

**[FOR CONSIDERATION AT JULY 17, 2000 BOARD MEETING] (FOR
CONSIDERATION AT AUGUST 21, 2000 BOARD MEETING)**

**AGREEMENT BY AND AMONG
ARIZONA INDEPENDENT SCHEDULING ADMINISTRATOR ASSOCIATION,
SCHEDULING COORDINATORS
AND
TRANSMISSION PROVIDERS
(ISA-SC-TP AGREEMENT)**

<u>SECTION 1. FACTUAL RECITALS</u>	<u>2</u>
<u>SECTION 2. DEFINITIONS AND GENERAL CONSTRUCTION</u>	<u>6</u>
<u>SECTION 3. GENERAL OBLIGATIONS OF THE PARTIES</u>	<u>7</u>
<u>SECTION 4. BILLING AND PAYMENT.....</u>	<u>9</u>
<u>SECTION 5. THE PROVISION OF INFORMATION.....</u>	<u>11</u>
<u>SECTION 6. AZ ISA RESPONSIBILITIES</u>	<u>12</u>
<u>SECTION 7. SCHEDULING COORDINATOR RESPONSIBILITIES</u>	<u>13</u>
<u>SECTION 8. DISPUTE RESOLUTION PROCEDURES</u>	<u>15</u>
<u>SECTION 9. ISA-SC-TP AGREEMENT MODIFICATION OR AMENDMENT</u>	<u>18</u>
<u>SECTION 10. FEDERAL POWER ACT SECTION 206 FILINGS</u>	<u>19</u>
<u>SECTION 11. DEFAULT AND PENALTIES FOR NON-PERFORMANCE</u>	<u>19</u>
<u>SECTION 12. ISA-SC-TP AGREEMENT TERMINATION.....</u>	<u>21</u>
<u>SECTION 13. WITHDRAWAL OF THE TRANSMISSION PROVIDER OR A SCHEDULING COORDINATOR FROM THIS AGREEMENT.....</u>	<u>21</u>
<u>SECTION 14. WINDING-UP</u>	<u>22</u>
<u>SECTION 15. LIMITATION OF LIABILITY AND INDEMNIFICATION</u>	<u>24</u>

SECTION 16. SUPREMACY CLAUSE.....	25
SECTION 17. ASSIGNMENT.....	25
SECTION 18. CONFIDENTIALITY.....	28
SECTION 19. GOVERNING LAW; JURISDICTION.....	29
SECTION 20. HEADINGS.....	29
SECTION 21. NO THIRD PARTY RIGHTS.....	29
SECTION 22. NOTICE.....	29
SECTION 23. NOT PARTNERS.....	30
SECTION 24. REPRESENTATIONS.....	30
SECTION 25. NO DEDICATION OF FACILITIES.....	31
SECTION 26. WAIVER.....	31
SECTION 27. COUNTERPARTS.....	31
SECTION 28. EFFECTIVENESS.....	33

This Agreement (hereinafter referred to as the “ISA-SC-TP Agreement” or this “Agreement”) is made as of the __ day of _____, 2000, by and among [TRANSMISSION PROVIDER’S NAME] (the “Transmission Provider” or “TP”), each entity that from time to time executes the Scheduling Coordinator Counterpart Signature Page (EXHIBIT 1)(referred to individually as a “Scheduling Coordinator” or “SC”), and the Arizona Independent Scheduling Administrator Association (the “Az ISA”). The TP, each SC, and the Az ISA are herein referred to individually as a “Party” and collectively as “Parties.”

SECTION 1. FACTUAL RECITALS

- 1.01 The Arizona legislature enacted the Electric Power Competition Act of 1998, A.R.S. §§ 30-801, et seq., which requires certain public power entities that wish to offer competitive electric services to open their own service territories to competition, and requires ~~such~~said entities and the Arizona Corporation Commission (“ACC”) to coordinate their efforts in the transition to retail competition to promote consistent, state-wide standards for retail competition.
- 1.02 The ACC adopted Electric Competition Rules requiring that electric utilities subject to its jurisdiction (the ~~Affected Utilities~~)“Affected Utilities”) offer access to competitive electric services to the utilities’ retail customers, and required the Affected Utilities to establish and implement an Az ISA to facilitate non-discriminatory retail access and a robust and efficient retail market, and it has adopted ACC Rule 14-2-1609 to require the establishment of certain specific functions for the Az ISA ~~and said electric utilities~~.
- 1.03 Certain entities that own, or have rights to utilize, transmission facilities in Arizona and are each a party to an ISA-TP Agreement (the “Participating Utilities”), together with other interested stakeholders, have formed the Az ISA, an Arizona non-profit corporation, the by-laws of which describe its purposes, powers, and obligations (“Bylaws”).
- ~~1.04 The Electric Competition Rules provide that the Az ISA shall, among other things, (a) implement and oversee the nondiscriminatory application of operating protocols to ensure state-wide consistency for transmission~~

