

Exhibit A, POWER SCHEDULING AND SERVICES AGREEMENT *Draft*

This Power Scheduling and Services Agreement (hereafter "Agreement") is entered into by and between the Eugene Water & Electric Board, a municipal utility in the State of Oregon (hereafter "EWEB") and The Portland Water Bureau, a municipal water department for the city of Portland Oregon, (hereafter "the Bureau"), each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties", subject to execution by both Parties, shall be deemed binding and in full force and effect on _____.

RECITALS

WHEREAS, the Bureau desires to purchase from EWEB, and EWEB desires to provide to the Bureau, certain power scheduling services as may be required in the operation of the Portland Hydroelectric Project located in the Bull Run watershed ("Project") to which the Bureau has the sole and exclusive generation rights to the energy;

WHEREAS, some services EWEB provides to the Bureau are subject to Reliability Standards that the Federal Energy Regulatory Commission ("FERC") has approved and with which users, owners and operators of the bulk power system are required to comply;

WHEREAS, the provision of services by EWEB pursuant to this Agreement provides value to EWEB and its customers;

WHEREAS, EWEB will be fully compensated by the Bureau for the provision of services contemplated by this Agreement;

WHEREAS, both the Bureau and EWEB have taken all actions required under applicable charters and law to authorize the execution and performance of this Agreement;

NOW, THEREFORE, THE BUREAU and EWEB agree as follows:

A. Term

1. This Agreement shall be in effect for a term of two (2) years from _____. If this Agreement is not in default, it shall automatically renew on the same terms and conditions contained herein, for additional terms of two (2) years, provided however, that either Party may exercise its rights to terminate under the provisions of Paragraphs A. 2, A. 3, and A. 4.

2. Either Party may terminate this Agreement, at any time with or without cause, upon the giving of ninety (90) days written notice to the other Party.
3. Upon a material breach of this Agreement, a written notice of the default shall be given to the defaulting party. If the default is cured within 30 days of receipt of written notice this Agreement will continue in full force and effect. If said default is not cured within 30 days of receipt of written notice, the non-defaulting party may terminate this Agreement by giving 60 days written notice of termination.
4. In the event that the Parties cannot agree to fee adjustments as further described in Paragraph C. 2 herein, either party may terminate this Agreement upon the giving of 60 days written notice to the other Party.
5. After termination by either Party, the obligations which are then accrued and existing under this Agreement at the time of termination shall continue in full force and effect and shall be performed by the Party under a duty to perform such obligation until such time as all such obligations are fully performed. All obligations shall be preserved until satisfied.

B. The Bureau Responsibilities

The Parties understand that Portland General Electric ("PGE") referenced in this Agreement is not party to this Agreement. Therefore, the Bureau has primary responsibility to ensure that PGE staff are providing all necessary data needed for EWEB to perform its responsibilities under this Agreement. In order for EWEB to provide the services listed in Section C.1 and Exhibit A of this Agreement, The Bureau agrees to provide the following information to EWEB which includes but is not limited to the following;

1. Prior to execution of this Agreement the Bureau will provide EWEB with Exhibit A (Specified Amount and Planned Availability) establishing the amount of energy to be scheduled for each month during the following calendar year ("Specified Amount"). An updated version of Exhibit A will be made available to EWEB annually on or before September of each year during the Term of this Agreement.
2. Prior to execution of this Agreement the Bureau will provide EWEB with Exhibit B (Generation Priority Values) establishing the preferred hours of dispatch in priority order. An updated version Exhibit B will be made available to EWEB annually on or before September 2017 during the Term of this Agreement.
3. The Bureau shall provide EWEB with a copy of the spreadsheet used to track the hourly generation of the Project ("Project Dispatch Model").

