeding commenced against it, which petition or proceeding remains undismissed for ninety (90) days, or (c) files an answer or pleading admitting or failing to contest the material allegations of any such petition, or (d) takes any action for its winding up, liquidation or dissolution, or (e) is otherwise adjudged bankrupt or insolvent under any bankruptcy, insolvency, receivership or similar law for the protection of creditors, or (f) consented to any of the actions described in clauses (a) through (e) of this definition being taken against it.

1.8 "Board" means Peak's Board of Directors, as it may be modified from time to time in accordance with Peak's Bylaws.

1.9 [reserved]

1.10 "Bulk Electric System" or "BES" shall have the meaning given "Bulk Electric System" in the NERC Glossary.

1.11 "Business Day" means any twenty-four (24) hour day from Monday through Friday with the exception of legal holidays recognized by the U.S. federal government.

1.12 "Bylaws" means the bylaws of Peak, as may be amended from time to time.

1.13 [reserved]

1.14 "Chief Executive Officer" means the most senior corporate officer or executive of a Party.

1.15 [reserved]

1.16 [reserved]

1.17 "Effective Date" shall have the meaning given such term in Section 5.1.

1.18 "FERC" means the Federal Energy Regulatory Commission.

1.19 "Final Funding Amount" means, with respect to a calendar year during the Term, the amount of funding for Funded Services during such calendar year to be provided by the Funding Parties. The Final Funding Amount for a calendar year during the Term shall be equal to the Final Funding Amount for such calendar year established pursuant to Section 4.1.5. If a Final Funding Amount for a calendar year is adjusted pursuant to Section 4.1.7, the "Final Funding Amount" for such calendar year shall mean the Final Funding Amount for such calendar year as so adjusted.

1.20 "Funded Costs" means, for any calendar year during the Term, Peak's expenses for performing the Funded Services during any calendar year of the Term, in an amount not to exceed the Final Funding Amount for such calendar year.

1.21 "Funded Services" means the RC Functions for the Peak RC Area and maintenance of an agreement with a qualified technology vendor to provide the Tagging Authority Service ("TAS") software and the Western Interchange Tool ("WIT") (including any software adopted by Peak as a successor to the TAS or WIT), and administrative and operational support of the TAS software and WIT or their successors, which shall be sufficient to fulfill the requirements of Reliability Standards applicable to the distribution of Arranged Interchange information for the Peak RC Area.

1.22 "Funding Party" means each BA that is listed as a Funding Party in Attachment B hereto and each TOP that is listed as a Funding Party in Attachment B hereto, including any BA or TOP that is a New Funding Party commencing as of its execution and delivery to Peak of a signature page of this Agreement pursuant to Section 5.1. Any Funding Party that withdraws from this Agreement in accordance with Section 5.4 shall no longer be a Funding Party commencing as of the time its withdrawal becomes effective as specified in Section 5.4. Associated TOPs are not Funding Parties and BA Funded TOPs are Funding Parties.

1.23 [reserved]

1.24 "Initial Term" shall have the meaning given such term in Section 5.2.

1.25 "Intellectual Property" means any and all as trademarks, copyrights, trade secrets, patents, and design patents (including all preparatory materials such as sketches, drafts, out-takes, outlines and drawings, and any and all electronic media in which any of the foregoing are fixed or recorded), as well as drawings, artwork, copy, designs, computer software, computer program codes, computer data models, photographs, video tapes, films, slides, tape recordings, mechanicals, writings, audio/visual projects, printed or graphic matter, that could reasonably be subject to protection as trademarks, copyrights, trade secrets, patents, or design patents.

1.26 [reserved]

1.27 [reserved]

1.28 "MAC" means the Member Advisory Committee formed under Section 7 of the Bylaws.

1.29 [reserved]

1.30 "Minimum Charge" shall have the meaning given such term in Section 4.3.1.

1.31 [reserved]

1.32 "NERC" means the North American Electric Reliability Corporation.

1.33 "Net Energy for Load" or "NEL" shall mean net generation on or interconnected to an electric system plus energy received from others less energy delivered to others through interchange. It includes system losses, but excludes energy required for storage of energy at energy storage facilities. Calculations of NEL for all purposes under this Agreement shall be based on the most recent calendar year for which data on NEL is available.

1.34 "NERC Glossary" means at any time the then-current FERC-approved NERC Glossary of Terms Used in NERC Reliability Standards.

1.35 "New Funding Party" means a Person that enters into this Agreement after the Effective Date of the Initial Term as a Funding Party by executing a counterpart of this Agreement and delivering it to Peak pursuant to Section 5.1.

1.36 "Party" means any Funding Party or Peak.

1.37 "Peak Additional Services" shall have the meaning given such term in Section 2.4

1.38 [reserved]

1.39 "Peak Reliability Coordinator Area" or "Peak RC Area" means the BAAs located within the Western Interconnection for which a Funding Party is the Balancing Authority (specifically excluding any such BAA for which the Balancing Authority is a Funding Party that has withdrawn from this Agreement pursuant to Section 5.4 and whose withdrawal has become effective pursuant to Section 5.4).

1.40 "Person" means an individual, corporation, cooperative corporation, municipal corporation, quasi-municipal corporation, joint operating entity, limited liability company, mutual association, partnership, limited partnership, limited liability partnership, association, joint stock company, trust, unincorporated organization, government entity or political subdivision thereof (including a federal power marketing administration), or organization recognized as a legal entity by law in the United States, Mexico, or Canada, as applicable.

1.41 "Proposed Funding Amount" has the meaning given such term in Section 4.1.5.

1.42 "Reliability Coordinator" or "RC" shall have the meaning given "Reliability Coordinator" in the NERC Glossary. With respect to the Peak Reliability Coordinator Area, "Reliability Coordinator" or "RC" means Peak acting, for the Peak Reliability Coordinator Area, as the Reliability Coordinator as defined in the NERC Glossary.

1.43 "Reliability Coordinator Area" or "RC Area" shall have the meaning given "Reliability Coordinator Area" in the NERC Glossary.

1.44 "Reliability Coordinator Functions" or "RC Functions" means the performance during the Term by Peak for the Peak RC Area of the roles and responsibilities required of the RC, which includes activities necessary for Peak to effectively perform the responsibilities of the RC as set forth in the Reliability Standards and the NERC Functional Model, as may be amended from time to time, as well as documenting and demonstrating Peak's compliance with any Reliability Standards with which Peak, as the RC for the Peak RC Area, is required to comply. Provided, however, that Peak's acting as the RC for any Person other than a Funding Party is specifically excluded from, and does not constitute, RC Functions for the Peak RC Area under this Funding Agreement.

1.45 "Reliability Standards" shall have the meaning provided in the NERC Glossary and shall mean at any time the then-current FERC-approved Reliability Standards.

1.46 [reserved]

1.47 "Subsequent Term" shall have the meaning given such term in Section 5.2.

1.48 "Term" shall have the meaning given such term in Section 5.2.

1.49 "Transmission Operator" or "TOP" shall have the meaning given "Transmission Operator" in the NERC Glossary.

1.50 [reserved]

1.51 "Uncontrollable Force" means any act or event that delays or prevents a Party from timely performing obligations under this Agreement, including an act of God, strike, lock-out, labor dispute, labor disturbance, act of the public enemy, act of terrorism, war, insurrection, riot, fire, storm or flood, earthquake, explosion, accident to or breakage, failure or malfunction of machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (other than, as to its own performance, by such Party that is a federal power marketing administration, municipal corporation or other federal, tribal or state governmental entity or subdivision thereof), or any other cause beyond a Party's reasonable control and to the extent without such Party's fault or negligence. Economic hardship shall not constitute an Uncontrollable Force under this Agreement.

1.52 [reserved]

1.53 [reserved]

1.54 "WECC" means the Western Electricity Coordinating Council.

1.55 [reserved]

1.56 "Withdrawing Funding Party" shall have the meaning given such term in Section 5.4.

Section 2. Scope of Funded Services

2.1 Reliability Coordinator Functions

Peak is registered and certified with NERC as the RC for the Peak RC Area. Peak shall maintain and, as required by any applicable law, including the Reliability Standards, and applicable NERC Rules of Procedure, update its registration and certification with NERC as the RC for the Peak RC Area for the Term. To the extent that Peak is not performing the RC Function pursuant to this Agreement or another agreement for a BA or TOP within the United States portion of the Western Interconnection, Peak will notify that entity's Compliance Enforcement Authority that Peak is not that entity's Reliability Coordinator. During the Term, Peak's performance in accordance with this Agreement of the RC Functions shall be funded as provided in this Agreement.

2.2 WIT or Tagging Authority Service

For the Term, Peak shall maintain an agreement with a qualified technology vendor to provide the Tagging Authority Service ("TAS") software and the Western Interchange Tool ("WIT") (including any software adopted by Peak as a successor to the TAS or WIT), which shall be sufficient to fulfill the requirements of Reliability Standards applicable to the distribution of Arranged Interchange information for the Peak RC Area. Peak shall provide administrative and operational support of the TAS software and WIT or their successors. Peak shall: 1) notify Funding Parties of any successor to the TAS software or WIT, 2) demonstrate to the Funding Parties how the successor TAS software or WIT complies with applicable Reliability Standards, 3) coordinate and consider comments of the Funding Parties before acquiring successor TAS software or WIT, and 4) provide training and access to Funding Parties as appropriate.

2.3 [Reserved]

2.4 Peak Additional Services

Nothing in this Agreement shall prevent Peak from performing activities or services other than the Funded Services. Any service or function by Peak (including any service or function that Peak performed or provided prior to its execution of this Agreement) other than the Funded Services are referred to herein as "Peak Additional Services." Peak Additional Services:

(i) shall not be performed and funded under this Agreement,

(ii) shall be performed and funded under separate agreements consistent with this Section 2.4,

(iii) shall be allocated an equitable share of Peak's expected and actual costs pursuant to Section 4.1.3, and

(iv) shall not be undertaken or performed if such Peak Additional Services would cause Peak or any Funding Party to violate applicable Reliability Standards or other applicable law, would prevent Peak from meeting its obligations under this Agreement, or would detract from Peak's performance of the Funded Services.

The terms under which Peak will provide any Peak Additional Services shall be separately negotiated between Peak and the Person(s) who desire such Peak Additional Services. All contractual arrangements for any Peak Additional Services shall be separate from this Agreement. Any Peak Additional Services will not be performed or funded under this Agreement. In no event shall Peak provide any Peak Additional Services under this Agreement nor shall the funding provided by this Agreement be used by Peak to fund any part of any Peak Additional Services.

