

AGREEMENT BY AND BETWEEN
ARIZONA INDEPENDENT SCHEDULING ADMINISTRATOR ASSOCIATION
AND
TUCSON ELECTRIC POWER COMPANY

Issued by: Patrick J. Sanderson
Acting Executive Director
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This Agreement (hereinafter referred to as the “ISA-TP Agreement” or this “Agreement”) is made as of the __ day of _____, 2001, by and between Tucson Electric Power Company (the “Transmission Provider” or “TP”) and the Arizona Independent Scheduling Administrator Association (the “Az ISA”). The TP 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 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) 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.
- 1.03** The Arizona Electric Power Cooperative, Inc. (“AEPCO”), Arizona Public Service Company (“APS”), Citizens Utilities Company (“Citizens”), and

Tucson Electric Power Company (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** 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 August 21, 2000, reviewed a detailed Implementation Plan providing for the implementation in two phases (“Phase I” and “Phase II”) of PM functions and activities in accordance with ACC Rule R 14-2-1609 (the “Implementation Plan”).
- 1.05** In furtherance of the development of the Az ISA, and to facilitate conversion to a competitive retail market in Arizona, the Participating Utilities have loaned monies to the Az ISA.
- 1.06** The Participating Utilities have a continuing obligation to provide safe and reliable electric transmission service to the public, including assuring suitable use of their individual transmission facilities to attain and maintain compliance with this obligation.
- 1.07** The Participating Utilities shall continue to own, operate, control, modify, and maintain their individual transmission facilities.
- 1.08** The Parties have agreed to enter into this Agreement to establish the rights and obligations of each of the Parties with respect to the operation of Az

ISA in accordance with the PM and operating procedures established by the Az ISA Board, and the obligations contained in this Agreement.

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 (attached hereto as Exhibit 3). Each reference to a Section refers to a section of this Agreement, unless otherwise stated. Exhibits and any rate schedule (including Rate Schedule 1) referred to in this Agreement are hereby incorporated in their entirety as if fully set forth in this Agreement.

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

2.02 “ISA-SC-TP Agreement” shall mean an agreement, to which the Az ISA, the TP, and each Scheduling Coordinator (“SC”) that serves retail customers pursuant to the TP’s retail access requirements, 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. (“AEPSCO”), Arizona Public Service Company (“APS”), Citizens Utilities Company (“Citizens”), and Tucson Electric Power Company.
- 2.04** “Phase I” shall mean those PM functions or activities designated as Phase I in the PM.
- 2.05** “Phase II” shall mean those PM functions or activities designated as Phase II in the PM.
- 2.06** “Protocols Manual” shall mean the document that describes the operational and administrative procedures (“Protocols”) used by the Az ISA, SCs, and Participating Utilities 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.
- 2.07** “Rate Schedule 1” shall mean the Az ISA Rate Schedule No. 1 filed with FERC.
- 2.08** “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 tariff accepted by FERC.
- 2.09** “Standards of Conduct” shall mean those rules contained in 18 C.F.R. § 37.4, as they may be amended or their successors, and any associated procedures developed by the TP and accepted by FERC, to implement those rules.

2.10 “Transmission Provider” or “TP” shall mean Tucson Electric Power Company, its successors and assigns.

SECTION 3 GENERAL OBLIGATIONS OF THE PARTIES

3.01 Subject to the provisions of Section 26 (Phased Implementation), 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 (Supremacy Clause), the Az ISA shall implement the PM in accordance with the schedule contemplated in the Implementation Plan.

3.02 Subject to the provisions of Section 26 (Phased Implementation), 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 The TP shall require each SC that serves retail customers, pursuant to the TP’s retail access requirements, to take service under the TP’s open access transmission tariff (“OATT”) or other tariff.

3.04 The TP shall neither accept a retail schedule for nor provide RNITS to an SC unless that SC has executed the ISA-SC-TP Agreement.

3.05 Upon FERC acceptance or approval of this Agreement, the ISA-SC-TP Agreement, Rate Schedule 1 and the PM, the TP shall charge each SC that receives transmission service for retail load served by those SCs under the TP’s OATT or other tariff, the TP’s operating costs (“TPOC”) and

repayment costs (“TPREPAY”) in accordance with Rate Schedule 1 and Section 4 (Funding) of this Agreement.

3.06 The TP, at its own expense, shall bill and collect from each SC the charges described in Rate Schedule 1. It is the Parties’ understanding that reasonable costs associated with said billing and collection shall be included by the TP as part of its revenue requirement.