~~access necessary for competitive retail service, (b) provide dispute resolution processes, (c) develop uniform state-wide procedures for handling requests for reservation and scheduling of transmission service to facilitate competitive retail service, (d) implement a state-wide transmission planning process open to all providers and users of the Arizona Interconnected Transmission System, (e) develop and operate an overarching state-wide OASIS, and (f) calculate available transmission capability for Arizona transmission facilities.~~

1.061.04 In furtherance of its purposes, the Az ISA Board of Directors (“Az ISA Board”), on April 7, 2000, conditionally accepted a set of administrative and operational protocols (the “Protocols Manual” or “PM”) and approved implementation of the PM on an interim basis, and on ~~June 2, 2000~~ _____, approved a ~~proposed Az~~detailed ISA implementation plan providing for the ~~phased~~ implementation of certain ~~two phases (“Phase I” and “Phase II”) of PM functions stated in and~~ activities in accordance with ACC Rule R 14-2-1609 (the “Implementation Plan”).

1.05 The Az ISA, in conjunction with the Participating Utilities and other stakeholders, has developed a Protocols Manual, ~~conditionally~~ accepted by the Az ISA Board, that establishes the procedures governing: total transmission capability determination; retail transmission allocation; retail transmission reservations and OASIS; congestion management; emergency operations; must-run generation; ancillary services; energy

imbalance for retail transmission; scheduling; and final settlement for retail transmission.

1.081.06 The Az ISA's start-up and operating costs are the subject of promissory notes extended to the Az ISA by Participating Utilities, including the TP.

~~1.09~~ The TP ~~has a continuing obligation to provide safe and reliable electric service to the public and to perform the obligations of existing transmission contracts, including assuring suitable use of their individual transmission facilities to attain and maintain compliance with this obligation. The rights and obligations of transmission customers requesting and receiving wholesale transmission service and the TP providing said service are defined by the TP's open access transmission tariff ("OATT") or other tariff. Neither the PM nor this Agreement modify the manner in which wholesale transmission service is requested or provided pursuant to the TP's OATT or other tariff. Similarly, neither the PM nor this Agreement affect the rights or obligations of customers with Existing Agreements. Existing Agreements are not amended by this Agreement or the PM.~~

1.091.07 ~~The TP~~ shall continue to own, operate, control, modify, and maintain its individual transmission ~~and distribution~~ facilities.

1.101.08 The ACC's Electric Competition Rules encourage, and the Protocols Manual provides, that all service to Standard Offer SC and Competitive SC retail loads being provided by the Transmission Provider is to be provided through Scheduling Coordinators in accordance with the

PM and the TP's ~~OATT~~FERC-accepted open access transmission tariff (“OATT”) or other tariff.

- 1.09 The TP, Az ISA, and each entity that has executed the Scheduling Coordinator Counterpart Signature Page, have agreed to enter into this Agreement to establish their respective rights and obligations with respect to the operation of the Az ISA and the services provided pursuant to this Agreement and the PM.

In consideration of the mutual covenants and agreements set forth herein, the Parties do hereby agree with each other, for themselves and their successors and assigns, as follows:

SECTION 2. DEFINITIONS AND GENERAL CONSTRUCTION

Each capitalized term used in this Agreement shall have the meaning provided in this Agreement, or as specifically set forth in the definitions protocol of the PM. Each reference to a Section refers to a section of this Agreement, unless otherwise stated. Exhibits and any rate schedules (including Rate Schedule 1) referred to in this Agreement are hereby incorporated in their entirety as if fully set forth in this Agreement.

~~2.022.01~~ “Az ISA Board” shall mean the Az ISA Board of Directors duly elected in accordance with the Bylaws ~~of the Az ISA~~.

- 2.02 “ISA-TP Agreement” with respect to each of the Participating Utilities, shall mean an agreement, to which the Az ISA and the individual Participating Utility ~~(that is a Party to this Agreement)~~ are each a party, and that addresses the rights and obligations of said parties with respect to

participation in the provision or receipt of Retail Network Integration Transmission Service (“RNITS”).

- 2.03 “Participating Utilities” shall mean Arizona Electric Power Cooperative, Inc. (“AEPCO”), Arizona Public Service Company (“APS”), Citizens Utilities Company (“Citizens”), and Tucson Electric Power Company (“TEP”).
- 2.04 “Protocols Manual” shall mean the document that describes the operational and administrative procedures (“Protocols”) used by the Az ISA, SCs, and the TP to receive or provide RNITS in the State of Arizona as conditionally accepted by the Az ISA Board on April 7, 2000, as may be revised from time to time, and as filed with the Federal Energy Regulatory Commission (“FERC”) and made effective consistent with the Federal Power Act (“FPA”) and FERC’s regulations.
- 2.05 “Rate Schedule 1” shall mean the Az ISA Rate Schedule ~~1 filed with FERC No. 1, on file with FERC, as it may be amended or supplemented from time-to-time, and superseding issues thereof.~~
- 2.06 “Regional Transmission Organization” or “RTO” shall have the meaning provided in the PM, except that it shall include an operational Independent System Operator (or “ISO”) with an open access transmission tariff accepted by FERC.
- 2.07 “Transmission Provider” or “TP” shall mean [TRANSMISSION PROVIDER’S NAME], its successors and assigns.

