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VIA ETARIFF

The Honorable Debbie-Anne A. Reese
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**RE: Tri-State Generation and Transmission Association, Inc.
High Impact Load Tariff Filing
Docket No. ER25-____-000**

Dear Secretary Reese,

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ Part 35 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² and Order No. 714,³ Tri-State Generation and Transmission Association, Inc. (“Tri-State”) hereby requests that the Commission accept for filing the proposed High Impact Load Tariff (“HILT”), which includes a jurisdictional, *pro forma* High Impact Load Agreement (“HILA”) (collectively with HILT, “HIL Program”) appended thereto, with an effective date of October 28, 2025. Tri-State respectfully submits that the proposed HILT and HILA are just and reasonable, and not unduly discriminatory or preferential, as demonstrated by this transmittal letter and the attached testimony and exhibits, and should be accepted without hearing, modification, or suspension.

In light of the rapid growth of large loads across the United States and in the Mountain West, and including data center development, Tri-State’s traditional generation and transmission planning processes applicable to the gradual native load growth of its Utility Members are no longer suited to meet its mission of providing a reliable, affordable, and responsible supply of electricity in accordance with cooperative principles. As such, Tri-State developed the HIL Program with Utility Member and industry input and support, to reasonably accommodate the economic benefits that High Impact Loads (“HIL”) may provide to its Utility Members’

¹ 16 U.S.C. §§ 824d (2018).

² 18 C.F.R. pt. 35 (2025).

³ *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *clarified*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

communities consistent with Tri-State's mission of supplying reliable, affordable, and responsible electricity to its membership.

I. BACKGROUND

A. Description of Tri-State

Tri-State is a wholesale generation and transmission cooperative operating on a not-for-profit basis with its principal place of business in Westminster, Colorado. Incorporated in 1952, Tri-State is a cooperative corporation organized and existing pursuant to the Colorado Cooperative Act.⁴ Tri-State was formed by its Utility Members' systems for the purpose of providing wholesale power and transmission services to its Utility Members (which are distribution electric cooperatives and public power districts) for their resale of power to retail consumers.

Tri-State's mission as a not-for-profit association is to provide its Utility Members with a reliable, affordable, and responsible supply of electricity in accordance with cooperative principles. In the context of this mission, "reliable" means not only complying with applicable North American Electric Reliability Corporation ("NERC") standards, Western Electricity Coordinating Council ("WECC") standards, and applicable balancing authority and regional markets requirements, but also developing and managing a resource portfolio that can meet the needs of all of Tri-State's Utility Members in each of the four states in which they are located, as well as applicable Tri-State Board Policies and federal, state, and local laws, rules, and regulations.⁵ "Affordable" means seeking the least-cost solutions for serving Tri-State's Utility Members. Affordable also means that Tri-State's Utility Members serve some of the most economically challenged regions in our multistate service area, where the cost of electricity is a significant quality of life consideration, as well as mountainous terrains where extreme temperatures can become life-threatening without reliable power for heating, cooling, and essential services.⁶ Finally, "responsible" means that Tri-State is responsible and responsive to its Utility Members, its employees, and the communities they serve, as well as those areas where Tri-State's transmission and generation facilities are located. Additional factors in Tri-State's resource planning include maintaining a diverse technology mix to support system resilience and adaptability and evaluating local siting and economic development impacts.⁷

Tri-State's Utility Members are each parties to wholesale electric service contracts ("WESCs") with Tri-State that require Tri-State to sell and deliver to the Utility Member, and the Utility Member to purchase and receive, all energy and capacity required for the operation of the

⁴ COLO. REV. STAT. §§ 7-55-101-121 (2024) (Cooperatives – General).

⁵ Testimony of Lisa K. Tiffin, Exhibit No. LKT-001 at 5 ("Tiffin Testimony").

⁶ *Id.* at 6.

⁷ *Id.* at 7.