3.07 The TP shall apply its individual customer credit rating requirements, contained in its OATT or other tariff, to each SC taking service under said OATT or other tariff. When verifying the credit rating of said SC, the TP shall include in the amount for which the credit is verified the charges to be imposed on the SC pursuant to Rate Schedule 1.

3.08 The TP shall notify the Az ISA and each of the other Participating Utilities, in writing, in the event an SC defaults on its payment of the rates specified in Rate Schedule 1.

3.09 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 FUNDING OF Az ISA OPERATIONS AND REPAYMENT
OF START-UP LOANS**

4.01 Recovery of Az ISA Operating Costs

- (a) By the 15th day of each month, the TP shall provide the Az ISA with its Transmission Provider Retail Load (or “TPRL”) as defined in Rate Schedule 1. The Az ISA shall use each Participating Utilities’ TPRL value to calculate the Aggregate Retail Load (or “AGGRL”) as defined in Rate Schedule 1.
- (b) By the 20th day of each month, the Az ISA shall calculate and communicate to the TP a good faith estimate of (i) the TP’s share of the Az ISA’s monthly operating costs (the “Transmission Provider Operating Cost” or “TPOC”) as defined in Rate Schedule 1 and (ii) the Az ISA’s total operating costs for the subsequent billing month. That good faith estimate shall include, to the extent practicable, actual operating costs known at the time the estimate is prepared.
- (c) By the 10th day of the following month, the TP shall pay to the Az ISA, in accordance with the provisions in Section 4.04 (Electronic Payment) and Rate Schedule 1, the TP’s TPOC for the previous billing month.

4.02 Repayment of Debt

- (a) By the 10th day of each month, the TP shall calculate and communicate to the Az ISA, the Az ISA’s repayment obligation to the TP for the subsequent billing month (the “Transmission Provider’s Repayment” or “TPREPAY”) as defined in Rate Schedule 1.
- (b) Within five (5) business days of the day on which the Az ISA receives the information specified in Section 4.02(a), the Az ISA shall notify the TP by

phone or E-mail if it disagrees with the TP's calculation. Disagreements as to the correct amount that are not resolved within five (5) days of the date the Az ISA gives said notice to the TP shall be subject to the dispute resolution procedures contained herein.

- (c) By the 10th day of each billing month, the TP shall remit to the Az ISA, in accordance with the provisions in Section 4.04 (Electronic Payment) and Rate Schedule 1, all revenues associated with the Az ISA's repayment obligation for that billing month collected by the TP from each SC.
- (d) To the extent the TP collects from SCs an amount of money that exceeds the TP's TPREPAY, the excess revenue shall be used to reduce the remaining principal associated with the repayment obligation to the TP, as listed in Exhibit 1. Whenever said additional payment is made, the TP shall recalculate the repayment obligation in accordance with an amortization schedule agreed to by the Parties.
- (e) To the extent the TP collects from SCs an amount of money that is less than the TP's TPREPAY, the TP shall recalculate the repayment obligation in accordance with an amortization schedule agreed to by the Parties.

4.03 Overdue Payment

Amounts not paid in accordance with this Section 4 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.

4.04 Electronic Payment

Each payment made by the TP to the Az ISA, in accordance with this Agreement or the ISA-SC-TP Agreement, shall be made by wire transfer of immediately available funds in accordance with the routing instructions provided by the Az ISA.

4.05 Repayment

By the 20th day of each month, the Az ISA shall pay to the TP the same amount it receives from the TP pursuant to Section 4.02 of Rate Schedule 1 as payment under the applicable promissory note. Payments shall be made in the manner reasonably specified by the TP.

SECTION 5 THE PROVISION OF INFORMATION

5.01 The Az ISA shall provide to the TP information reasonably requested by the TP that is necessary to permit the TP to bill Scheduling Coordinators for Az ISA-related expenses.