SECTION 3. GENERAL OBLIGATIONS OF THE PARTIES

- 3.01 The Az ISA shall perform all obligations and responsibilities assigned to it pursuant to the Bylaws, the PM and this Agreement. Notwithstanding the foregoing, including the provisions of Section 16, the Az ISA shall implement the PM in accordance with the schedule contemplated in the Implementation Plan.
- 3.02 ~~The~~Subject to the provisions of Section 3.01, the TP shall perform all obligations and responsibilities assigned to it pursuant to the Bylaws, the PM, and this Agreement, including, without limitation, the obligation to make any payments when due.
- 3.03 ~~Each~~Subject to the provisions of Section 3.01, each SC shall perform all obligations and responsibilities assigned to it pursuant to the Bylaws, the PM, and this Agreement, including, without limitation, the obligation to make any payments when due under this Agreement, the TP's OATT or other tariff, and Rate Schedule 1.
- 3.04 Each entity that chooses to serve retail customers in Arizona as an SC ~~must~~shall (a) satisfy the SC requirements provided in Section 7 (SC Responsibilities), (b) meet the eligibility and creditworthiness requirements set forth in the TP's OATT or other tariff, and (c) execute a service agreement for RNITS and take service in accordance with the TP's OATT or other tariff. If the entity fails to execute a service agreement under the TP's OATT or other tariff, then the TP shall not provide service to said SC unless the TP first files an unexecuted service agreement under said OATT or tariff with FERC for service to that SC.

3.05 The TP shall continue to provide safe and reliable electric service to the public and to perform the obligations under existing transmission contracts, including assuring suitable use of their individual transmission facilities to attain and maintain compliance with this obligation. The Parties agree that the rights and obligations of transmission customers requesting and receiving wholesale transmission service and the TP providing said service are defined by the TP's OATT or other tariff and that neither the PM nor this Agreement (a) shall modify the manner in which wholesale transmission service is requested or provided pursuant to the TP's OATT or other tariff; or (b) affect the rights or obligations of customers with Existing Agreements.

SECTION 4. BILLING AND PAYMENT

4.01 Az ISA Responsibilities:

- (a) The Az ISA shall post a summary of its actual or estimated monthly costs to be collected pursuant to Rate Schedule 1 and any subsequent changes to those costs on its website each billing month.
- (b) The Az ISA shall provide a forecast of its costs for the ~~subsequent~~following billing month on its website each ~~billing~~ month.

4.02 Transmission Provider Responsibilities:

- (a) The TP shall provide the billing and invoice information to each SC taking retail transmission service from the TP to serve retail

load for Az ISA service in accordance with this Agreement, Rate Schedule 1, and the PM. The invoice shall state the charges calculated in accordance with Rate Schedule 1 to recover the Az ISA's costs in accordance with the billing and payment procedures specified in the TP's OATT or other tariff.

~~(e)(b)~~ To the extent the TP recovers revenue from the application of the ~~Monthly Debt Repayment Rate (“MDRR”)~~Repayment Obligation Rate (“REPAYR”) described in Rate Schedule 1 to SCs in a billing month that exceeds the Az ISA's obligation to repay debt to the TP in accordance with EXHIBIT 1 of the applicable ISA-TP Agreement, the TP shall remit said excess to the Az ISA who shall accelerate principal payments to the TP. Each time the TP receives an accelerated payment, it shall reduce the amount due under the loan and provide a revised payment schedule to the Az ISA showing the ~~principle~~principal and interest payments to date and the outstanding ~~principle~~principal.

(c) To the extent that after the TP's Az ISA loan amount listed in EXHIBIT 1 of the ISA-TP Agreement is satisfied and the TP collects from an SC revenue in the billing month in accordance with Rate Schedule 1 that exceeds the TP's payment obligations to the Az ISA under said schedule for that billing month, the TP shall remit the excess revenue to the Az ISA to reduce the TP's ~~Operating Charge~~ Transmission Provider (“OCTP”) Operating

Cost (“TPOC”) for the subsequent billing month ~~as described in~~
~~Rate Schedule 1.~~

4.03 Scheduling Coordinator Responsibilities:

- (a) Each SC that takes service under the TP’s OATT or other tariff to serve retail load shall pay to the TP the invoiced charges in accordance with Rate Schedule 1 and said OATT or other tariff.
- (b) Amounts not paid on or before the due date shall be payable with interest accruing at a rate equal to one percent plus the prime commercial lending rate established from time to time by Chase Manhattan Bank, N.A., New York, New York, or its successor, from the due date until the date upon which payment is made.