C. Scope of Work

EWEB shall provide the following services to the Bureau, and the Bureau will provide the following information as detailed in this Section B during the term of this Agreement:

4. The Bureau shall ensure that EWEB receives by 8:00am PPT of the customary WECC pre-scheduling day, the preferred hours of dispatch, in priority order, for the following day(s) ("Generation Priority"). If the Bureau fails to communicate the preferred hours by 8:00am PPT, EWEB shall use the values specified in Exhibit B.
5. EWEB shall calculate the hourly schedule of the daily Specified Amount, using the Project Dispatch Model for the next days forecasted generation outflow requirement and other inputs as necessary. EWEB shall by 1:00pm PPT communicate to PGE the hourly allocation of the Specified Amount ("Feasible Specified Amount Schedule") and provide an electronic copy of the Project Dispatch Model to PGE and the Bureau. The daily sum of the hourly allocation of the Specified Amount that is used to generate the Feasible Specified Amount Schedule will be equal to the daily Specified Amount.
6. EWEB shall dispatch the Specified Energy in accordance with the Feasible Specified Amount Schedule, prevailing Balancing Authority and WECC provisions and protocols, and any other applicable provisions or protocols specified by EWEB. EWEB shall dispatch an energy above the Specified Feasible Amount ("As-Available Energy") in any way that it wishes without scheduling with PGE, subject to the Feasible Specified Amount Schedule, and any directives or orders from a reliability entity.
7. In the event the Bureau reasonably anticipates that market prices will be less than zero ("Negative Price Event"), then the Bureau can request EWEB to suspend part or all of its deliveries via a reduction in the Project output, for the anticipated duration of the Negative Price Event.
8. The Parties shall adhere to WECC Scheduling Protocol. Based on the information received from the Bureau in Paragraphs B.1 above, and in the event of B.3 below, EWEB shall provide for notifications and inputs as required by Portland General Electric ("PGE") and as needed specifically for the Project generation.
9. The Bureau shall exercise commercially-reasonable efforts to provide notification to EWEB by telephone or other mutually agreed upon means, as soon as possible in the event of 1) a partial or complete loss of generation at the Project and 2), the return of

service of the Project generation after such an outage. EWEB will then have the responsibility of notifying PGE as soon as practicable.

10. EWEB shall monitor on a real-time 24 x 7 basis the Project and make notifications as soon as practicable to PGE if energy is unable to flow.
11. EWEB will have no obligation to find replacement power to PGE for the curtailed energy or transmission, during complete or partial planned or forced outages of the Project, or during transmission outages.
12. With regard to current or future PGE scheduling penalties or other operational penalties, EWEB and the Bureau recognize that at times EWEB staff may take action or fail to take actions that may result in penalties. If EWEB takes actions or fails to take actions that result in a penalty, EWEB shall notify the Bureau on a timely basis and attempt to mitigate any such penalty on behalf of, or in concert, with the Bureau. Regardless of whether or not penalties are enforced or waived in full or in part the Parties shall review the actions or lack of actions that led to the penalty being assessed and develop a strategy for reducing or eliminating the likelihood of future occurrences. If the Parties are unable to agree on a sharing of a penalty amount under this Agreement then any dispute will be resolved pursuant to Paragraph F, but in no event shall EWEB's share of the penalties exceed the sum of the most recent prior three (3) months service charges under this Agreement for any time period of three (3) calendar months on a rolling basis.

D. Price

1. During the term of this Agreement, the Bureau shall pay EWEB a flat monthly fee each calendar month for services provided under Paragraph B of this Agreement. If this Agreement is commenced or terminated prior to the end of any month, the price shall be proportionately adjusted to reflect that portion of the month for which the Agreement was effective. The Parties hereby agree that the flat monthly fee shall be \$[7,000]. This monthly fee (or prorated portion thereof) shall commence the first date that EWEB submits a schedule for company and such fee shall increase annually by 3% beginning on January 01 following the first anniversary of the effective date.
2. In the event that EWEB's costs associated with the provision of services contemplated herein exceed the negotiated fee structure as stated in Paragraph C.1, EWEB shall provide the Bureau with sixty (60) days advance notice of its intent to increase the fees accordingly, *provided* that no such notice shall be given before the first anniversary of this Agreement. Such notice to the Bureau shall include an explanation for the increase

in fees, and the proposed flat monthly fee. After receipt of the 60-day notice, the Bureau has 30 days to object in writing to the increase in fees. If the Bureau objects to the proposed increase in fees the parties agree to make a good faith effort to reach an agreement on the fees within the end of the 60-day notice period. If after said 60 days no agreement has been reached as to an increase in fees, EWEB's proposed fees shall become part of and be subject to this Agreement. The new fees will be effective on the next month's bill.