To the extent that Peak performs for any Person any function or service that is not Funded Services but is substantially similar to Funded Services under this Agreement, Peak shall provide written notice to the Funding Parties that it will be performing such function or service as a Peak Additional Service and describing such Person and such Peak Additional Service, along with the identity of such Person and the specific services to be provided.

Peak shall in no event receive any funding under this Agreement or use any funds collected under this Agreement to pay any penalty, fee, or monetary payment of any kind, or to pay the costs associated with any non-monetary sanction, imposed or assessed for any compliance violation arising out of any Peak Additional Services, including any penalty or sanction imposed or assessed by FERC, NERC, or any other Compliance Enforcement Authority of competent jurisdiction.

2.5 Regulatory Compliance and Filings

If on or before August 7, 2015, Funding Parties representing not less than 90 percent of the NEL in the United States portion of the Western Interconnection have tendered to Peak an executed counterpart of this Agreement, Peak shall (i) promptly execute and deliver a counterpart of this Agreement to such Funding Parties and (ii) notify FERC on or before August 14, 2015, that, commencing as of January 1, 2016, the performance of the functions of an RC for Funding Parties will be fully funded solely through this Agreement and that Peak will not seek any funding under Section 215 of the Federal Power Act for any period during the Term for such performance for those Funding Parties that pay the amounts invoiced them by Peak under this Agreement. If Funding Parties representing not less than 90 percent of the NEL in the United States portion of the Western Interconnection have not tendered to Peak an executed counterpart of this Agreement on or before August 7, 2015, Peak and the Funding Parties that have tendered Peak an executed counterpart of this Agreement may otherwise agree in writing that the Agreement is effective upon Peak taking the actions specified in i-ii of this subsection above. This Agreement shall not become effective unless and until the conditions of this subsection have been met.

Section 3. Peak and Funding Party Representations and Warranties

3.1 Peak Representations and Warranties

Peak agrees, represents and warrants that nothing in this Agreement is inconsistent with its Articles of Incorporation or Bylaws. In the event that an unrecognized inconsistency is discovered, the Articles of Incorporation and Bylaws control.

3.2 Funding Party Representations

Each Funding Party represents and warrants that, as of the date it becomes a Funding Party, it is registered with and is certified by NERC as a Balancing Authority or Transmission Operator or both operating in the Western Interconnection.

Section 4. Funding Amount; Payments by Funding Parties; Limitations on Use of Funds; Financial Reporting and Audit

4.1 Funding Amount

4.1.1 [Reserved]

4.1.2 Financial Reserves

Each Final Funding Amount for the Funded Services shall specify the amount included in such Final Funding Amount as financial reserves for Funded Services.

Peak will establish and periodically revise as necessary a target level of financial reserves for Funded Services that Peak will maintain. In connection with the development of the Final Funding Amount for a calendar year, Peak shall advise each of the Funding Parties of the then-current level of financial reserves for Funded Services as compared to the established target level of financial reserves for Funded Services and the anticipated levels of financial reserves for Funded Services as of the beginning and end of such calendar year, together with anticipated uses of such financial reserves. To the extent that the current level of financial reserves for Funded Services is or is reasonably anticipated to fall materially below the target level, Peak will seek to replenish the level of financial reserves for Funded Services to maintain the established target level for Funded Services via an Adjustment to the Final Funding Amount process set forth in this Agreement.

4.1.3 Equitable Allocation of Costs

Each Final Funding Amount for the Funded Services shall reflect and describe the equitable allocation to Funded Services and Peak Additional Services of Peak's expected indirect, overhead and shared costs of performing Funded Services and Peak Additional Services; *provided* that any such expected indirect, overhead and shared costs directly allocable to Funded Services or Peak Additional Services shall be so allocated. Each Final Funding Amount for the Funded Services shall expressly state, for informational purposes only, a total amount of Peak's expected indirect, overhead and shared costs that are allocated to all Peak Additional Services in accordance with item (iii) of Section 2.4.

Peak shall equitably allocate to Funded Services and Peak Additional Services Peak's actual indirect, overhead and shared costs incurred during the Term of performing Funded Services and Peak Additional Services; *provided* that any such actual indirect, overhead and shared costs directly allocable to Funded Services or Peak Additional Services shall be so allocated.

Amounts received by Peak as payments of Final Funding Amount (and any other amounts received by Peak that are allocable to Funded Services) shall be expended by Peak only to fund Peak's costs reasonably and necessarily incurred and allocable under this Agreement to the Funded Services, and Peak shall make available to the Funding Parties, the MAC, and Peak's membership documentation demonstrating that such amounts have been used only for such performance.

4.1.4 Draft Funding Amount

Not later than each July 1 immediately preceding each calendar year during the Term, Peak shall prepare and post on its website for comment a draft of Peak expenditures under this Agreement to fund its performance of the Funded Services during such calendar year ("Draft Funding Amount"). Peak shall establish such Draft Funding Amount equal to the expected cost of providing the Funded Services during such calendar year, such that the Draft Funding Amount is anticipated to be sufficient to fund Peak's performance of the Funded Services, absent unforeseen circumstances or error, for the calendar year for which the Final Funding Amount is to be adopted. Peak shall separately state and describe the amount of the Draft Funding Amount included for financial reserves for Funded Services as specified in Section 4.1.2. Peak shall not include in the Draft Funding Amount any costs associated with any Peak Additional Services but shall indicate, for informational purposes, in the documentation of the Draft Funding Amount, the allocation of indirect costs to Funded Services or Peak Additional Services consistent with Section 4.1.3 of this Agreement.

Notwithstanding the preceding, Peak shall prepare and post on its website for comment a Draft Funding Amount as soon as reasonably practicable following the Effective Date for calendar year 2016. Peak's Draft Funding Amount for calendar year 2016 will be consistent with the amount of Peak's projected 2016 budget that represents what would be Funded Costs pursuant to this Agreement.

4.1.5 Member Comments on Draft Funding Amount

Peak will refer the Draft Funding Amount to Peak's members, the MAC and each of the Funding Parties for advice and comment as well as posting the Draft Funding Amount on Peak's website. Except for the Drafting Funding Amount for calendar year 2016, the Funding Parties shall have no less than thirty (30) calendar days to submit written comments on such Draft Funding Amount, with any such comments submitted directly to Peak and to the chair of the MAC (by delivery to the Chair of the MAC) for subsequent delivery to Peak. Peak will collect all such comments received directly from Funding Parties, the MAC, or Peak's members and shall give serious and timely consideration to the comments provided by any Funding Party and to comments provided by the MAC (including any comments provided by any Funding Party to the MAC in accordance with this Section 4.1.5) or Peak's members and will revise such Draft

Funding Amount in accordance with any such comments if and to the extent Peak concurs with such comments (such Draft Funding Amount as it may be so revised, the "Proposed Funding Amount"). Peak will respond in writing on its website to comments provided by any Funding Party or by the MAC (including any comments provided by any Funding Party to the MAC in accordance with this Section 4.1.5) or Peak's members, and Peak shall post on its website the Proposed Funding Amount. With the exception of the Proposed Funding Amount for calendar year 2016, each of the Funding Parties or Peak's members shall have fifteen (15) days from the date that Peak posts the Proposed Funding Amount to review and object to the Proposed Funding Amount. Any objection to the Proposed Funding Amount shall be submitted to Peak in writing and shall be posted on Peak's website. Peak shall indicate its response to the objections when presenting the Proposed Funding Amount to the Board for decision. Upon approval by the Peak Board, the Proposed Funding Amount becomes the Final Funding Amount.

4.1.6 [Reserved]

4.1.7 Adjustment of Final Funding Amount

Whenever Peak reasonably determines that, because of unforeseen circumstances or error, amounts included in a Final Funding Amount for a calendar year are likely to be inadequate to cover Peak's expenses for performance of the Funded Services during such calendar year, Peak may propose an adjustment of such Final Funding Amount by providing written notice (with due regard to the confidentiality of applicable law) to the MAC and each of the Funding Parties of

(a) the nature of such unforeseen circumstances or error,

(b) the amount and description of the projected changes in Peak's expenses for performance of the Funded Services during such calendar year resulting from such unforeseen circumstances or error (including a description of the reasons for the proposed adjustment and the projected impact on Funded Services of a failure to make the proposed adjustment) and the projected timing of such projected changes during such calendar year, and

(c) the resulting proposed amount of adjustment of such Final Funding Amount.

Peak shall also post such written notice on its website. Peak shall establish such proposed adjustment of such Final Funding Amount to reflect the change, due to the unforeseen circumstances or error, in the expected reasonable cost of providing the Funded Services for the remaining balance of the calendar year for which the Final Funding Amount was adopted. Any such proposed adjustment shall justify, reflect and describe the allocation of expected costs consistent with Section 4.1.3, and Peak shall not include in such adjustment of such Final Funding Amount any costs associated with any Peak Additional Services.

At that same time, Peak shall provide the proposed adjustment to the Final Funding Amount to each of the Funding Parties. Peak shall provide its members, the MAC and Funding Parties with a reasonable opportunity to comment on the proposed adjustment of the Final

Funding Amount and shall give serious and timely consideration to all such comments and will revise such proposed adjustment in accordance with any such comments if and to the extent Peak concurs with such comments. Peak will respond in writing on its website to comments provided by any Funding Party.

Peak shall approve an adjustment of the Final Funding Amount for a calendar year that is proposed pursuant to this Section 4.1.7 if Peak reasonably concludes that an adjustment of the Final Funding Amount for a calendar year that is proposed pursuant to this Section 4.1.7 is reasonably necessary to cover Peak's expenses for performance of the Funded Services during such calendar year; *provided, however*, that Peak shall approve any such adjustment only insofar as Peak determines that such proposed adjustment is necessary to result in a Final Funding Amount that covers Peak's expenses resulting from such unforeseen circumstances or error for performance of the Funded Services during such calendar year.

4.1.8 Justification for Revised Funded Services and New Additional Services

From time to time, revisions to the NERC Reliability Standards or other changes in circumstances will necessitate changing the Peak activities that are included within the Funded Services. As part of the Peak Draft Funding Amount development process or as an adjustment to the Final Funding Amount pursuant to Section 4.1.7 if urgency requires, Peak shall document such changes identifying any applicable standard(s) or other justification(s) for such changes and the resulting change in costs. The justification provided by Peak will describe the proposed change including necessary resources, the estimated cost for this change, and, unless the change results from a regulatory requirement, an assessment as to how the change supports the effective performance of the RC Functions and otherwise supports the reliability of the BES.