SECTION 5. THE PROVISION OF INFORMATION

- 5.01 The Az ISA shall provide to each Party information reasonably requested by that Party necessary to verify bills submitted to recover Az ISA costs.
- 5.02 Each SC shall provide the Az ISA and the TP with information it is obliged to supply pursuant to the PM and this Agreement.
- 5.03 Each SC shall provide the Az ISA with information reasonably requested by the Az ISA that is necessary for the Az ISA to perform its obligations under this Agreement and the PM.
- 5.04 Other than billing and invoice information supplied by the TP to each applicable SC (which is subject to other time requirements), each Party that receives a request for information pursuant to this Agreement shall provide the requesting Party with the requested information in a mutually

agreeable manner and within a mutually agreeable time frame.

~~Agreement~~Said agreement shall not be unreasonably withheld, and each Party shall exercise due diligence in satisfying their obligations under this Section 5.

- 5.05 Where this Agreement requires a Party to act on a specific day and that day falls on a holiday or weekend, the Party shall act on the next business day.

SECTION 6. AZ ISA RESPONSIBILITIES

- 6.01 The Az ISA shall perform its functions and provide services to Parties to this Agreement in an impartial and not unduly discriminatory manner.
- 6.02 The Az ISA shall, to the extent permitted by law, develop policies and apply such policies to its operations in a comparable manner, such that the Az ISA shall make available to all Parties the same non-confidential information at the same time.
- 6.03 The Az ISA, in conjunction with the TP, shall prepare and file with the appropriate regulatory commission or commissions such agreements, operating procedures, other procedures, and tariff amendments necessary to provide retail network transmission service under the TP's ~~FERC-accepted~~ OATT or other tariff, and in accordance with the PM.
- 6.04 The Az ISA may, initially upon execution of EXHIBIT 1 by an entity that applies for certification as an SC, and periodically thereafter, review that SC's compliance with the requirements applicable to the initial and continuing SC certification in this Agreement and the PM. If the Az ISA

concludes that an SC, once certified, no longer satisfies the certification criteria, then the Az ISA may declare that SC ~~shall~~to be in default and subject to the provisions ~~in~~of Section 11 (Default).

6.05 The Az ISA may conduct audits of a Party's performance of its duties and obligations under this Agreement and the PM and, if necessary, take appropriate action in accordance with Section 11 (Default), for that Party's failure to perform.

SECTION 7. SCHEDULING COORDINATOR RESPONSIBILITIES

7.01 Each entity that applies for certification as ~~an~~ SC to serve retail load in Arizona must satisfy the following requirements before the Az ISA will grant that entity SC certification:

- (a) satisfy the eligibility and creditworthiness requirements established in the TP's OATT or other tariff taking into account the charges to be imposed by Rate Schedule 1, as determined by the TP;
- (b) demonstrate to the Az ISA's satisfaction its capability to communicate, schedule and settle with the Az ISA or the TP, as applicable, in accordance with this Agreement and the PM; and
- (c) execute the Scheduling Coordinator Counterpart Signature Page (EXHIBIT 1).

7.02 Each SC serving retail customers pursuant to the TP's retail access requirements shall submit to the TP, in accordance with the PM, a balanced hourly schedule such that the generation scheduled is sufficient

to supply energy to serve the SC's forecasted hourly load, transmission and distribution losses.

- 7.03 Each SC shall arrange for and purchase transmission and ancillary services necessary to support its transmission service to serve retail load in accordance with the PM and the TP's OATT or other tariff.

SECTION 8. DISPUTE RESOLUTION PROCEDURES

8.01 Disputes Between Parties Other Than The Az ISA:

Subject to Section 8.03 (Restrictions On ~~Use~~, The Use Of Procedures), any dispute arising between the TP and/or one or more SCs relating to interpretation of the provisions of this Agreement or the PM, or to the performance of a TP's or SC's obligations hereunder, or under the PM, shall be resolved in accordance with the dispute resolution procedures set forth in the Bylaws.

8.02 Disputes Between the Az ISA And One Or More Other Parties:

Subject to Section 8.03 (Restrictions On ~~Use~~, The Use Of Procedures), any dispute arising between the Az ISA and one or more of the other Parties relating to interpretation of the provisions of this Agreement or the PM, or to the performance of a Party's obligations hereunder, or under the PM, shall be resolved in accordance with the dispute resolution procedures set forth in this Section 8.02.

- (a) **Internal Dispute Resolution Procedures:** Any dispute meeting the criteria specified above (excluding applications for rate changes or other changes to the PM or this Agreement) shall be referred to a designated senior representative of the Az ISA and a senior representative(s) of the party for resolution on an informal basis as promptly as practicable. If the designated senior representatives are unable to resolve the dispute within thirty (30) days by mutual agreement, such dispute may be submitted to

arbitration and resolved in accordance with the arbitration procedures set forth below.