3. If the Parties cannot agree to pricing adjustments provided for under Paragraph C. 2, either party may terminate this Agreement pursuant to Paragraph A. 4.

E. Billing and Invoicing

1. The accounting and billing period for transactions under this Agreement shall be one (1) calendar month. Payments for amounts billed under this Agreement shall be received by the Party to paid on the 20th day of the month in which the invoice was received or the tenth (10) day after receipt of the bill, whichever is later. If the due date falls on a non-Business Day, then the payment shall be due on the next following Business Day.
2. Amounts not paid on or before the due date shall be payable with interest calculated daily, at a rate equal to 200 basis points above the per annum Prime Rate reported daily in the Wall Street Journal for the period beginning on the day after the due date and ending on the day of payment, provided that such interest shall not exceed the amount permitted by law.
3. All amounts due and payable in any calendar month between the Parties, whether arising from the services contemplated herein or from any other agreements now existing or as may be existing in the future, shall net into a single amount payable from one Party of the Agreement to the other.
4. All bills shall be addressed and sent to:

THE BUREAU

5. Billing contact for EWEB:

Settlements Analyst
Email: settlements@eweb.org
Telephone: 541-685-7394

F. Payment

Payment shall be made by wire transfer to EWEB or other means as agreed to by the Parties from time to time and confirmed in writing. Payments shall be forwarded to:

Eugene Water & Electric Board
Bank of America
ACH 323-070-380
Wire 026-009-593
Account# 8832700124
Tax ID# 93-6001483

G. Dispute Resolution

1. The Parties agree to resolve any dispute arising from this Agreement through arbitration conducted in accordance with the procedures established by the American Arbitration Association or other arbitration procedure agreed to by the Parties. The prevailing Party in any arbitration shall be reimbursed its costs in resolving the dispute by arbitration; provided, however, that each Party shall be responsible for its own attorneys fees.
2. All disputes in connection with bills rendered hereunder shall be noticed to EWEB by the Bureau within one (1) year and sixty (60) days from the date of receipt of the disputed bill. During the period when the billings are in dispute the Bureau shall pay the entire amount of the invoice. In the event that the Bureau's position prevails in any billing dispute, EWEB shall pay to the Bureau simple interest at 1.5 percent per month for the period and to the extent that the Bureau has over-paid for services hereunder.
3. Each Party shall have the right to fully audit the records of the other Party which in such auditing process by making available its records and the factual data supporting the same during normal business hours and on reasonable notice from the requesting Party. Each Party shall bear its own expenses in respect to the auditing process, but said expenses shall be recoverable by the prevailing Party in any billing dispute resolved through arbitration as described in this Paragraph F. 3.

H. Cooperation

The Parties shall reasonably cooperate in supplying any information or filings required to perform the services under this Agreement.

I. Notices

Written communications between the Parties shall be considered given when delivered in person or when deposited in the U.S. Mail, first class postage prepaid, or sent by facsimile, directed to the individuals and addresses shown below, unless this Agreement otherwise provides, as in the case of billings, payments and operational communications.

To THE BUREAU:

To EWEB:
Trading Operations Supervisor
Eugene Water & Electric Board
500 East Fourth Avenue
P.O. Box 10148
Eugene, OR 97440-2148
Telephone: 541-685-7338, Facsimile: 541-685-7338

J. Operational Communications

The Parties agree that notices or communications necessary in the performance of routine operational matters contemplated by this Agreement shall be sufficiently given if made orally in person or by telephone and confirmed in writing by facsimile, email or other electronic means if requested by the receiving party.