If, at any time after the Effective Date, Peak identifies Peak Additional Services that Peak has not previously provided that Peak intends to provide, prior to offering the Peak Additional Services, Peak shall present the details of such new Peak Additional Services in a forum open to attendance by Peak members for their review and comment. Peak's presentation of the Additional Services will describe the proposed Additional Services, provide an estimated cost for the Additional Services.

4.2 Limitations on Obligation to Provide and on Use of Funds

No Funding Party shall have any obligation to contribute any funding of expenditures by Peak for Funded Services for a calendar year in excess of its allocated share, calculated in accordance with Section 4.3, of the Final Funding Amount, including any adjustments to the Final Funding Amount, for such calendar year. Except as provided in this Agreement, no Funding Party shall have any obligation to provide any payments to Peak arising out of or in connection with any Funded Services. This Agreement shall not be used to reimburse internal costs of the Funding Parties or costs of third parties hired individually by one or more of the Funding Parties, it being understood that Peak may include the costs incurred to retain contractors, experts, professionals, and other third parties to provide Funded Services in the costs billed for such services. Peak's billing and collection of costs and other expenses attributable to providing Peak Additional Services shall be governed by separate written agreements.

The financial reports provided by Peak pursuant to Section 4.7.1 shall identify any deviations in actual expenditures from amounts set forth in such Final Funding Amount.

Peak's expenditures for Funded Services during any calendar year shall not exceed the amount of the Final Funding Amount for such calendar year; *provided* that, if necessary, Peak may use any financial reserve funds to cover Peak's expenses in excess of the Final Funding Amount during a calendar year for performance of the Funded Services for such calendar year and Peak may request an adjustment of the Final Funding Amount for such calendar year in accordance with Section 4.1.7.

Peak will not collect any funding for Funded Services from a Funding Party except as provided for in this Agreement.

4.3 Allocation of Costs of Funding Final Funding Amount

4.3.1 Allocation of Final Funding Amount

The costs to fund the Final Funding Amount for each calendar year during the Term for Peak's performance under this Agreement of the Funded Services will be allocated according to the following formulas:

(i) Balancing Authority Funding Party That Does Not Elect Aggregated Allocation Option Pursuant to Section 4.3.2: Each Funding Party that is a BA and does not elect the aggregated allocation option pursuant to Section 4.3.2 will be allocated an amount of the Final Funding Amount equal to the product of the Final Funding Amount multiplied by a fraction, (A) the numerator of which is the NEL in the BAA of such Funding Party reduced by the NEL of any non-BA TOP (for purposes of this Agreement "non-BA TOP" refers to a Person registered as a TOP, but not registered as a BA, with NERC) that is located in the BAA of such Funding Party, and (B) the denominator of which is the sum of the NELs of all Balancing Authority Funding Parties.

(ii) Balancing Authority Funding Party That Elects Aggregated Allocation Option Pursuant to Section 4.3.2: A BA Funding Party that elects the aggregated allocation option pursuant to Section 4.3.2 will be allocated an amount of the Final Funding Amount equal to the product of the Final Funding Amount multiplied by a fraction, (A) the numerator of which is the NEL in the BAA of such BA Funding Party reduced by the NEL of any non-BA TOP in such BAA that is not an Associated TOP of such BA Funding Party for which such BA Funding Party has elected aggregation pursuant to Section 4.3.2, and (B) the denominator of which is the sum of the NELs of all Balancing Authority Funding Parties.

(iii) Non-BA TOP: Each non-BA TOP that is either a Funding Party (including a BA Funded TOP) or an Associated TOP for which the BA Funding Party in whose BAA such Associated TOP is located has not elected aggregation pursuant to Section 4.3.2 will be allocated an amount

of the Final Funding Amount equal to the product of the Final Funding Amount multiplied by a fraction, (A) the numerator of which is the NEL of such non-BA TOP, and (B) the denominator of which is the sum of the NELs of all Balancing Authority Funding Parties.

If item (iii) above would result in a non-BA TOP that is either a Funding Party or an Associated TOP for which the BA Funding Party in whose BAA such Associated TOP is located has not elected aggregation being allocated an amount of Final Funding Amount less than the Minimum Charge, the allocation of Final Funding Amount to such non-BA TOP shall be increased to be equal to the Minimum Charge. If item (i) or (ii) above would result in a Funding Party that is a BA being allocated an amount of Final Funding Amount less than the Minimum Charge, the allocation of Final Funding Amount to such Funding Party shall be increased to be equal to the Minimum Charge. If any allocation is increased pursuant to this paragraph, the allocations under items (i), (ii) and (iii) above shall be revised, with the Final Funding Amount allocated pursuant to items (i), (ii) and (iii) above reduced (but not below the Minimum Charge for any BA Funding Party or any non-BA TOP) by any amounts of Minimum Charge allocated pursuant to this paragraph, until no allocation is increased pursuant to this paragraph.

For purposes of this Section 4.3, and only for the Initial Term, the "Minimum Charge" for a calendar year shall be equal to the lower of $10,000 or 0.015% of the Final Funding Amount for such calendar year, rounded to the nearest whole dollar. For any Subsequent Term, the "Minimum Charge" for a calendar year for purposes of this Section 4.3 shall be equal to the 0.015% of the Final Funding Amount for such calendar year, rounded to the nearest whole dollar. The Minimum Charge for any future calendar year may be changed prospectively upon the written approval of not fewer than seventy-five percent (75%) of the Funding Parties, however, the Minimum Charge will not exceed $10,000 for any calendar year of the Initial Term.

Peak shall promptly perform the calculations of the allocations pursuant to this Section 4.3 and post the calculations and results of such calculations on its website. Peak shall also promptly post on its website documentation reflecting the allocation of the costs to fund such Final Funding Amount.

For the avoidance of doubt, a Funding Party that is the BA for one or more BAAs in the Western Interconnection would be a BA Funding Party with respect to each BAA for which such Funding Party is the BA; however, for voting purposes pursuant to this Agreement, Section 1.29 governs.

4.3.2 Election of Aggregated Allocation Option for BA Funding Parties With Associated TOPs

A BA Funding Party that has in its BAA one or more Associated TOPs and does not require a breakdown of its allocated portion of the Final Funding Amount between the BA and one or more of its Associated TOPs may, at the BA Funding Party's option, elect, by written notice to Peak that identifies each such Associated TOP, to receive an aggregated allocation of the Final Funding Amount without a breakdown among such BA Funding Party and any such Associated TOP. Such aggregated allocation shall be calculated in accordance with item (ii) of Section 4.3.1.

4.4 Billing and Payment

No later than November 1 immediately preceding each calendar year during the Term, Peak shall submit an invoice for such calendar year for costs allocated pursuant to Section 4.3 calculated as follows:

(i) for each Funding Party that is a BA and does not elect the aggregated allocation option pursuant to Section 4.3.2, the invoice will be for a total amount equal to the sum of the amounts allocated pursuant to item (i) and (iii) of Section 4.3.1 for such calendar year to (A) such Funding Party, (B) any BA Funded TOP located in the BAA of such Funding Party, and (C) any Associated TOP located in the BAA of such Funding Party;

(ii) for each Funding Party that is a BA and elects the aggregated allocation option pursuant to Section 4.3.2, the invoice will be for a total amount equal to the sum of the amounts allocated pursuant to item (ii) or (iii) of Section 4.3.1 for such calendar year to (A) such Funding Party, (B) any BA Funded TOP located in the BAA of such Funding Party, and (C) any Associated TOP located in the BAA of such Funding Party for which such BA Funding Party has not elected aggregation pursuant to Section 4.3.2; and

(iii) for each Funding Party that is a non-BA TOP but is not a BA Funded TOP, the invoice will be for the amount allocated pursuant to item (iii) of Section 4.3.1 for such calendar year to such Funding Party.

The invoice for a BA that is a Funding Party that does not elect the aggregated allocation option pursuant to Section 4.3.2 shall, upon written request of such BA to Peak, include as separate line items the amounts allocated, pursuant to item (iii) of Section 4.3.1 of this Agreement, to each BA Funded TOP located within such BA's BAA and each Associated TOP located within such BA's BAA. The invoice for each BA that is a Funding Party that does elect the aggregated allocation option pursuant to Section 4.3.2 shall include as separate line items the amounts allocated, pursuant to item (iii) of Section 4.3.1 of this Agreement, to each BA Funded TOP located within such BA's BAA and each Associated TOP located within such BA's BAA Party for which such BA Funding Party has not elected aggregation pursuant to Section 4.3.2.

If Peak suspends performance pursuant to Section 4.9 for failure of a Funding Party to pay an amount invoiced in accordance with the preceding paragraph of this Section 4.4 for a calendar year (or any portion thereof) or if a Funding Party fails to pay due to a lack of appropriated funds pursuant to Section 6 of this Agreement, Peak may reallocate any amounts unpaid by such Funding Party to the other Funding Parties and TOPs in proportion to the invoices thereto pursuant to the preceding paragraph of this Section 4.4 for such calendar year (or any portion thereof). Invoices to Funding Parties pursuant to this paragraph shall be payable by each Funding Party receiving such an invoice. Nothing in this paragraph shall relieve any

Funding Party of any obligation to pay any invoice in accordance with the preceding paragraph of this Section 4.4. Notwithstanding any reallocation pursuant to this paragraph, Peak shall

(i) use all reasonable efforts (including suspension of performance pursuant to Section 4.9 for failure of a Funding Party to pay) to collect amounts invoiced in accordance with this Section 4.4, and

(ii) refund or establish a crediting offset to Funding Parties (in proportion to the amounts of invoices they received pursuant to this paragraph) in an amount equal to any amounts collected by Peak pursuant to item (i) above from the Funding Party that had failed to pay.

Any Funding Party that receives pursuant to this Section 4.4 an invoice, including an invoice that includes amounts calculated pursuant to Section 4.3 for any BA Funded TOP Party with respect to such Funding Party or any Associated TOP with respect to such Funding Party, shall be responsible for paying the full amount of such invoice, including amounts so calculated for any such TOP.

Each invoice issued pursuant to this Section 4.4 shall be directed to the person designated to receive invoices under this Agreement by the Funding Party receiving such invoice. Any Funding Party may change the person designated to receive invoices on its behalf at any time by written notice to Peak. All dollar amounts set forth in this Agreement and in any invoice shall be in U.S. dollars.