- (b) **External Arbitration Procedures:** Any arbitration initiated under this Section 8.02 shall be conducted before a single neutral arbitrator appointed by the parties to the arbitration. If the parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute, each party to the arbitration shall choose one arbitrator who shall sit on an arbitration panel. If an even number of arbitrators ~~are~~is empanelled, the arbitrators shall within twenty (20) days select one additional arbitrator to chair the panel. If an odd number of arbitrators ~~are~~is empanelled, the arbitrators shall elect the chair by simple majority vote. The parties to the dispute may mutually agree to select a ~~lessor~~lesser number of arbitrators. All arbitrators empanelled shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationship with any party to the arbitration (except prior arbitrations). The arbitrators shall provide each of the parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and any applicable FERC regulations.

- (c) **Arbitration Decisions:** Unless otherwise agreed, the arbitrators shall render a decision within ninety (90) days of appointment and shall notify the parties in writing of such decision and the reasons therefore. The arbitrators shall be authorized only to interpret and apply the provisions of the PM and this Agreement and shall have no power to modify or change any of the above in any manner. The decision of the arbitration panel shall be final and binding upon the parties, and the judgment on the award may be entered in any court having jurisdiction. The decision of the arbitration panel may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act. The final decision of the arbitration panel must also be filed with FERC if it affects jurisdictional rates, terms, and conditions of service or facilities.
- (d) **Costs:** Each party to the arbitration shall be responsible for its own costs incurred during the arbitration process, for the cost of the arbitrator chosen by the party to sit on the panel, and a pro rata share of the cost of the last arbitrator chosen by the panel, if applicable.

8.03 Restrictions On The Use Of Procedures: The procedures in this Section 8 do not apply to disputes arising under any agreement other than this Agreement, including without limitation, any promissory notes executed

by the Az ISA. The procedures in Section 8.01 do not apply to disputes solely between one or more TPs or SCs or both, and the Az ISA.

SECTION 9. ISA-SC-TP AGREEMENT MODIFICATION OR AMENDMENT

- 9.01 Subject to the right of the TP, or an SC, to protest any such amendment after it is filed with FERC, the Az ISA may unilaterally file to amend this Agreement pursuant to Section 205 of the FPA to the extent necessary to:
- (i) implement temporary corrective actions approved by the Az ISA Board to address exigent circumstances related to the reliability of the TP's transmission facilities or other circumstances that significantly and adversely affect the Az ISA's ability to carry out its obligations under the ~~PM or this Agreement~~, PM, the ISA-TP Agreement or this Agreement, or
 - (ii) affect modification to Rate Schedule 1.
- 9.02 Except as otherwise provided in Section 9.01 above, upon mutual written agreement of the Az ISA, the TP, and a simple majority of the SCs serving retail customers pursuant to the TP's retail access requirements, which agreement shall not be unreasonably withheld, the Az ISA may amend this Agreement pursuant to Section 205 of the FPA. Absent said mutual written agreement, amendment(s) shall be subject to Section 206 of the FPA and a finding by FERC that such amendment is just and reasonable.

SECTION 10. FEDERAL POWER ACT SECTION 206 FILINGS

Nothing in this Agreement shall be construed in any way as affecting the rights of any Party to make a filing with FERC pursuant to Section 206 of the FPA.

SECTION 11. DEFAULT AND PENALTIES FOR NON-PERFORMANCE

11.01 Each of the following events shall be deemed to be an event of default hereunder: failure of the TP or an SC, in a material respect, to comply with, observe, or perform any covenant, warranty, responsibility or obligation under the PM or this Agreement; failure of the TP or an SC to perform or follow instructions or directions provided by the Az ISA that are consistent with the PM or this Agreement; failure of the TP or SC to make any payment when due under the provisions of the PM, Rate Schedule 1 or this Agreement; and such failure is not cured or rectified within thirty (30) days after the Az ISA serves written notice thereof to the ~~defaulting Party.~~Party in default.

11.02 The Az ISA shall have the right to declare a Party in default (“Defaulting Party”) and take appropriate action against the Defaulting Party, including, the ~~following:~~following: (i) assessment of special charges; (ii) following: (i) suspension or termination of the Defaulting Party’s rights under this Agreement, subject to filings with FERC, to the extent required; ~~(iii) set off of payments owed to the Az ISA against payments the Az ISA owes to~~ (iii) set off of payments owed to the Az ISA against payments the Az ISA owes to ~~an SC or the TP, as appropriate, subject to a~~the Defaulting Party, subject to the Defaulting Party’s right to dispute the amount owed pursuant to the ISA-TP Agreement; and ~~(iv)~~(iii) in the case of an SC, revocation of that

entity's SC certification. Any Defaulting Party against whom the Az ISA takes such action pursuant to this Section 11 may dispute said action in accordance with the procedures set forth in Section 8 (Dispute Resolution).