- 5.02** The Az ISA shall provide the TP with actual and estimated operating expenses for the prior and subsequent billing months, respectively, as described in Rate Schedule 1.
- 5.03** The TP shall provide the Az ISA with information reasonably requested by the Az ISA that is necessary to verify the amount of revenue collected by the TP from each SC pursuant to this Agreement and the TP's Transmission Provider's Retail Load as defined in Rate Schedule 1.
- 5.04** Each Party that receives a request for information pursuant to this Section shall provide the requesting Party with the requested information in a mutually agreeable manner and within a mutually agreeable time frame. 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 COMPLIANCE WITH TRANSMISSION PROVIDER STANDARDS OF CONDUCT

To the extent the TP provides to the Az ISA transmission-related information subject to the nondiscriminatory disclosure requirements set forth in the TP's Standards of Conduct, then the TP shall advise the Az ISA of the restrictions on disclosure of said information. The Az ISA shall take all reasonable actions to comply, or cause its agents for purposes of implementing the PM to comply, with the TP's Standards of Conduct, to

the extent necessary, to ensure that said transmission-related information is not improperly disclosed.

SECTION 7 REVISION OF OR AMENDMENT TO TRANSMISSION PROVIDER'S OATT OR OTHER TARIFF

The TP, during the term of this Agreement, shall revise its OATT or other tariff, as necessary, to give effect to the provisions of the PM, as the PM may be amended by the Az ISA Board from time to time. Said revisions shall be made, and, if necessary, filed with FERC as a compliance filing under Section 206 of the FPA, within thirty (30) days of the date on which FERC issues an order accepting the PM or the modifications thereto or in accordance with other applicable law or order. Nothing in this Section 7 shall preclude the TP from protesting said PM amendment with FERC or intervening in any such filing.

SECTION 8 DISPUTE RESOLUTION PROCEDURES

8.01 Disputes Between One or More Participating Utilities

Subject to Section 8.03 (Restrictions On the Use of Procedures), any dispute arising between the Participating Utilities relating to interpretation of the provisions of this Agreement or the PM, or to the performance of a Participating Utilities' 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 Transmission Providers

Subject to Section 8.03 (Restrictions On the Use of Procedures), any dispute arising between one or more Participating Utilities and the Az ISA 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. Any Party initiating internal dispute resolution or external arbitration resolution procedures under this Section shall provide the Az ISA with notice specifying the basis for the dispute and shall provide the Az ISA with a good faith estimate of the amount in dispute, if any.

- (a) **Internal Dispute Resolution Procedures:** Any dispute between one or more Participating Utilities and the Az ISA 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 each Participating Utility 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, 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 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 empaneled, the arbitrators shall within twenty (20) days select one additional arbitrator to chair the panel. If an odd number of arbitrators are empaneled, the arbitrators shall elect the chair by simple majority vote. The parties to the dispute may mutually agree to select a lesser number of arbitrators. All arbitrators empaneled shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past business, social 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 said decision and the reasons therefore. The arbitrators shall be authorized only to interpret and apply the provisions of the PM and this Agreement in accordance with substantive law 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 set forth in this Section 8 (Dispute Resolution Procedures) do not apply to disputes arising under any agreement, other than this Agreement or similar agreements between the Az ISA and other Participating Utilities, including without limitation, any promissory notes executed by the Az ISA and one or more Participating Utilities. The procedures in Section 8.01 do not apply to disputes between one or more Participating Utilities and the Az ISA.

SECTION 9 ISA-TP AGREEMENT MODIFICATION OR AMENDMENT

9.01 Subject to the right of the TP 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 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, the ISA-SC-TP Agreement or this Agreement.

9.02 Except as otherwise provided in Section 9.01 above, upon mutual written agreement of all the Parties, 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 each 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, in a material respect, to comply with,

observe, or perform any covenant, warranty, or obligation under the PM or this Agreement, including the obligation to pay amounts when due under the provisions of the PM, Rate Schedule 1, or this Agreement, and said failure is not cured or rectified within thirty (30) days after the Az ISA serves written notice thereof to the Defaulting Party.

11.02 Subject to the provisions of Sections 15 (Indemnification and Limitation of Liability) and 11.03 (Other Remedies), the Defaulting Party shall be liable to the Az ISA for only direct damages resulting from an event of default. Direct damages shall not include consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract. In addition to its other rights, the Az ISA shall have the right to set off, against any and all payments the Az ISA owes the Defaulting Party under this or any other agreement, any and all payments the Defaulting Party owes the Az ISA, subject to the Defaulting Party's right to dispute said set off.

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 may occur if any of the provisions of this Agreement, or the PM, were either 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 Az ISA or the TP 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.