The amount so invoiced by Peak to any Funding Party shall be due on the later to occur of January 2 or the first business day of the calendar year for which the Funded Services will be provided, and such Funding Party shall pay to Peak the amount so calculated and invoiced on or before its payment is due.

If a requested adjustment of the Final Funding Amount is approved pursuant to Section 4.1.7, such approved adjustment shall be allocated as described in Section 4.3, and Peak shall invoice or credit, as applicable, the amounts so allocated to Funding Parties in the same manner as described in items (i), (ii) and (iii) in the first paragraph of this Section 4.4. Each Funding Party shall pay to Peak any amount due from it pursuant to such invoice as soon as reasonably practicable, but in no event later than thirty (30) calendar days from receipt of the invoice; *provided* that Peak shall not invoice any such amount for payment prior to the time it is reasonably needed as a result of the unforeseen circumstances or error giving rise to such approved adjustment. Within thirty (30) calendar days Peak shall pay to any Funding Party any amount credited to such Funding Party pursuant to this paragraph.

Any amount not paid by a Funding Party when it is due in accordance with this Section 4.4 shall bear interest, compounded daily, from the date such amount was due until the date of payment at an annual interest rate equal to the lesser of (i) a rate equal to 200 basis points above the per annum prime rate reported daily in *The Wall Street Journal* or (ii) the maximum rate permitted by applicable law.

4.5 Credits

Within one hundred and fifty (150) calendar days after the end of each calendar year during the Term, the amount, if any, by which the Funded Costs for such calendar year were less than the Final Funding Amount for such calendar year shall (i) if the Term is continuing into the next calendar year, be credited against the Final Funding Amount for such next calendar year, *provided* that any such credit of Final Funding Amount that is attributable to unused Financial Reserves for a calendar year may be credited against Financial Reserves for the next calendar year; and (ii) if the Term is not continuing into the next calendar year, be refunded to Funding Parties. The credits or refunds shall be allocated to each Funding Party in relative proportion to the amount paid pursuant to Section 4.4 (as such amount may be adjusted pursuant to Section 4.8) by such Funding Party for the calendar year giving rise to such credit or refund. Peak shall include in each such credit or refund provided to each Funding Party documentation reflecting the calculation and allocation of any such credits or refunds.

4.6 Adjustment of Deadlines

If any date specified in this Section 4 falls on a weekend or U.S. federal holiday, the applicable deadline shall be the next Business Day following the specified date.

4.7 Financial Reporting, Audit, and Operational Review

4.7.1 Financial Reporting

Within one hundred twenty (120) days after the end of each calendar year during the Term (and within one hundred twenty (120) days after the end of the Term if the Term ends at a time other than the end of a calendar year), Peak shall prepare and post on its website an unaudited report of expenditures by Peak for such calendar year (or portion of the calendar year at the end of the Term) under this Agreement (showing and describing itemized expenditures separately for Funded Services) and any agreement for Peak Additional Services (showing and describing itemized expenditures separately for each such agreement). Such report shall include (i) itemized expenditures for costs, including indirect, overhead and shared costs; (ii) the allocation of such costs to Funded Services and each agreement for Peak Additional Services; and (iii) the basis of such allocation.

4.7.2 Audit

Peak shall have an independent audit of Peak's finances performed annually during the Term, which shall include audit of Peak's expenditures for Funded Services and audit of such expenditures during a calendar year with the Final Funding Amount for such calendar year. The annual audit shall also evaluate the allocations and itemized expenditures identified in the annual report required pursuant to Section 4.7.1. Peak shall promptly post on its website the results of this annual audit. Upon the written request of at least 50 percent of the Funding Parties, Peak shall hold a noticed, public meeting with the Funding Parties which shall be attended by the Peak CEO and the auditor to review and discuss the results of any such annual audit.

4.7.3 Periodic Operational Review

At least once every three (3) years following the Effective Date, Peak will conduct a periodic operational review of the Funded Services. Peak's operational review will be conducted by Peak personnel and, at a minimum, at least three (3) persons with BES operational experience as selected by the Funding Parties. Peak's operational review will include an evaluation of Peak's operational capabilities as evaluated by examining Peak's procedures, staffing, and equipment and whether each is appropriate to provide the Funded Services. Any recommended operational changes resulting from the Operational Review will be presented at the next Peak Board meeting following the Operational Review.

4.8 Adjustments of Billing and Final Funding Amounts for New Funding Parties or New Associated TOPs

Whenever a New Funding Party is added as a Party to this Agreement, the New Funding Party (or, in the case of a New Funding Party that is a BA Funded TOP, the Funding Party that is the BA within which such BA Funded TOP is located) shall pay the allocation attributable to such New Funding Party of Peak costs in accordance with Section 4 commencing for the calendar year in which such New Funding Party is added as a Funding Party. In addition:

(i) If the New Funding Party has been created by the merger or consolidation of one or more existing Funding Parties, the New Funding Party's allocation of costs shall equal the combined allocations of such existing Funding Parties for any calendar year for which allocation to such existing Funding Parties has been made in accordance with Section 4.3 (unless such existing Funding Parties have paid such allocation pursuant to Section 4.4, in which case the allocation to such New Funding Party for such calendar year shall be deemed to have been paid by such New Funding Party).

(ii) To the extent that a New Funding Party is a new BA for a BAA formed from a portion of the BAA of an existing Funding Party, the New Funding Party shall assume an allocation in accordance with Section 4.3, and that amount shall be subtracted from the allocation of the existing Funding Party.

(iii) To the extent a New Funding Party is neither formed by the merger or consolidation of existing Funding Parties nor is a BA for a BAA formed from a portion of the BAA of an existing Funding Party, the New Funding Party shall pay an allocation of costs for its first year of membership in accordance with this Section 4.8 and the existing Funding Parties shall receive credit equal to their proportional shares of the amount paid by the New Funding Party for the first year it is a Funding Party. Peak may, at its discretion, reflect this credit in the amount invoiced to the existing Funding Parties for the following year or refund the amount to the existing Funding Parties.

Whenever a Funding Party that is a BA notifies Peak in writing in accordance with Section 13.2 that any TOP is an Associated TOP with respect to such Funding Party, such

Funding Party shall (unless and until such time as such Funding Party has revoked such notification in accordance with Section 13.2) be invoiced for and pay the allocation to such Associated TOP of Peak costs in accordance with this Section 4 commencing for the calendar year in which such Associated TOP is added as an Associated TOP; *provided* that such allocation for such calendar year shall be reduced proportionally to reflect that portion of the initial year during which such Associated TOP is added.

4.9 Suspension of Performance of Funded Services for Failure of Funding Party to Pay

If any amount calculated and invoiced in accordance with Section 4.4 is not paid by a Funding Party when due, Peak may suspend performance of any or all Funded Services for such Funding Party (and any BA Funded TOP with respect to such Funding Party and any Associated TOP with respect to such Funding Party) until such amount (plus interest in accordance with Section 4.4) is paid to Peak by such Funding Party; *provided* that Peak shall not suspend (or will promptly resume) performance of any of the Funded Services for a BA Funded TOP, if such BA Funded TOP pays that portion of the invoiced amount calculated for such BA Funded TOP plus any interest on such amount that may be due in accordance with Section 4.4.

No suspension of any Funded Services shall relieve any Funding Party of any obligation to make payments under this Agreement or preclude Peak from seeking any remedy available under this Agreement for a Funding Party's non-payment.

Section 5. Effective Date, Term, and Termination of This Agreement; Withdrawal of Funding Party

5.1 Effective Date; Attachment B List of Funding Parties, BA Funded TOPs and Associated TOPs

This Agreement is initially executed and entered into between and among Peak and the Funding Parties listed in Attachment B hereto, and this Agreement shall be effective as to Peak and each such Funding Party as of the later of Funding Party's date of execution indicated by signature or the date at which both conditions in Section 2.5 of this Agreement are satisfied, and such date shall be the effective date of this Agreement (the "Effective Date"). Peak shall list each such Funding Party (together with its designated representative and address for receipt of notices) in Attachment B hereto promptly after the Effective Date and include such Attachment B in the conformed copies of this Agreement, which Peak shall post on its website.

Peak's performance of Funded Services under this Agreement shall commence January 1, 2016 for any Persons that have executed this Agreement and paid their respective invoice.

With respect to any New Funding Party that executes this Agreement and delivers its signature page to Peak after the Effective Date, this Agreement shall be effective as to such New Funding Party as of the date it executes this Agreement and delivers its signature page to Peak and such date shall be the Effective Date of this Agreement with respect to such New Funding Party; *provided that* each such New Funding Party shall be allocated a share of Peak costs in accordance with Section 4.4 as if that New Funding Party was a Funding Party commencing on January 1 of the calendar year in which the New Funding Party executed this Agreement and

delivered its signature page to Peak. Attachment B shall list each Funding Party and shall identify each Funding Party as a BA or a non-BA TOP and, for each BA that is a Funding Party, Attachment B shall identify any BA Funded TOPs and Associated TOPs that are located within such BA's BAA.

Upon the addition of any New Funding Party (or the addition of any BA Funded TOP with respect to a Funding Party or any Associated TOP with respect to a Funding Party), Peak shall update Attachment B to add any such new Funding Party (and add any such BA Funded TOP or Associated TOP) to Attachment B and shall promptly post on its website a conformed copy of any such new Funding Party's signature page and the updated Attachment B. Upon the effective withdrawal of any Funding Party (or notice pursuant to Section 13.2 or 13.3 by a BA that is a Funding Party of revocation regarding any BA Funded TOP with respect to such Funding Party or any Associated TOP with respect to such Funding Party), Peak shall update Attachment B to remove any such Funding Party (and remove any such BA Funded TOP or Associated TOP) from Attachment B and shall promptly post on its website the updated Attachment B.

5.2 Term of This Agreement

5.2.1 Automatic Renewal

The initial term of this Agreement (the "Initial Term") shall commence on the Effective Date and continue through the earlier to occur of December 31, 2021 or, if this Agreement is terminated pursuant to Section 5.3, the effective date of such termination of this Agreement. The Term of this Agreement may be renewed pursuant to this Section 5.2.1 for successive additional five (5) calendar year terms (each, a "Subsequent Term") following the expiration of the Initial Term. Each such renewal for a Subsequent Term shall, subject to this Section 5.2.1, be automatic unless prior to twenty-four (24) full calendar months before the end of the then-current Initial Term or Subsequent Term, as the case may be, either Peak or at least fifty percent (50%) of the Funding Parties object in writing, submitted to each other Party, to the renewal of this Agreement for the next Subsequent Term. If such written notice of objection to the renewal of this Agreement for the next Subsequent Term is submitted, this Agreement will terminate at the end of the then-current Initial Term or Subsequent Term, as the case may be.