11.03 **Other Remedies:** The Parties agree that remedies at law may be inadequate to protect the interests of the Parties and that irreparable damage ~~would~~may occur if any of the provisions of this Agreement, or the PM, were not performed by a Party in accordance with the specific terms of this Agreement or the PM, or were otherwise breached. Accordingly, the Parties agree that the Parties, individually, or in conjunction with one or more Parties, shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement or the PM, and to seek specific performance to enforce specifically the terms and provisions thereof in any court of the United States in Arizona or any Arizona state court having jurisdiction, this being in addition to any other remedy to which the Parties are entitled at law or in equity.

11.04 ~~**Special Charges:Penalties:**~~ Notwithstanding any other provision in this Agreement, the Az ISA, with the authorization of the AZ ISA Board, shall have the right to ~~make a unilateral filingfile~~ with the FERC pursuant to Section 205 of the FPA ~~to develop Special Charge(s) to be imposed onfor~~ authority to assess penalties upon a Defaulting ~~Party(ies).Party~~ ("Penalties"). The Az ISA shall not have authority to impose said ~~Special ChargesPenalties~~ until after the date FERC accepts the filing to implement

them, though the Az ISA may request retroactive effectiveness. This provision in no way restricts the right of any Party to protest said Section 205 filing.

SECTION 12. ISA-SC-TP AGREEMENT TERMINATION

12.01 Subject to a Party's obligations contained in Sections 14 (Winding-up), and 15 (Indemnification and Limitation of Liability), the rights and obligations of all ~~SCs, and the TP, Parties~~ under this Agreement shall terminate on the date that this Agreement is terminated.

12.02 This Agreement shall terminate under the following circumstances:

- (a) Upon ~~the~~ dissolution of the Az ISA consistent with the terms and conditions of the Az ISA articles of incorporation, as amended from time to time;
- (b) Upon withdrawal of the TP consistent with Section 13 (Withdrawal);
- (c) Upon written agreement of all the Parties; or
- (d) Upon the withdrawal of the TP from or termination of the ~~applicable~~ ISA-TP Agreement ~~pursuant to its own~~ accordance with its terms and conditions.

SECTION 13. WITHDRAWAL OF THE TRANSMISSION PROVIDER OR A SCHEDULING COORDINATOR FROM THIS AGREEMENT

13.01 TP Withdrawal: Subject to the TP's obligations contained in Sections 14 (Winding-up) and 15 (Indemnification and Limitation of Liability), the TP

may withdraw from this Agreement: (a) after providing ~~six (6)~~ ninety (90) days prior written notice to the Az ISA ~~if and to each~~ SC that is a Party to this Agreement; and (b) the TP, if FERC jurisdiction, (i) has filed with FERC to join an operational RTO, ~~provided, however, that the TP shall effect~~ and (ii) has effected operations and services under the RTO's agreements, tariffs, and procedures on or before the date of its withdrawal from the Az ISA.

13.02 SC Withdrawal: Subject to an SC's obligations contained in Sections 14 (Winding-up) and 15 (Indemnification and Limitation of Liability), an SC may withdraw from this Agreement after providing thirty (30) days prior written notice, and subject to the condition that, as of the effective date of its withdrawal, that SC no longer serves retail customers pursuant to the TP's retail access requirements.

SECTION 14. WINDING-UP

14.01 **Survival:** Any provision of this Agreement that expressly or through implication comes into or remains in force following termination of this Agreement or withdrawal by a Party shall survive ~~such~~ said termination or withdrawal. The surviving provisions shall include, but shall not be limited to: (i) those provisions necessary to permit the orderly conclusion, or continuation pursuant to another agreement, of transactions entered into prior to the termination of or withdrawal from this Agreement; (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder; and (iii) the indemnification

and limitation of liability provisions as applicable to claims arising or
accruing prior to the effective date of withdrawal from or termination of
Az ISA operations or dissolution.

SECTION 15. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 15.01 **Indemnification:** The TP and each SC that is a Party to this Agreement shall indemnify, save harmless, and defend the Az ISA, including each of its directors, officers, employees, trustees, and agents, from and against all claims, demands, losses, liabilities, judgments, and damages (including, without limitation, any consequential, incidental, direct, indirect, special, exemplary or punitive damages, and economic costs) and related costs and expenses (including, without limitation, reasonable attorneys' and experts' fees, and disbursements) incurred by the Az ISA ~~arising~~which arises out of or is related to that TP's or SC's acts or omissions ~~related in any way to this Agreement in the performance of this Agreement, except to the extent said damages were the direct result of the Az ISA's intentional misconduct or gross negligence.~~
- 15.02 **Limitation of Liability:** The Az ISA shall not be liable (whether based on contract, indemnification, warranty, tort, strict liability or otherwise) to any Party for any damages whatsoever, including, without limitation, direct, indirect, incidental, consequential, punitive, special or exemplary damages resulting from any act or omission ~~in any way associated with~~by the Az ISA in the performance of this Agreement or the PM.
- 15.03 **Insurance:** The Az ISA shall make a good faith effort consistent with commercially reasonable practices to acquire insurance to indemnify the Az ISA against liability. To the extent it is successful in acquiring said insurance, the Az ISA shall file all claims through its insurance provider

before seeking indemnification under this Section 15. Notwithstanding any ~~provision~~other provisions of this Agreement, this Agreement shall not relieve any of the Az ISA's insurer(s) of ~~liability under any obligation to~~
the Az ISA under any insurance policy.