Utility Member's system, as modified by two programs (a self-supply percentage⁸ and Tri-State's Bring Your Own Resource ("BYOR") Tariff⁹), with a majority of these WESCs extended initially through December 31, 2066, and the remaining extending initially through December 31, 2050.¹⁰ The WESCs require Tri-State Utility Members to pay Tri-State for wholesale power and transmission service as prescribed by Tri-State's "Class A Rate."¹¹ Tri-State is a public utility subject to the Commission's jurisdiction under the FPA.¹² Tri-State serves Utility Members in both the Western Interconnection and the Eastern Interconnection.

B. Data Center Landscape and Regulatory Environment

Across the United States, there is unprecedented growth in the development of data centers to accommodate need for data storage, artificial intelligence, and cloud computing.¹³ Data centers currently represent 4.4% of the United States total electricity consumption, which is predicted to grow to between 6.7% and 12.0% by 2028.¹⁴ Data center growth is also being driven by local factors, including favorable state tax and regulatory incentives and land availability.¹⁵ Many of the states in Tri-State's Utility Members' service territories have responded with their own incentives, including sales and use tax exemptions, grants to cover costs, property tax exemptions, and providing public utilities the ability to negotiate discounted rates.¹⁶ As data centers and other drivers of large load consume greater amounts of electricity, Tri-State seeks to adapt to the challenge and continue to ensure reliable, affordable, and responsible service.¹⁷

In particular, the Mountain West region of the United States has seen a surge in interest from data centers seeking to interconnect to the electric grid.¹⁸ Interconnection of large loads and data centers will thus have impacts on the bulk electric system in the Mountain West

⁸ See Tri-State Wholesale Electric Service Contracts, Rate Schedule No. 260, Board of Directors Policy 115 (5.0.0).

⁹ See Tri-State Wholesale Electric Service Contracts, Rate Schedule No. 371, BYOR Program Tariff (0.0.0).

¹⁰ *Tri-State Generation & Transmission Ass'n*, 192 FERC ¶ 61,122 (2025).

¹¹ *Tri-State Generation & Transmission Ass'n*, 188 FERC ¶ 61,087 (2024).

¹² 16 U.S.C. §§ 824-824w; see also *Tri-State Generation & Transmission Ass'n*, 170 FERC ¶ 61,224, order on reh'g, 172 FERC ¶ 61,173, reh'g denied, 173 FERC ¶ 61,097 (2020), *aff'd sub nom. United Power, Inc. v. FERC*, 49 F.4th 554 (D.C. Cir. 2022).

¹³ Testimony of Steven W. Wishart, Exhibit No. SWW-001 at 3 ("Wishart Testimony").

¹⁴ *Id.* at 5; LAWRENCE BERKLEY NAT'L LABORATORY AND DEP'T OF ENERGY, *2024 United States Data Center Energy Usage Report* 12 (December 2024).

¹⁵ Wishart Testimony at 8.

¹⁶ *Id.* at 9.

¹⁷ Tiffin Testimony at 22.

¹⁸ Testimony of Ryan Hubbard, Exhibit No. RH-001 at 5 ("Hubbard Testimony").

region.¹⁹ As discussed in the testimony of Mr. Steven Wishart, the integration of data centers (and large loads in general) carries both advantages and disadvantages for the service territories in which they are located.²⁰ Data centers support local economic development, improve the efficient utilization of utility resources, and provide steady revenue streams when fully integrated into a service provider's system.²¹

However, integrating data centers and other large loads also carries serious risks to utilities of all sizes.²² First, integration of data centers generally requires construction of new transmission lines and generation capacity to meet the new electricity demand.²³ Interconnection of large loads and data centers carries uncertainty due to interconnection queue backlogs and delays in resource procurement.²⁴ Large load interconnections also present serious reliability and cost-shifting risks for a utility's customers.²⁵