The Initial Term and any Subsequent Terms may sometimes be collectively referred to in this Agreement as the "Term"; *provided* that if this Agreement is terminated pursuant to Section 5.3, the then-current Initial Term or Subsequent Term, as the case may be, and the Term shall terminate as of the effective date of such termination of this Agreement. Prior to the expiration of the then-current Initial Term or Subsequent Term, but no earlier than thirty (30) full calendar months prior to such expiration and commencing no later than twenty eight (28) full calendar months prior to such expiration, Peak shall provide an opportunity for the Funding Parties and Peak to meet and consult regarding the terms of this Agreement, Peak's performance of this Agreement and whether this Agreement should continue beyond the expiration of the then-current Initial Term or Subsequent Term.

5.2.2 [Reserved]

5.3 Termination of This Agreement During the Term

This Agreement shall terminate if, at any time during the Term,

(a) all Parties mutually agree in writing to such termination, which termination shall become effective as of the date specified in such mutual written agreement; or

(b) Peak is de-registered or loses its NERC certification with regard to the RC Functions, which termination shall become effective as of the time Peak loses such certification or registrations;

In the case of such termination pursuant to item (a) or (b) above, Peak and the Funding Parties shall all cooperate reasonably to transition the Funded Services to one or more qualified third parties, as necessary and agreed to by the Parties. Such cooperation shall include, but is not limited to, each Funding Party paying its equitable allocation of those costs reasonably incurred by Peak to facilitate such transition. To ensure such cooperation, Peak and the Funding Parties agree to negotiate as soon as reasonably practicable following any notification expressed or implied by items (a) or (b) above, the terms and costs of transitioning the Funded Services.

5.4 Withdrawal by a Funding Party

A Funding Party that has given notice of withdrawal pursuant to this Section 5.4 is sometimes referred to in this Agreement as a "Withdrawing Funding Party." Any Funding Party may withdraw from this Agreement by providing to each other Party written notice of such withdrawal. Any such notice of withdrawal shall be, unless otherwise mutually agreed upon in writing by Peak and the Withdrawing Funding Party, irrevocable and shall be effective upon the date specified in such notice; *provided* that any such notice of withdrawal must be given not less than eighteen (18) full calendar months prior to the effective date of such withdrawal. If the Withdrawing Funding Party's withdrawal becomes effective on a date during (rather than at the end of) a calendar year, Withdrawing Funding Party shall be allocated under Section 4.3 for such calendar year only a portion of the Final Funding Amount for that calendar year equal to what its allocation for such calendar year would have been in the absence of such Withdrawing Funding Party's withdrawal multiplied by a fraction equal to the fraction of such calendar year that will occur prior to the effective date of such Withdrawing Party's withdrawal.

Prior to the effective date of its withdrawal, the Withdrawing Funding Party shall continue as a Funding Party under this Agreement. All obligations and liabilities of the Withdrawing Funding Party accrued under this Agreement during the Term through the effective date of the Withdrawing Funding Party's withdrawal, including but not limited to any payments for Funded Services due prior to the Withdrawing Funding Party's effective date of withdrawal, shall be preserved until satisfied. Peak shall use any such payment so received to fund expenditures by Peak for Funded Services.

Pursuant to Section 5.1, Peak shall update Attachment B hereto to remove the Withdrawing Funding Party (and any Associated TOP or BA Funded TOP with respect to such

Withdrawing Funding Party), effective as of the effective date of such Withdrawing Funding Party's withdrawal and shall promptly post on its website a conformed copy of such updated Attachment B.

5.5 Consolidation or Merger of Funding Parties

If two or more Funding Parties are merged or consolidated (including but not limited to the consolidation of separate Balancing Authority Areas to create a new, single Balancing Authority Area), the Funding Parties involved in the merger or consolidation shall, as soon as reasonably practicable, provide notice of the merger or consolidation to all other Parties, including the intended effective date of the merger or consolidation. Upon the effective date of the merger or consolidation, the entity created by the merger or consolidation shall become a Funding Party and shall assume from the merged or consolidated Funding Parties all rights and obligations under this Agreement, including the obligation to remit an allocation under Section 4.3 equal to the sum of any allocations to all the merged or consolidated Funding Parties.

5.6 Survival

All provisions of this Agreement which are by their nature or terms intended to survive the termination of this Agreement, including the obligations set forth in Sections 4.2, 4.3, 4.4, 4.5, 4.7, 4.8, 8, 9, 12, 15.1, 15.2, 15.3, 15.9, 15.10, 15.19, 15.20 and 15.23, shall survive termination of this Agreement.

5.7 Reserved

5.8 Term; Survival of Obligations

This Agreement shall become effective on the Effective Date and remain in effect thereafter throughout the Term; *provided* that all obligations and liabilities of a Party accrued under this Agreement during the Term shall be preserved until satisfied; *provided further* that all obligations and liabilities of a Withdrawing Funding Party accrued under this Agreement during the Term through the effective date of the Withdrawing Funding Party's withdrawal shall pursuant to Section 5.4 be preserved until satisfied.

Section 6. Government Contract Provisions

The provisions of Attachment C hereto contain provisions applicable to certain contracts entered into with the federal government. The provisions of Attachment C are applicable to a Party if and to the extent required by applicable law and if not otherwise exempted.

If the authority of any Funding Party that is a non-federal governmental entity to perform any obligation under this Agreement is, pursuant to law generally applicable to such entity, subject to appropriation of funds necessary to fund such performance and if any such appropriation is not timely made, such entity shall (i) promptly give each of the other Parties written notice of such failure, (ii) shall from and after the occurrence of any such failure no longer be a party to this Agreement, and (iii) the Parties hereby release such entity from its contractual obligations and from all liability due to such failure.

Section 7. Intellectual Property

7.1 Intellectual Property of Each Party

Each Party ("First Party") acknowledges that any other Party's Intellectual Property is the property of such other Party and, to the extent access is granted to the First Party, the First Party agrees, consistent with this Section 7, that it will do nothing inconsistent with such ownership.

Each Party shall own (and continue to own) all Intellectual Property that it owned, controlled, or otherwise had custody over prior to entering this Agreement, including any enhancements thereto ("Pre-Existing Intellectual Property") subject to any transfer thereof. Each Party acknowledges the ownership, control, or custody of any other Party's Pre-Existing Intellectual Property, absent a transfer, and agrees that it will do nothing inconsistent with such ownership. Each Party agrees that nothing in this Agreement shall give it any right, title, or interest in any other Party's Pre-Existing Intellectual Property, other than the rights set forth in this Agreement.

7.1.1 Exclusion

Nothing in this Agreement shall prevent any Party from using general techniques, ideas, concepts, and know-how gained by its employees during the performance of its obligations under this Agreement in the furtherance of its normal business, to the extent that it does not result in disclosure of any other Party's Confidential Information or an infringement by Peak of any Intellectual Property right. The use by a Party of such general techniques, ideas, concepts, and know-how gained by its employees during the performance of its obligations under this Agreement shall not be deemed to be an infringement of any other Party's Intellectual Property rights so long as such matters are retained in the unaided memories of such employees.

7.2 Peak Ownership and Use of Intellectual Property

Except as provided in Section 7.1, any and all Intellectual Property created by or on behalf of Peak in connection with this Agreement or in the provision of Funded Services, including all such matter which is subject to patent or copyright, shall, as among the Parties, be the property of Peak, and all right, title and interest therein and thereto, including but not limited to any and all rights to patent and copyright thereof, shall, as among the Parties, be vested in Peak.

Any revenues derived by Peak from any and all such Intellectual Property created by or on behalf of Peak in connection with this Agreement or in the provision of Funded Services shall be properly accounted for and reflected in the Final Funding Amounts and, at Peak's discretion, treated as either a credit or a reserve, for the benefit of the Funding Parties.

7.3 Peak Retained Rights

Upon termination of this Agreement, Peak shall, as among the Parties, retain all right, title, and interest in its proprietary know-how, concepts, techniques, processes, materials, and information that were or are developed in connection with the performance of its obligations under this Agreement ("Retained Rights"), whether software or otherwise originated and

prepared by Peak. Upon dissolution of Peak, all Intellectual Property rights shall be disposed of in accordance with Section 17 of the Bylaws as amended or replaced.

Section 8. Limitation of Liability; Reliability Standards Violation Penalties

8.1 General Liability

Notwithstanding any other provision in this Agreement and except as provided in this Section 8 and in Sections 4.4 and 15.1, in no event shall any Party be liable to any other Party under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, exemplary, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of use or lost business, or goodwill, arising in connection with this Agreement or the services provided hereunder whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability.

8.2 Peak's Liability for Prior WECC Compliance Violations

Peak shall in no event receive any funding under this Agreement for any penalty, fee, or monetary payment of any kind imposed or assessed by FERC, NERC, or the Northeast Power Coordinating Council ("NPCC") for compliance violations related to the Reliability Coordinator and Interchange Authority functions performed by WECC prior to the Effective Date of this Agreement except for compliance violations that are the responsibility of Peak under the Reliability Coordinator and Interchange Authority Agreement Between the Western Electricity Coordinating Council and Peak Reliability, as submitted to FERC on September 20, 2013 in Docket No. RR13-12.

8.3 Penalties Arising From Violations of Reliability Standards

8.3.1 Compliance Reporting and Discretion

Peak shall manage compliance with the Reliability Standards applicable to the RC Functions. Peak shall use reasonable efforts to minimize any penalties or sanctions associated with any violation or alleged violation of such Reliability Standards. If Peak is assessed any penalty arising from any violation or alleged violation of any such Reliability Standard, Peak may, in its sole discretion, pay the penalty as assessed, seek to settle the penalty for a reduced amount, or challenge the penalty in an appeal to WECC, NERC, FERC, or federal court, as appropriate.

8.3.2 [Reserved]

8.3.3 Payment of Penalties From Financial Reserves

No funding provided under this Agreement shall be used to pay any penalties for violation of any Reliability Standard except insofar as such penalties arise out of Peak's performance of Funded Services. If Peak incurs any penalty for violation of any Reliability Standard arising out of Peak's performance of Funded Services, Peak shall pay the penalty only from financial reserves as reflected in the Final Funding Amount for the calendar year in which

payment of the penalty is due including any adjustment to that Final Funding Amount to ensure that Peak maintains its established target level of reserves or any future Final Funding Amount.