SECTION 16. SUPREMACY CLAUSE

- 16.01 If a conflict arises between the terms of this Agreement and the terms of the PM, the terms of the PM shall prevail.
- 16.02 With regard to the duties and obligations of the TP and the Az ISA, as to each other, if a conflict arises between the terms of this Agreement and the terms of the ISA-TP Agreement, the terms of the ISA-TP Agreement shall prevail.

SECTION 17. ASSIGNMENT

- 17.01 Upon thirty (30) days prior written notice, the TP may assign its rights and obligations under this Agreement to: (a) any entity~~(s)~~ formed pursuant to a plan of restructuring approved by FERC and the ACC, to the extent ~~such~~said approval is required by law, that results in the transfer of substantially all of the TP's transmission facilities located in Arizona to said entity~~(s)~~ or (b) any entity~~(s)~~ in connection with a merger, consolidation, reorganization or other change in the organizational structure, provided that the surviving ~~entity(s) agree,~~entity agrees, in writing, to be bound by the terms of this Agreement and that to the extent necessary, the merger, consolidation, reorganization or other change in the

organizational structure is accepted by the ACC (to the extent that the TP is subject to ACC jurisdiction) and FERC.

~~17.03~~ 17.02 Upon providing written notice of FERC acceptance, to the extent necessary, the Az ISA may assign its rights and obligations under this Agreement to any successor in interest.

17.03 Except as specifically provided above in this Section 17, this Agreement may ~~not~~ be assigned or otherwise transferred by any Party ~~without~~ only upon the express written consent of the Az ISA Board, which consent shall not be unreasonably withheld. Any person to which ~~an~~ said assignment or transfer is made shall be required to demonstrate to the reasonable satisfaction of the Az ISA Board that it is capable of fulfilling the requirements of this Agreement and the PM, and ~~such~~ said assignee shall pay all Az ISA costs and expenses, including reasonable attorney's fees, in connection with ~~such~~ said assignment. Unless otherwise expressly provided in a written instrument approved by the Az ISA Board in connection with the consummation of ~~such~~ said assignment or other transfer, any assignment or other transfer by a Party of its rights and obligations under this Agreement shall be void and shall not release, or in any way modify, the assigning or transferring Party's liability for the performance of its obligations hereunder.

~~17.04~~ **Credit Worthiness Requirement for Assignees:** Any assignment by an SC under this Section 17 shall be conditioned upon the assignee's satisfaction of the TP's creditworthiness criteria under the TP's OATT or

other tariff and satisfaction of the other criteria applicable to an SC
consistent with Section 7 (SC's ~~Creditworthiness Criteria~~).

17.04 Responsibilities).

SECTION 18. CONFIDENTIALITY

18.01 **Party Access:** Except as otherwise provided in this Agreement, neither the TP nor an SC shall have a right hereunder to receive or review any documents, data or other information provided by a Party to the Az ISA, or that the Az ISA provides to another Party, to the extent such documents, data or information have been designated as confidential by such other Party in a writing to the Az ISA, or in the PM; provided however, that a Party may receive and review any composite documents, data, and other information if the composite does not disclose any individual Party's confidential data or information.

18.02 **Required Disclosure:** Notwithstanding any other provision in this Section 18, if a Party is required by applicable law, or in the course of administrative or judicial proceedings, or subpoena, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section 18, that Party may disclose of that information; provided however, that as soon as the Party learns of the disclosure requirement and prior to making such disclosure, the Party shall notify the affected Party or Parties of the disclosure requirement and the terms thereof, and the affected Party or Parties may, at their sole discretion and cost, assert any challenge to, or defense against, the disclosure of the information consistent with applicable law. Each Party shall cooperate with the affected Parties to obtain proprietary or confidential treatment of

~~such~~said information by the person to ~~whom such~~who said information is disclosed pursuant to this Section 18 prior to any such disclosure.

18.03 Information that is reasonably required by the Az ISA to perform its obligations shall not be refused to be provided on the ground of confidentiality.

SECTION 19. GOVERNING LAW; JURISDICTION

The interpretation and performance of this Agreement shall be in accordance with and shall be controlled by the laws of the State of Arizona as though this Agreement is made and performed entirely in Arizona. With respect to any claim or controversy arising from this Agreement or performance hereunder within the subject matter jurisdiction of the Federal or state courts of the State of Arizona, the Parties consent to the exclusive jurisdiction and Arizona venue of said courts.