To THE BUREAU:

To EWEB:
Day Ahead Lead
Email: katrina.starr@eweb.org
Telephone: 541-685-7598

Day Ahead Scheduler
Telephone: 541-685-7558

Real-time/Generation Desk (24/7)
realtime.realtime@eweb.org
Telephone: 541-685-7555

K. Indemnification/Liability

1. Each Party will, to the extent allowed by law, defend, indemnify and hold the other Party, its commissioners, directors, officers, agents and employees, harmless from and against any liability, loss, costs and expenses (but limited as to tort claims to an amount not to exceed the limitations of the Oregon Tort Liability Law as set forth in ORS Chapter 30) on account of physical injury to third persons or physical damage to their property arising out of the performance or non-performance of this Agreement, unless such physical injury or damage resulted in whole or in part from the negligence or willful action of the other Party; provided, however, that each Party shall be solely responsible for the payment of claims to its employees for injuries occurring in connection with their employment or arising out of any Workers' Compensation Law.
2. Neither EWEB, nor its commissioners, officers, agents or employees shall be liable to the Bureau for any damages arising out of the performance of this Agreement, excluding those instances where EWEB takes actions or fails to take actions that may result in penalties as provided for in B.8, and the Bureau hereby releases EWEB, its commissioners, officers, agents and employees of and from all liability for damages arising out of such acts or omissions which may develop, except in the case of negligence on the part of EWEB, whether such damages are for personal injury, death, property damage, business loss, or whether considered direct, indirect, consequential, exemplary or otherwise, and except qualified by Paragraph J. hereof.

L. Uncontrollable Forces

1. Neither Party shall be considered to be in default in performance of its obligations under this Agreement (other than obligations of said Party to make payments of bills rendered hereunder) if prevented from fulfilling such obligation by reason of an uncontrollable force. The term "Uncontrollable Force" means any cause beyond the control of the Party affected, including but not restricted to, failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, other natural catastrophes, war, riot, airplane crash, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority. An "Uncontrollable Force" must be a force which, by exercise of due diligence, the affected Party could not reasonably have been expected to avoid and which, by exercise of due diligence, it is not able to overcome. No Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or is due to removable or remediable causes that it fails to remove or remedy with reasonable

dispatch. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch. In no event shall unavailability of funds be deemed to be an Uncontrollable Force.

M. Miscellaneous

1. The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.
2. Except in connection with a merger or the sale of a majority of its properties, neither Party may voluntarily assign this Agreement or any part thereof without the prior written consent of the other Party.
3. This Agreement shall be binding upon and inure to the benefits of the respective successors and assigns of the Parties subject to the rights of termination set forth in Paragraph A and the limitations set forth in Paragraph M.2., hereof.
4. Any undertaking by one Party to the other under any provision of this Agreement shall not constitute a dedication of the system or any portion thereof of either Party to the public or to the other Party, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination by such Party of its obligations hereunder.
5. A waiver at any time by a Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitation, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.
6. The terms and conditions in this Agreement constitute the entire Agreement between the Parties at this time as to the subject matter herein. However, this Agreement may be amended or modified by the mutual consent of the Parties in the form of duly authorized, executed written amendments or supplements.
7. Section, subsection headings, and page numbers in this Agreement are for convenience only and are not to be construed as a part hereof or in any way limiting or amplifying the provisions hereof.

8. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
9. In the event that any term, covenant or condition of this Agreement shall be held invalid as to either Party or circumstance by any court or government agency having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect to the extent consistent with the original intent of the Parties.
10. Except as expressly contained herein to the contrary, nothing contained herein shall be construed or interpreted in any manner whatsoever to create rights in or to grant remedies to any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established herein, and all attempts by any third party to exercise any such right shall be automatically null and void.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

EUGENE WATER & ELECTRIC BOARD

BY: _____

NAME: _____

TITLE: _____

THE BUREAU

BY: _____

NAME: _____

TITLE: _____