8.3.4 No Peak Indemnification of Funding Party Reliability Standards Penalties

No Funding Party shall have any right to indemnification by Peak for any penalties for any violation by any Funding Party of any Reliability Standard.

Section 9. Dispute Resolution

9.1 Resolution of Disputes

Any dispute, claim, or controversy between or among Parties arising out of or relating to this Agreement (each, a "Dispute") shall be resolved in accordance with the procedures set forth in this Section 9.1; *provided, however,* that this Section 9.1 shall not apply to Disputes arising from or relating to confidentiality or Intellectual Property rights (in which case any Party shall be free to seek available legal or equitable remedies).

9.1.1 Notice of Dispute

Each Party shall provide written notice to the other Parties of any Dispute, including a description of the nature of the Dispute.

9.1.2 Dispute Resolution by Chief Executive Officers

Any Dispute shall first be referred to the Chief Executive Officers or designates of the Parties, who shall negotiate in good faith to resolve the Dispute.

9.1.3 Dispute Resolution by Executive Management Representatives

If the Dispute is not resolved within fifteen (15) calendar days of being referred to the Chief Executive Officers or designates of the Parties pursuant to Section 9.1.2, then each Party shall have five (5) Business Days to appoint an executive management representative who shall negotiate in good faith to resolve the Dispute.

9.1.4 Exercise of Remedies at Law or in Equity

If the Parties' executive management representatives are unable to resolve the Dispute within thirty (30) calendar days of the last date for appointment of the representatives under Section 9.1.3, then each Party shall be free to pursue any remedies available to it and to take any action in law or equity that it believes necessary or convenient in order to enforce its rights or cause to be fulfilled any of the obligations or agreements of any other Party.

9.2 Statute of Limitations; Continued Performance

The Parties agree to waive the applicable statute of limitations during the period of time that the Parties are seeking to resolve a Dispute pursuant to Sections 9.1.2 and 9.1.3, and the

statute of limitations shall be tolled for an initial period of ninety (90) days from a date agreed to by the disputing Parties, subject to subsequent ninety (90) day tolling periods if needed, as agreed to by the disputing Parties. The Parties shall continue to perform their obligations under this Agreement during the resolution of a Dispute.

Section 10. [Reserved]

Section 11. Uncontrollable Force

No Party shall be in breach of this Agreement as a result of such Party's failure or delay to perform its obligations under this Agreement when such failure is caused by an Uncontrollable Force that such Party, despite the exercise of due diligence, is unable to remove with reasonable dispatch; *provided, however,* that such Party shall have the right to suspend performance of such obligations only to the extent and for the duration that the Uncontrollable Force actually and reasonably prevents the performance of such obligations by such Party. Economic hardship expressly is not an Uncontrollable Force. In the event of the occurrence of an Uncontrollable Force that delays or prevents a Party's performance of any of its obligations under this Agreement, such Party shall

(i) immediately, or as quickly as practicable under the circumstances, notify the other Parties of such Uncontrollable Force with such notice to be confirmed in writing as soon as reasonably practicable;

(ii) use due diligence to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligations under this Agreement;

(iii) keep the other Parties apprised of such efforts on an ongoing basis; and

(iv) provide written notice to the other Parties of the resumption of performance under this Agreement.

Notwithstanding any of the foregoing, the settlement of any strike, lockout, or labor dispute constituting an Uncontrollable Force shall be within the sole discretion of the Party involved in such strike, lockout, or labor dispute; and the requirement that a Party must use due diligence to remedy the cause of the Uncontrollable Force or mitigate its effects and resume full performance under this Agreement shall not apply to strikes, lockouts, or labor disputes.

Nothing in this Section 11 or elsewhere in this Agreement shall be understood to excuse Peak or any Funding Party from any obligation under Reliability Standards designed to protect, maintain, or minimize damage to the Bulk Electric System arising from geomagnetic disturbances, cybersecurity threats, physical attacks or intrusions by unauthorized personnel, electrical disturbances, equipment failure, or other threats, failures, or natural phenomena to the extent explicitly addressed in Reliability Standards.

Section 12. Peak Reliability Funding for 2014 and 2015

12.1 Agreement Not to Seek Refunds for Previously Paid Peak Costs

Each Funding Party agrees not to seek refunds of any amounts paid to Peak for reliability coordinator and interchange function services provided for the period January 1, 2014 through December 31, 2015 in the event the FERC orders providing Peak with funding under Section 215 of the Federal Power Act are vacated in whole or in part by FERC or a reviewing federal court.

12.2 Refund Protections Contingent on FERC Vacating Prior Peak Funding Orders

The commitment of the Funding Parties in Section 12.1 are conditioned, on the issuance of a FERC order vacating the following FERC orders providing Peak with funding under Section 215 of the Federal Power Act: Western Electricity Coordinating Council, 143 FERC ¶ 61,239 (June 20, 2013), order on reh'g, Western Electricity Coordinating Council, 145 FERC ¶ 61,202 (December 6, 2013), North American Electric Reliability Corp., 146 FERC ¶ 61,092 at Ordering Paragraph C (February 12, 2014), order on reh'g, North American Electric Reliability Corp., 147 FERC ¶ 61,064 (April 23, 2014), and North American Electric Reliability Corp., 149 FERC ¶ 61,028 (2014). The commitments of the Funding Parties in Section 12.1 are also conditioned on the issuance of a FERC order vacating the FERC orders, if any, issued following the United States Court of Appeals for the District of Columbia Circuit grant of voluntary remand in Case Nos. 14-1012 and 14-1071, as well as any subsequent FERC orders arising from future petitions for review of any such orders.

Section 13. Independence of the Parties; Funding Party and Associated TOP Status

13.1 Each Funding Party in the Peak RC Area shall be considered to be under the responsibility and oversight of Peak as Reliability Coordinator for so long during the Term as such Funding Party is a Funding Party; *provided* that such Funding Party has not withdrawn from this Agreement and its withdrawal has not become effective pursuant to Section 5.4. Each Associated TOP in the Peak RC Area shall be considered to be under the responsibility and oversight of Peak as Reliability Coordinator for so long during the Term as the BA in whose BAA such Associated TOP is located is a Funding Party; *provided* that such Funding Party has not withdrawn from this Agreement and its withdrawal has not become effective pursuant to Section 5.4; *provided further* that such Funding Party has not revoked pursuant Section 13.2 its notice with respect to such Associated TOP.

13.2 Any Funding Party that is a BA may, with the consent of a non-BA TOP that is located within such BA's BAA and that is not a Funding Party, elect to receive invoices that include amounts calculated for such TOP (each such TOP is an "Associated TOP"). Such election must be made in writing delivered to Peak and signed by an authorized representative of the Funding Party making such election and an authorized representative of the Associated TOP. A BA that notifies Peak that a TOP is an Associated TOP with respect to such Funding Party in accordance with this Section 13.2 shall be invoiced for, and shall be responsible for payment to (and shall receive credits from) Peak of, all amounts allocated to such Associated TOP pursuant to item (iii) of Section 4.3.1 if and for so long as such Funding Party has not revoked its notice

with respect to such Associated TOP by giving a written revocation submitted to Peak with a copy to such Associated TOP.

13.3 Any Funding Party that is a BA may, with the consent of a non-BA TOP that is located within such BA's BAA and that is also a Funding Party, elect to receive invoices that include amounts calculated for such TOP (each such TOP is a "BA Funded TOP"). Such election must be made in writing delivered to Peak and signed by an authorized representative of the Funding Party making such election and an authorized representative of the BA Funded TOP. A BA that notifies Peak that a TOP is BA Funded TOP with respect to such Funding Party in accordance with this Section 13.3 shall be invoiced for, and shall be responsible for payment to (and shall receive credits from) Peak of, all amounts allocated to such BA Funded TOP pursuant to item (iii) of Section 4.3.1 if and for so long as such Funding Party has not revoked its notice with respect to such BA Funded TOP by giving a written revocation submitted to Peak with a copy to such BA Funded TOP.

13.4 No Party shall represent itself to be an agent, partner, or representative of any other Party. Nothing in this Agreement shall authorize any Party to commit or bind any other Party in any manner without such other Party's prior written consent. Personnel employed, provided or used by any Party in connection herewith will not be employees of any other Party in any respect. Each Party shall have full responsibility for the actions or omissions of its employees and shall be responsible for their supervision, direction, and control.

13.5 This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership or to impose any partnership obligation or liability upon the Parties. No Party shall have any right, power, or authority under this Agreement to enter into any agreement or undertaking for, or to act on behalf of, or to act as or be an agent or representative of, any other Party. It is expressly understood that this Agreement is limited in scope to providing funding to support the Funded Services of Peak as provided in this Agreement.

13.6 All rights and obligations of any Party under this Agreement are individual and not joint and several. Except as may be expressly provided in this Agreement, no Party shall have a right or power to bind any other Party without such other Party's express written consent.

13.7 A BA Funded TOP by written notice to Peak may revise Attachment B, subject to the requirements of this Agreement, (i) to change the BA in which such BA Funded TOP is located (with consent of the BA Funding Party with the new BAA) or (ii) to no longer be a BA Funded TOP. A BA Funding Party by written notice to Peak may, subject to the requirements of this Agreement, cease having any or all TOPs as BA Funded Parties or Associated TOPS in such BA Funding Party's BAA. A BA Funding Party by written notice to Peak may revise Attachment B, subject to the requirements of this Agreement, to add a TOP in the BA's BAA as an Associated TOP or a BA Funded TOP (if such TOP consents).

Peak promptly shall revise Attachment B to reflect any notice it receives pursuant to this Section 13.7 and provide a copy of such revised Attachment B to each Funding Party.

Any revision of Attachment B pursuant to this Section 13.7 shall be effective commencing the next calendar year during the Term that commences not less than one hundred twenty (120) days after Peak's receipt of the applicable notice.

Section 14. Notices

14.1 Notices

Except as may be otherwise specified herein, any notice required or authorized by this Agreement shall be in writing and shall be deemed properly given to a Party when sent to its designated representative (i) upon delivery if delivered in person, (ii) upon receipt, if sent by certified United States mail, postage prepaid, return receipt requested, or (iii) upon delivery if delivered by prepaid commercial courier service. Each Party's designated representative and address for receipt of notices shall be identified on such Party's signature page of this Agreement.

14.2 Changes

Any Party may, from time to time, change the names, addresses, or other notice information set out in Section 14.1 by notice to the other Parties in accordance with the requirements of Section 14.1.

14.3 Effective Date of Notices

Notices shall be deemed effective on the date of receipt.