In response to the above concerns regarding the development of data centers and growth of other large loads, many utilities have instituted their own large load contract provisions. These utilities include AEP Ohio, Dominion Energy Virginia, Indiana Michigan, Evergy Kansas and Missouri, Consumers Michigan, Florida Power & Light, Wisconsin Electric Power, Santee Cooper, Kentucky Power, Arizona Public Service, and Ameren Missouri.²⁶ Proposals from other utilities have consistently included minimum size thresholds for triggering the special contract provisions, a minimum contract length for large load customers, requirements for minimum bills or demand volumes, and permission to reassign capacity to other customers to maximize resource utilization.²⁷ Load size requirements for these tariffs have ranged from 25 to 150 megawatts ("MW").²⁸

C. Tri-State's Generation & Transmission Planning and Resource Acquisition Processes

Tri-State currently utilizes a broad planning system designed to evaluate the incremental growth of load across a large system, which includes both a resource planning process and a member planning process. Tri-State's resource planning process consists of an Electric Resource

¹⁹ Tiffin Testimony at 14.

²⁰ Wishart Testimony at 10-16.

²¹ *Id.* at 10-12.

²² *Id.* at 12-16.

²³ *Id.* at 13.

²⁴ *Id.* at 13-14.

²⁵ *Id.* at 14-15.

²⁶ Wishart Testimony at 18.

²⁷ *Id.*

²⁸ *Id.* at 19.

Plan (“ERP”), which analyzes Tri-State’s predicted energy and capacity requirements over a twenty-year span.²⁹ The ERP considers predictions for existing and incoming resources, market resources, environmental and transmission constraints, and compliance with evolving regulatory requirements.³⁰ The ERP analyzes these variables, while working with Utility Members, and seeks to provide Tri-State with information necessary to make economical and reliable decisions for necessary expansion of its system.³¹

The most important component of the ERP is the annual long-term base load forecast that is conducted in conjunction with Tri-State’s Utility Members.³² The long-term base load forecast considers a variety of inputs, which enables Tri-State to determine the least cost expansion plan sufficient to meet its reliability needs.³³ The long-term base load forecast, along with firm sales obligations, is compared to the available resources to produce an overall load and resource balance, which shows the resource adequacy of each scenario.³⁴ Together, these processes allow Tri-State to plan for a reliable, affordable, and responsible electricity supply for its Utility Members while accounting for the projected growth of the entire Tri-State system.³⁵

The ERP is closely scrutinized by Tri-State, Tri-State’s Utility Members, and the Colorado Public Utilities Commission (“CO PUC”).³⁶ Per Colorado law, the CO PUC regulates Tri-State’s system-wide resource planning.³⁷ The CO PUC regulates the ERP under a two-phase process that occurs every four years, which includes engagement from stakeholders within Tri-State’s system.³⁸ The first phase of the process analyzes generation types and quantities across Tri-State’s system based on a developed expansion plan.³⁹ The second phase of the process involves Tri-State’s competitive solicitation for resource bids necessary to satisfy the needs of the expansion plan.⁴⁰ This second phase is overseen by an independent evaluator to meet Tri-State’s identified system needs.⁴¹

²⁹ Tiffin Testimony at 3.

³⁰ *Id.* at 3-4.

³¹ *Id.* at 4.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Tiffin Testimony at 4.

³⁶ *Id.* at 4, 8-10.

³⁷ *Id.* at 7; *see* COLO. REV. STAT. § 40-2-134 (2024); 4 C.C.R. 723-3-3605 (2024).

³⁸ Tiffin Testimony at 8.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

Following the ERP process, Tri-State's Open Access Transmission Tariff ("OATT") provides for both transmission planning and cost allocation of transmission facilities.⁴² As discussed further in the testimony of Mr. Ryan Hubbard, Tri-State's transmission planning process is divided across the transmission planning group, focused on OATT functions and compliance with North American Electric Reliability Corporation standards, and the member system planning group, which is focused on working with Tri-State's Utility Members on changes to a Utility Member's sub-transmission or distribution system.⁴³ The transmission planning group conducts the OATT-specific processes such as generator interconnection, transmission service, transmission planning, and affected systems studies.⁴⁴