SECTION 12 ISA-TP AGREEMENT TERMINATION

12.01 Subject to the TP's obligations contained in Sections 14 (Winding-up) and 15 (Indemnification and Limitation of Liability), the rights and obligations of all 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 the written agreement of all the Parties;
- (c) Upon the withdrawal from this or any other ISA-TP Agreement of three (3) or more of the Participating Utilities having retail load greater than 60% of the aggregate retail load in Arizona served by the Participating Utilities, provided further that the withdrawing Participating Utilities, if FERC jurisdictional, have joined an operating RTO and have provided at least ninety (90) days prior written notice of withdrawal to the Az ISA Board; or
- (d) Upon the occurrence of all of the following circumstances: (i) the ACC modifies its Electric Competition Rules, or a court of

competent jurisdiction issues a final order modifying the ACC's Electric Competition Rules, such that said Rules no longer require the Participating Utilities to participate in the Az ISA; (ii) all of the Participating Utilities agree, in writing, to terminate their respective ISA-TP Agreement (including this Agreement); and (iii) the Participating Utilities have provided at least ninety (90) days prior written notice of termination to the Az ISA Board.

SECTION 13 WITHDRAWAL OF A TRANSMISSION PROVIDER FROM THE ISA-TP AGREEMENT

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 after satisfying the following requirements: (a) The TP shall provide three (3) months prior written notice to the Az ISA; and (b) the TP, if FERC jurisdictional, shall (i) file with FERC to join an operational RTO, and (ii) effect operations and services under the RTO's agreements, tariffs and procedures on or before the date of withdrawal from the Az ISA. In addition to the foregoing, the TP may withdraw from this Agreement, subject to the TP's obligations set forth at Sections 14 and 15, and upon three (3) months prior written notice to the Az ISA, should the FERC reject the FPA Section 205 filing to be made implementing the hourly losses and unaccounted-for-energy provisions as set forth at Sections 3 (Original Sheet Nos. 42-44) and 7 (Original Sheet No. 47) of Protocol IX (Energy Imbalance) as contained in the Az ISA's initial filing in Docket No. ER00-3583-000. In addition, the TP may withdraw from this Agreement should the FERC reject or modify the separate FPA Section 205 filing to be made to add the foregoing

Sunset Provision to this Agreement and said withdrawal may be effective as of the date of the FERC's Order rejecting or modifying said Sunset Provision.

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 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 the 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 the TP's withdrawal or the termination of Az ISA operations or dissolution.

Notwithstanding the provisions of Section 26, to provide for the orderly satisfaction of all Az ISA commitments entered into prior to the effective date of a termination pursuant to Section 12 or a withdrawal pursuant to Section 13, said termination or withdrawal shall be subject to the TP's continuing obligation to pay that portion of the applicable TPOC that could not reasonably be avoided on or after the effective date of said termination or withdrawal until all said costs have been paid, but only to

the extent that said costs are not associated with implementation of Phase II activities.

14.02 Termination Plan: In addition to the requirements of Section 14.01, the Az ISA and the terminating or withdrawing Party(ies) shall have an obligation to make a good faith effort to agree upon a mutually satisfactory termination or withdrawal plan. The plan shall provide for an orderly termination or withdrawal. To the extent necessary, the plan shall address the allocation of any Az ISA costs directly related to the termination or the withdrawal by the Party(ies) terminating or withdrawing from this Agreement.

14.03 Debt Repayment: Notwithstanding any agreement or provision to the contrary, (a) upon withdrawal of the TP pursuant to Section 13, the TP waives recovery of all debt remaining due to that TP from the Az ISA, including the repayment obligation specified in Exhibit 1, and releases the Az ISA from any and all associated obligations and liabilities; and (b) upon termination of this Agreement, the TP waives recovery of all debts owed to it by the Az ISA, including all repayment obligations listed in Exhibit 1, and releases the Az ISA from any and all associated obligations and liabilities. The foregoing is without prejudice to the right of the TP to seek recovery of said debts from a successor RTO.

14.04 Any withdrawal by the TP or the termination of this Agreement shall be subject to applicable laws, regulations and orders, and nothing in this Agreement shall constitute cause for waiver of any of the foregoing.

14.05 The TP reserves the right to seek recovery of any unpaid balances contemplated in Section 14.03 from customers through rates filed with the FERC or the ACC or otherwise developed consistent with applicable laws.

**SECTION 15 LIMITATION OF LIABILITY, INDEMNIFICATION AND
INSURANCE**

15.01 Indemnification: The TP shall indemnify, save harmless and defend the Az ISA, including each of its directors, officers, employees, trustees, and agents, from and against any and 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 which arises out of the TP's acts or omissions 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 the TP for any damages whatsoever, including, without limitation, direct, indirect, incidental, consequential, punitive, special or exemplary damages resulting from any act or omission by the Az ISA in the performance of this Agreement, the ISA-SC-TP Agreement or the PM, except to the

extent said damages were the direct result of the Az ISA's intentional misconduct or gross negligence.