Section 15. Miscellaneous Provisions

15.1 Irrevocable Nature of Funding Obligation

Within the limits set by and subject to the provisions of this Agreement, the obligation of each Funding Party under this Agreement to make payments as required by this Agreement is unconditional, cannot be terminated or rescinded except as expressly provided in this Agreement, and is applicable whether or not such Funding Party thereafter withdraws as a member of Peak, subject to the terms herein for surviving funding obligations following notice of withdrawal.

15.2 Waiver of Defense to Payment

Each Funding Party waives as a defense to its timely payment of payments as required by this Agreement any defense that one or more of the other Funding Parties has failed to timely pay its payments as required by this Agreement.

15.3 Governing Law

This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed in accordance with applicable state and federal laws, without regard to the laws requiring the applicability of the laws of another jurisdiction.

15.4 Amendment

This Agreement may not be amended or modified except by written agreement, hereafter duly executed by all then-current Parties to this Agreement. If any provision of this Agreement, or the application thereof to any Person 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, the Parties 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. Notwithstanding the foregoing provisions of this Section 15.4, modification of Attachment B pursuant to Section 5.1 shall not constitute an amendment as provided for herein.

15.5 Successors and Assigns

No Party shall sell, assign, or otherwise transfer any or all of its respective rights hereunder, or delegate any or all of its respective obligations under this Agreement; *provided, however,* that a Funding Party may, without the consent of any other Party, assign its rights and obligations under this Agreement to any Person (i) into which such Funding Party is merged or consolidated, (ii) if required to do so under the terms of a mortgage or indenture to secure general financing of such Funding Party's assets or operations, or (iii) to which such Funding Party sells, transfers, or assigns all or substantially all of its electric system, so long as the survivor in any such merger or consolidation, or the purchaser, transferee, or assignee of such electric system provides to Peak and the Funding Parties a valid and binding written agreement expressly assuming and agreeing to be bound by all obligations of such Funding Party under this Agreement; *provided further* that nothing in this Section 15.5 shall prohibit Peak from contracting with third parties for the provision of services to assist Peak in performing its obligations under this Agreement. This Agreement is binding on and shall inure to the benefit of the Parties and to each of their respective successors, permitted assigns, and legal representatives.

15.6 Assignment of Facilities

Nothing herein shall create a security interest of any kind in all or any portion of the transmission system of any Funding Party.

15.7 Effect of Permitted Assignment

In the event of any permitted sale, transfer, or assignment under this Agreement, the transferor or assignor shall to the extent of the transferred or assigned obligations, and only to such extent, be relieved of obligations accruing from and after the effective date of such transfer or assignment; *provided, however,* that under no circumstances shall any sale, transfer, or assignment relieve the transferor or assignor of any liability for any breach of this Agreement occurring prior to the effective date of such transfer or assignment.

15.8 Consent Not Unreasonably Denied or Delayed

Consents to assignment, pledge, or transfer requested pursuant to this Section 15 shall not be unreasonably denied or delayed.

15.9 No Third Party Enforcement

No third party shall be entitled to enforce this Agreement against any Party hereto. This Agreement is made and entered into for the sole protection and legal benefit of the Parties. No other Person shall be a direct or indirect legal beneficiary, or have any direct or indirect cause of action or claim in connection with, this Agreement. No other Person shall be a third party beneficiary under this Agreement.

15.10 Waivers

No waiver of any provision of this Agreement shall be effective unless it is duly executed by a person authorized to bind the Party against which it is sought to be enforced. The delay or failure by any Party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that Party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

15.11 Severability; Renegotiation

The invalidity or unenforceability of any portion or provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision herein. If any provision of this Agreement is found to be invalid, illegal, or otherwise unenforceable, the same shall not affect the other provisions hereof or the whole of this Agreement and shall not render invalid, illegal, or unenforceable this Agreement or any of the remaining provisions of this Agreement. If any provision of this Agreement or the application thereof to any Person or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification, condition, or other change to this Agreement is imposed by a court or regulatory authority of competent jurisdiction which materially affects the benefits or obligations of the Parties, then the Parties shall in good faith negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligation of the Parties immediately prior to such holding, modification, or condition.

15.12 Party Representations and Warranties

Each Party represents and warrants to each of the other Parties as of the Execution Date and the Effective Date as follows:

15.12.1 Organization

It is duly organized, validly existing and in good standing under the laws of the State in which it was organized or applicable Federal law, and has or will have all the requisite power and authority to own and operate its material assets and properties and to carry on its business as now being conducted and as proposed to be conducted under this Agreement.

15.12.2 Authority

It has the requisite power and authority to execute and deliver this Agreement and, subject to the procurement of applicable regulatory approvals, to perform its obligations under this Agreement. The execution and delivery of this Agreement by it and the performance of its obligations under this Agreement have been duly authorized by all necessary corporate action required on its part.

15.12.3 Binding Effect

This Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, or other similar applicable laws affecting creditors' rights generally, and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity, assuming the due authorization, execution and delivery of this Agreement by the other Parties.

15.12.4 Regulatory Approval

It has obtained or will obtain by the Effective Date, any and all approvals of, and acceptances for filing by, and has given or will give any notices to, any applicable federal or state authority, that are required for it to execute, deliver, and perform its obligations under this Agreement.

15.12.5 No Litigation

To its knowledge, there are no actions at law, suits in equity, proceedings, or claims, pending or threatened, against it 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.

15.12.6 No Violation or Breach

The execution, delivery, and performance by it of its obligations under this Agreement do not and shall not: (a) violate its organizational documents; (b) violate any applicable law, statute, order, rule, regulation, or judgment promulgated or entered by any applicable federal or state authority, which violation could reasonably be expected to materially adversely affect the performance of its obligations under this Agreement; or (c) result in a breach of or constitute a default of any material agreement to which it is a party.

15.12.7 Solvency

It is not Bankrupt, is financially solvent, able to pay its bills as they fall due, and it does not anticipate taking any action, and is not aware of any action undertaken by a third party, that could result in it becoming Bankrupt.

15.13 Authorization

Each signatory represents that he or she is authorized to enter into this Agreement on behalf of the Party for whom he or she signs.

15.14 Further Assurances

Each Party agrees that it shall 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 purpose of this Agreement and are not inconsistent with the provisions of this Agreement.

15.15 Entire Agreement

This Agreement and the Attachments hereto set forth the entire agreement between the Parties with respect to the subject matter hereof, and supersede all prior agreements between the Parties, whether oral or written, related to the subject matter of this Agreement. The terms of this Agreement and the Attachments hereto are controlling, and no parole or extrinsic evidence, including to prior drafts and drafts exchanged with any third parties, shall be used to vary, contradict or interpret the express terms and conditions of this Agreement.

15.16 Integration

This Agreement, including the exhibits hereto, constitutes the complete agreement of the Parties and supersedes all prior or contemporaneous representations, statements, negotiations, understandings, and inducements with respect to the subject matter of this Agreement. The exhibits hereto, as they may be revised from time to time, are incorporated by reference as if fully set forth in this Agreement.

15.17 Good Faith Efforts

Each Party agrees that it shall in good faith take all reasonable actions necessary to permit it and the other Parties to fulfill their obligations under this Agreement. Where the consent, agreement, or approval of any Party must be obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, delayed, or conditioned. Where a Party 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 authority applies to any part of this Agreement or the transactions or actions covered by this Agreement, each Party shall undertake its best efforts to secure such approval and all Parties shall reasonably cooperate with the other Parties to secure any necessary or desirable approval or acceptance of such authorities of such part of this Agreement or such transactions or actions.

15.18 Time of the Essence

With respect to all duties, obligations, and rights of the Parties under this Agreement, time shall be of the essence in this Agreement.

15.19 Interpretation

Unless the context of this Agreement otherwise clearly requires:

(a) all defined terms in the singular shall have the same meaning when used in the plural and vice versa;

(b) the terms "hereof," "herein," "hereto," and similar words refer to this entire Agreement and not to any particular Section, Attachment, or any other subdivision of this Agreement;

(c) references to "Section" or "Attachment" refer to this Agreement, unless specified otherwise;

(d) references to any law, statute, rule, regulation, notification, or statutory provision shall be construed as a reference to the same as it applies to this Agreement and may have been, or may from time to time be, amended, modified, or re-enacted;

(e) references to "includes," "including," and similar phrases shall mean "including, without limitation";

(f) the captions, section numbers, and headings in this Agreement are included for convenience of reference only and shall not in any way affect the meaning or interpretation of this Agreement;

(g) "or" may not be mutually exclusive, and can be construed to mean "and" where the context requires there to be a multiple rather than an alternative obligation; and

(h) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement.

(i) any capitalized terms used in this Agreement, including the Appendices, that are not defined in this Agreement or in the Appendices, shall have the meaning established in the applicable NERC documentation.

15.20 Joint Effort

Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against any other Party and no provision in this Agreement is to be interpreted for or against any Party because that Party or its counsel drafted such provision. Each Party acknowledges that in executing this Agreement it has relied solely on its own judgment, belief, and knowledge, and such advice as it may have received from its own counsel, and it has not been influenced by any representation or statement made by any other Party or its counsel not contained in this Agreement.

15.21 Counterparts

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument.

15.22 No Dedication of Facilities

No undertaking by any Party under or pursuant to any provision of this Agreement shall constitute or be deemed to constitute a dedication of all or any portion of such Party's transmission system, to any other Party or to the public.

15.23 Nonwaiver

Any waiver at any time by any Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any other default or other matter arising in connection with this Agreement. Any waiver must be delivered in writing, executed by an authorized representative of the Party granting such waiver. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

The Parties have caused this Reliability Coordinator Funding Agreement to be executed by their duly authorized representatives as of the dates shown below.

Peak Reliability

By: _____

Name: _____

Title: _____

Date: _____

Signatory Organization:

_____

By: _____

Name: _____

Title: _____

Date: _____

Attachment A

[Intentionally left blank]

Attachment B

List of Funding Parties, BA Funded TOPs and Associated TOPs

Such list shall also include designated representative and address for receipt of notices by each Funding Party and, in accordance with Sections 5.1 and 13.7 of the body of this Agreement:

(i) identifying each Funding Party as a BA or as a non-BA TOP,

(ii) identifying each non-BA TOP that is a BA Funded TOP as a BA Funded TOP and identifying the BAA in which such BA Funded TOP is located, and

(iii) identifying each non-BA TOP that is an Associated TOP as an Associated TOP and identifying the BAA in which such Associated TOP is located.