Witness Hubbard also discusses how Tri-State's OATT allocates costs of network upgrades and interconnection facilities as compared to Southwest Power Pool, Inc.'s ("SPP") OATT and other applicable OATTs within Tri-State's system.⁴⁵ In particular, Tri-State allocates the cost of network upgrades to all customers on a load ratio share basis, but interconnection facilities are paid for by interconnection customers.⁴⁶ Customers pay up-front for both sets of costs, but network upgrade costs are refunded.⁴⁷

Tri-State's system will also undergo additional operational changes as a portion of its system is planned to enter the SPP service territory next year.⁴⁸ SPP utilizes different cost allocation methodologies than Tri-State, particularly focused on the type of facility or upgrade.⁴⁹ This is outlined further in the Commission-approved Attachment J of SPP's OATT.⁵⁰

D. Tri-State's Historical Load Additions and Utility Member Requests

In utilizing the above processes, Tri-State has developed experience based on historical load additions and Utility Member requests. Requests for new or modified delivery points from Utility Members have been predictable in size and frequency within Tri-State's system.⁵¹ Tri-State accounts for native load growth through the above planning processes, which helps Tri-

⁴² Hubbard Testimony at 3.

⁴³ *Id.* at 4-5.

⁴⁴ *Id.* at 4.

⁴⁵ *Id.* at 7-12.

⁴⁶ *Id.* at 7.

⁴⁷ *Id.* at 7.

⁴⁸ Tiffin Testimony at 12.

⁴⁹ Hubbard Testimony at 8.

⁵⁰ SPP, OATT Attachment J (0.0.0).

⁵¹ Hubbard Testimony at 5.

State to timely satisfy a Utility Member's request for new or modified delivery points.⁵² However, before the proliferation of recent large loads, native load typically grew slowly.⁵³ The sharp increase in the growth of large load requests within Tri-State's service territory is a sea change that has undermined the working assumptions in Tri-State's planning processes, causing an unacceptable risk that existing planning processes are no longer capable of ensuring the stability of the Tri-State system.

Tri-State's ERP is also informed by its member system planning process, in which Tri-State coordinates with Utility Members to address identified electricity needs.⁵⁴ The member system planning process is separate from the transmission system planning process. Under the member system planning process, Tri-State's member system planning group supports Utility Members by evaluating projects to expand a Utility Member's system.⁵⁵ For example, when a Utility Member identifies a necessary new or modified delivery point, the member system planning group evaluates the most economically efficient Transmission Provider OATT within Tri-State's system for the Utility Member's project.⁵⁶

The member system planning process is initiated by Utility Members requesting system improvements through the filing of a Utility Member Project Request form.⁵⁷ The Utility Member Project Request form contains information on the specific load at issue and the need for a new delivery point or modification to an existing delivery point.⁵⁸ Tri-State then performs feasibility studies to analyze requested changes. These feasibility studies aim to evaluate the impacts of the requested project to Tri-State's system and identify alternatives to the originally identified project that meet the project's purpose and need.⁵⁹ The results of the studies are shared with the Utility Member who decides to continue with or abandon the project.⁶⁰ Tri-State or the Utility Member may also decide to perform additional feasibility studies.⁶¹

Tri-State ultimately seeks to determine the least-cost alternative through discussions with the Utility Member and performance of the feasibility study.⁶² If the Utility Member decides to

⁵² *Id.*

⁵³ *Id.* at 13; Wishart Testimony at 17.

⁵⁴ Testimony of Matthew Haag, Exhibit No. MH-001 at 3-4 ("Haag Testimony").

⁵⁵ Hubbard Testimony at 4-5.

⁵⁶ *Id.* at 5.

⁵⁷ Haag Testimony at 3-4.

⁵⁸ *Id.* at 4.

⁵⁹ *Id.* at 5.

⁶⁰ *Id.* at 4-5.

⁶¹ *Id.* at 6.