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 other provisions of this Agreement, this Agreement shall not relieve any Az ISA's insurer(s) of 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 If a conflict arises between the terms of this Agreement and the terms of the ISA-SC-TP Agreement, as to the Parties to this Agreement, the terms of this 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(ies) formed pursuant to a plan of restructuring approved by FERC and the ACC, to the extent 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(ies) or (b) any entity(ies) in connection with a merger, consolidation, reorganization or other change in the organizational structure of the assigning TP, provided that the surviving entity(ies) agree, 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.

17.02 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 the express written consent of the Az ISA Board, which consent shall not be unreasonably withheld. Any person to which said assignment or transfer is made shall be required to demonstrate to the reasonable satisfaction of the Az ISA that it is capable of fulfilling the requirements of this Agreement and the PM, and said assignee shall pay all Az ISA costs and expenses, including reasonable attorneys' fees, in connection with said assignment. Unless otherwise expressly provided in a written instrument approved by the Az ISA Board in connection with the consummation of 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.

SECTION 18 CONFIDENTIALITY

18.01 Party Access: Except as otherwise provided in this Agreement, the TP shall not have the right hereunder to receive or review any documents, data or other information provided by another Participating Utility to the Az ISA, or that the Az ISA provides to another Participating Utility, to the extent such documents, data or other 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 provisions 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 that information; provided however, that as soon as the Party learns of the disclosure requirement, and prior to making said disclosure, the Party shall promptly 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 said information by the person to whom said information is disclosed pursuant to this Section 18 prior to any such disclosure.

18.03 Information 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 and SCs, 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 specified in Exhibit 2.

22.02 The designation of any person in Exhibit 2, 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 NO DEDICATION OF FACILITIES

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 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 conveyance of an ownership interest in any facilities of any kind to the Az ISA, any of its other participants, stakeholders or the public.

SECTION 25 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 the other Party to this Agreement, shall not be deemed a waiver as to any default or other matter that subsequently occurs in this Agreement. Said waiver shall not give rise to any liability on the part of the TP receiving the waiver, or the Az ISA to any other TP.

SECTION 26 PHASED IMPLEMENTATION

The Parties recognize that PM functions and activities are to be implemented by the Az ISA and the other Participating Utilities in two Phases: Phase I and II. As of the date of execution of this Agreement, the Az ISA Board has approved the implementation, subject to FERC acceptance, of Phase I. Therefore, all references herein to the PM shall initially be limited to Phase I of the PM. The Parties hereby agree to implement and include Phase II of the PM in this Agreement only after the following conditions are satisfied:

26.01 The Az ISA Board has approved the implementation of a business plan governing implementation of Phase II of the PM;

26.02 The Az ISA Board has approved a Phase II and a new Phase I funding mechanism that (a) ensures that the Az ISA will have sufficient funds to continue operations in accordance with the PM and this Agreement; (b) equitably allocates Phase I and II costs among all entities serving Arizona retail load pursuant to the PM and each Participating Utility's OATT or other tariff; and (c) relieves the TP of the obligation set forth in Section 4.03 of Rate Schedule 1.

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, this Agreement requires execution by the parties, acceptance for filing by the FERC, to the extent applicable, and with respect to AEPCO, approval of the Rural Utility Service, to the extent required.

SECTION 29 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, and the actions it contemplates, have been duly and validly authorized by all required corporate action. This Agreement has been duly and validly executed and delivered by each 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: _____

Tucson Electric Power Company

By: _____

Title: _____

EXHIBIT 1

- LOAN BY TP TO AZ ISA -

The following is a description of the loan made by the creditor TP to the Az ISA, including the original loan amount.

Loan Description

Loan Amount

EXHIBIT 2

- PARTIES TO RECEIVE NOTICE -

Az ISA

Name:

Phone:

Fax:

Address:

Transmission Provider

Name:

Phone:

Fax:

Address:

EXHIBIT 3

- **PROTOCOLS MANUAL** -

- **Section II - Definitions** -

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- **(Incorporated herein by reference to the Definitions (Protocol II) set forth in the Az ISA's September 1, 2000 Tariff Filing in Docket No. ER00-3583-000, as modified by the Az ISA's Compliance Filing of February__, 2001)**