Attachment C

Federal Government Contract Provisions

This Attachment C contains provisions that are necessary for the United States of America, acting by and through the Western Area Power Administration (Western) and the Bonneville Power Administration (Bonneville) to enter into the Agreement.

1. Billing and Payment

Notwithstanding Section 4.4 of the body of the Agreement, Peak shall submit monthly invoices to Bonneville and Western for Funded Services provided for the preceding month. The invoice shall contain information specified in 5 C.F.R. § 1315.9(b). The amount of the monthly invoice shall be 1/12 of the calendar-year amount calculated for Bonneville and Western, respectively, pursuant to Section 4.3 and sent to the persons designated by Bonneville and Western. Bonneville and Western may change the persons designated to receive the invoices at any time by written notice to Peak. Bonneville and Western shall pay the monthly invoice within twenty calendar days after receipt of such invoice, and such payments will be in accordance with the Prompt Payment Act, 31 U.S.C. § 3900 et seq.

2. Contingent Upon Appropriations and Authorization

Where activities provided for in this Agreement extend beyond the current fiscal year, continued expenditures by Western are contingent upon Congress making the necessary appropriations required for the continued performance of Western's obligations under the Agreement. In case such appropriation is not made, (i) Western shall promptly give each of the other Parties written notice of such failure. (ii) Western shall from and after the occurrence of any such failure no longer be a party to this Agreement, and (iii) the Parties hereby release Western from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

3. Covenant Against Contingent Fees

Each of the Parties warrants to each of the other Parties that no person or selling agency has been employed or retained by it to solicit or secure the 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 any Party for the purpose of securing business. For breach or violation of this warranty by any Party other than Western or Bonneville, Western and Bonneville shall have the right to annul the contract with respect to Western and Bonneville without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

4. Contract Work Hours and Safety Standards

The Agreement, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 3701, as amended or

supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

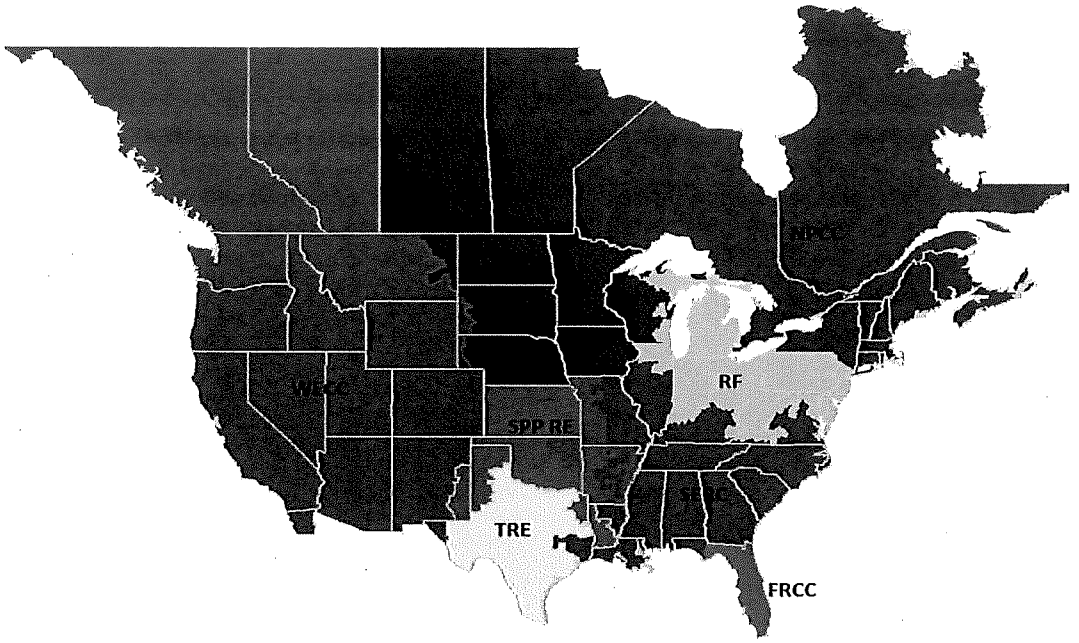
5. Equal Opportunity Employment Practices

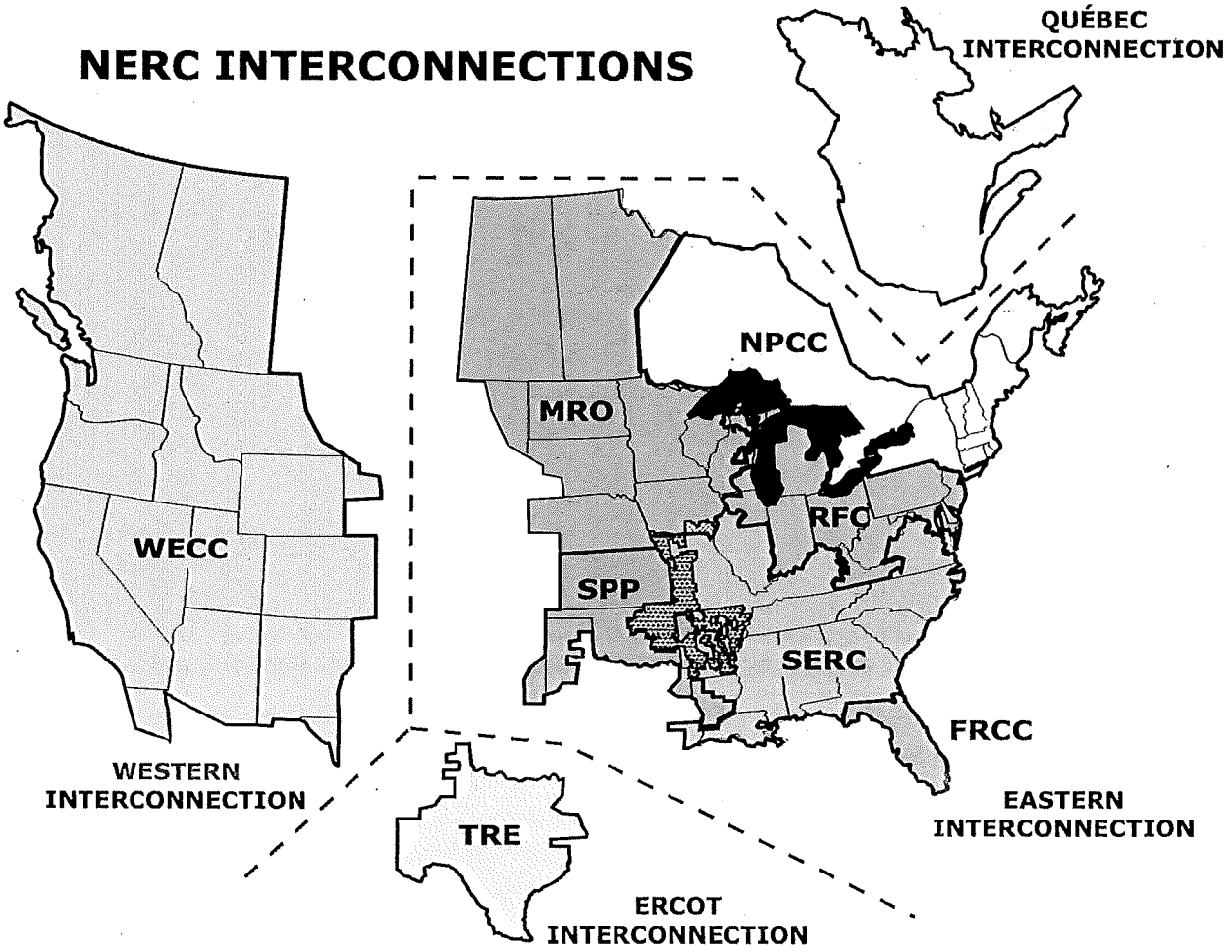
Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract.

6. Use of Convict Labor

The Parties agree not to employ any person undergoing sentence of imprisonment in performing the Agreement except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

Michael J. Haynes
SCL Reliability Coordinator Funding Agreement ATT 2
Version 1





STATE OF WASHINGTON -- KING COUNTY

--ss.

327278 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:124815-821 TITLE ONLY

was published on

08/10/15

The amount of the fee charged for the foregoing publication is the sum of $124.00 which amount has been paid in full.

Subscribed and sworn to before me on

08/10/2015

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on July 27, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please ~~visit http://~~www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344

Ordinance 124814

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 124815

AN ORDINANCE relating to the City Light Department; declaring certain real property rights surplus to utility needs; authorizing the General Manager and Chief Executive Officer to execute an agreement for the City to grant an easement for parking and access purposes over a portion of the City's fee-owned Bothell-Canal Transmission Corridor at 17524 Aurora Avenue North in the City of Shoreline, Washington; accepting payment for the true and full value of the easement from GCW Shoreline, LLC, and WG @ Shoreline, LLC; and ratifying and confirming certain prior acts.

Ordinance 124816

AN ORDINANCE relating to the City Light Department; declaring certain real property rights and improvements surplus to the City of Seattle's utility needs; and authorizing the release of an access easement and a permit for a groundwater observation well, and the conveyance of ownership of said groundwater well to James and Valerie Van Dyke in Pend Oreille County, Washington.

Ordinance 124817

AN ORDINANCE relating to the City Light Department; authorizing the execution of the Maintenance Obligations and Ownership Agreement for Boundary Substation with the Bonneville Power Administration; and ratifying and confirming certain prior acts.

Ordinance 124818

AN ORDINANCE relating to the rates, terms and conditions for the use and sale of electricity supplied by the City Light Department to customers in the city of SeaTac; and amending Sections 21.49.020, 21.49.030, 21.49.040, 21.49.052, 21.49.055, 21.49.057, 21.49.081, and 21.49.100 of the Seattle Municipal Code to implement new rates for the city of SeaTac that reflect the terms of the 2015 franchise agreement.

Ordinance 124819

AN ORDINANCE related to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light to execute a Reliability Coordinator Funding Agreement with Peak Reliability, Inc.

Ordinance 124820

AN ORDINANCE relating to the City Light Department, approving a 15-year franchise to construct, operate, maintain, replace, and repair an electrical light and power system in, across, over, along, under, through, and below certain designated public rights-of-way in the City of SeaTac.

Ordinance 124821

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to sign a lease with Sprint Communications Company L.P. for continuing use of subsurface fiber-optic cable installed in the Burke Gilman Trail.

Date of publication in the Seattle Daily Journal of Commerce, August 10, 2015.

8/10(327278)