⁶² Hubbard Testimony at 5.

continue with the project, the project is filed with Tri-State in a formal Delivery Point Application.⁶³ Mr. Matthew Haag notes in his testimony that the majority of Utility Member Project Request forms ultimately do not proceed to the Delivery Point Application stage, typically because of high costs or the or insufficient project benefit.⁶⁴ Delivery Point Applications are then submitted into the applicable Transmission Provider's OATT process.⁶⁵ For context, while Tri-State is a transmission provider and administers its own OATT, Tri-State's transmission system is heavily integrated with multiple other transmission providers, including Basin Electric Power Cooperative, Black Hills Energy, Colorado Springs Utilities, Deseret Power Cooperative, El Paso Electric, PacifiCorp, Platte River Power Authority, Public Service Company of New Mexico, Western Area Power Administration, and Xcel Energy.⁶⁶ As a result, there are multiple transmission providers and associated OATTs, transmission planning processes, and rates that Tri-State would need to navigate on behalf of its Utility Members.

E. Tri-State's Evolving Utility Member Project Requests

As explained in Mr. Wishart's testimony, the growth in large load can have positive impacts for Utility Members within Tri-State's system, particularly through the spreading of fixed costs.⁶⁷ However, large loads also have the potential to shift costs to existing customers and lead Tri-State to incur additional costs that were not previously planned as part of the ERP process.⁶⁸ Further, large loads increase the risk of creating capacity shortfalls that may lead to higher prices or scarcity of electricity supply.⁶⁹

Tri-State's planning processes and assumptions from historical data regarding load additions are being challenged by the development of large loads, particularly with data centers, in the Mountain West. Tri-State is currently a 2.5 GW peaking system.⁷⁰ Tri-State has, as of this filing, received ten requests from Utility Members that would qualify as HIL projects under the HILT, with initial load requests ranging from 45 to 650 MW in the first year and increasing to 300 to 1,000 MW after a 10-year phase-in period.⁷¹ The projects have planned in-service-dates from 2026 to 2029.⁷² Thus, Tri-State's system peak would more than double over a ten-year

⁶³ Haag Testimony at 3.

⁶⁴ *Id.* at 5.

⁶⁵ *Id.* at 3-4.

⁶⁶ Hubbard Testimony at 3.

⁶⁷ Wishart Testimony at 10-11.

⁶⁸ McHugh Testimony at 3.

⁶⁹ Tiffin Testimony at 13-14.

⁷⁰ *Id.* at 28.

⁷¹ *Id.*; Haag Testimony at 6-7.

⁷² Haag Testimony at 7.

period with just the requests that it has recently received.⁷³ Accordingly, HILs have mission-critical implications for the reliability of Tri-State's system and Tri-State's planning processes.⁷⁴ Additionally, the scope of investment – and associated risk – that would be required to double Tri-State's system to serve large load must be properly managed. Further, Tri-State's existing resource and member planning processes are insufficient to handle the magnitude of applications for serving HILs.

HIL projects are more speculative than Utility Members' prior requests for new or modified delivery points, or native load growth in general.⁷⁵ HILs also require accelerated and significant transmission upgrades that do not fall neatly into the existing ERP process.⁷⁶ Witness Hubbard notes in his testimony that HILs tend to act similar to generator interconnection requests in that they have the flexibility to seek an optimum site, making them difficult to predict as part of native load growth in a certain region.⁷⁷

Therefore, in order to provide more certainty and predictability for Tri-State's Utility Members (and their member-owner customers) and increase Tri-State's ability to integrate HILs in a reliable, affordable, and responsible manner, Tri-State, with Utility Member and industry, has developed the HIL program.

F. Utility Members in the Eastern Interconnection

Additionally, Tri-State serves its Utility Members in the Eastern Interconnection through a Wholesale Power Contract with Basin Electric Power Cooperative ("Basin"). It is Tri-State's understanding that Basin is in the process of developing its own program to serve large loads, which could be applicable to large load requests located in the Eastern Interconnection.