SECTION 20. HEADINGS

The section headings herein are for convenience and reference only and in no way define or limit the scope of this Agreement or in any way affect its provisions.

SECTION 21. NO THIRD PARTY RIGHTS

Nothing in this Agreement, express or implied, is intended to confer on any person (other than the Parties hereto) including, without limitation, retail customers of a SC or otherwise, any rights or remedies under or by reason of this Agreement.

SECTION 22. NOTICE

22.01 A formal notice, demand or request provided for in this Agreement shall be in writing and shall be properly served, given or made if delivered in person, or sent by either registered or certified mail, postage prepaid, or facsimile or E-mail followed by a written original, to the persons so designated by each Party in writing to the Az ISA and subsequently posted on the Az ISA website.

22.02 The designation of any person in accordance with Section 22.01 above, or the address of any such person, may be changed at any time with ten (10) days prior written notice to the other Parties given in the manner provided in this Section 22.

SECTION 23. NOT PARTNERS

Nothing contained in this Agreement shall be construed to make the Parties partners or parties to a joint venture, or to render any Party liable for the debts or obligations of any other Party except as expressly provided for herein.

SECTION 24. REPRESENTATIONS

Each Party represents and warrants to the other Parties that it has the requisite power and authority to execute and deliver this Agreement, and subject to the procurement of applicable regulatory approvals, to carry out the actions required of it by this Agreement. The execution and delivery of this Agreement or the Scheduling Coordinator Counterpart Signature Page, or both, as applicable, and the actions it contemplates, have been duly and validly authorized by all required corporate action.

This ~~Agreement has~~ Agreement, the Scheduling Coordinator Counterpart Signature Page,

or both, as applicable, have been duly and validly executed and delivered by each Party and constitutes a valid and binding agreement of the Party.

SECTION 25. NO DEDICATION OF FACILITIES

~~This Agreement and specific transactions hereunder~~The participation of the TP in this Agreement shall not constitute the dedication of its transmission system, or any portion thereof, to the Az ISA, any SC or the public, except as provided by applicable law. The provision of any service under this Agreement does not constitute a sale, lease, rental, transfer or other dedication of conveyance of an ownership interest in any facilities to common carrier status by any Party of any kind to the Az ISA, any of its other participants, stakeholders, any SC or the public.

SECTION 26. WAIVER

Any waiver at any time of the rights of any Party as to any default or failure to require strict adherence to any of the terms herein, on the part of any other Party or Parties to this Agreement, or as to any other matters arising hereunder, shall not be deemed a waiver as to any default or other matter that subsequently occurs- in this Agreement, or any other ISA-SC-TP Agreement. Said waiver shall not give rise to any liability on the part of the Party receiving the waiver or the Az ISA to any other Party.

SECTION 27. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, no one of which needs to be executed by all of the Parties, and this Agreement shall be binding upon all the Parties with the same force and effect as if all the Parties had signed the same

document, and each such signed counterpart shall constitute an original of this Agreement.

|

SECTION 28 EFFECTIVENESS

~~Prior to its effectiveness as to the Az ISA and the TP, this Agreement requires execution by said Parties, acceptance for filing by the FERC, to the extent applicable, and with respect to AEPCO, approval of the Rural Utility Subject to required regulatory authorizations, if any, this Service, to the extent required. This Agreement shall become effective when signed by the Az ISA and the TP, and shall become effective and binding upon an~~With respect to AEPCO, approval of the Rural Utility Service (“RUS”) is required before this Agreement shall be effective. The execution and delivery of this Agreement or the Scheduling Coordinator Counterpart Signature Page, as applicable, and the actions it contemplated thereby have been duly and validly authorized by all required corporate action. This SC upon the execution by that entity of the Scheduling Coordinator Counterpart Signature Page.

~~Agreement has been duly and validly executed and delivered by the Party and constitutes a valid and binding Agreement of the Party.~~

IN WITNESS WHEREOF, each of the Parties hereto have duly executed this Agreement in its corporate name as of the date first written above.

Arizona Independent Scheduling Administrator Association

By: _____

Title: _____

[TRANSMISSION PROVIDER]

By: _____

Title: _____

EXHIBIT 1 – SCHEDULING COORDINATOR

COUNTERPART SIGNATURE PAGE

ISA-SC-TP AGREEMENT

IN WITNESS WHEREOF, the undersigned, having agreed to satisfy all requirements that apply to a (Standard Offer / Competitive) Scheduling Coordinator contained in the ~~Az-ISA~~ISA-SC-TP Agreement and the Protocols Manual, and having agreed to be bound by the terms and conditions of this Agreement and the Protocols Manual, has caused this counterpart signature page to this Agreement, being dated as of _____, 2000, as amended, to be executed by its duly authorized representative as of _____.

(Applicant Company's Name)

By: _____

(Representative's signature)

(Representative's name)

(Title)

(Address)

END OF DOCUMENT