II. TRI-STATE'S HIGH IMPACT LOAD TARIFF PROPOSAL IS JUST AND REASONABLE

Tri-State requests that the proposed HILT, and *pro forma* HILA appended thereto, be accepted for filing effective October 28, 2025. Tri-State submits that the HIL Program is just and reasonable and not unduly discriminatory or preferential. As explained below, the HIL Program is consistent with Commission policy governing transmission service requests as well as the Commission's non-discrimination and cost-causation principles. The HIL Program also aligns with the Commission's general approach to transmission planning and is modeled after the

⁷³ Tiffin Testimony at 28.

⁷⁴ *Id.* at 28-29.

⁷⁵ Hubbard Testimony at 6.

⁷⁶ Tiffin Testimony at 14.

⁷⁷ Hubbard Testimony at 6.

large load programs established by other utilities.⁷⁸ Accordingly, Tri-State respectfully requests the Commission to accept the HIL Program without condition, modification, or suspension.

A. The Purpose of the HIL Program

The purpose of the HIL Program is to establish a repeatable, transparent, and fair process for incorporating HIL into Tri-State's system without adverse impacts to reliability, affordability, or responsibility.⁷⁹ The guiding principles for the development of the HIL Program include: (1) facilitating economic development across Tri-State's Utility Members' systems at an unprecedented level and pace; (2) limiting the risk of stranded assets resulting from high impact load integration, which could create financial risk for Tri-State and its Utility Members; and (3) continuing to meet all resource planning and associated regulatory requirements.⁸⁰ These are appropriate guiding principles for HIL development because, as a generation and transmission cooperative, the potential financial benefits from thoughtful load growth and potential financial burdens from stranded assets or regulatory penalties, are directly paid for by Utility Members through their wholesale rate. Tri-State is guided by its mission to provide a reliable, affordable and responsible power supply for its membership.⁸¹

This HIL Program proposal comes at a time when Tri-State's Utility Members are experiencing unprecedented load growth requests from large load customers. HILs drive large resource acquisitions and require accelerated, significant transmission upgrades.⁸² The novelty of planning for this rapid load growth presents unique operational and economic challenges for Tri-State which merits its own planning cycle separate from the ERP process that is used for normal load growth.⁸³ For example, utilities face several risks in bringing large loads online, including: (a) stranded or under-utilized infrastructure; (b) load forecast uncertainty and ramp-up variability; (c) interconnection queue congestion and extended interconnection timelines; (d) cost-shifting and rate shock for incumbent customers; (e) power-quality and reliability concerns; and (f) environmental impact, and (g) regulatory and contractual complexity.⁸⁴ To address these risks, Tri-State's proposal incorporates HILs into its long-term load forecast within a "high impact load" category in a manner that ensures all similarly situated Utility Members are treated alike.⁸⁵ This is accomplished by setting forth eligibility criteria for HIL service based on the

⁷⁸ Wishart Testimony at 17-23, 28-35.

⁷⁹ *See supra*, Section I.A.

⁸⁰ Tiffin Testimony at 17-18.

⁸¹ *Id.*

⁸² *Id.* at 14.

⁸³ *Id.* at 14-15, 24. HIL growth resulting from data centers in particular present unique challenges given that data center demand has a constant and predictable load profile, with little variation between peak and off-peak periods, thereby requiring significant capacity and resources to serve this demand. Wishart Testimony at 4.

⁸⁴ Wishart Testimony at 12-16.

⁸⁵ Tiffin Testimony at 14-15.

operational and financial impacts, system needs, and system capabilities of Tri-State in its role as a full-requirements service provider to its Utility Members under the WESCs.⁸⁶ The HIL Program is an improvement over the status quo because it offers a defined process for bringing HILs online, thereby providing significant certainty and predictability for Tri-State's Utility Members and their HIL customers.⁸⁷

The addition of new load to jurisdictional facilities is typically studied as a new transmission service request by the transmission provider. However, given the substantial operational and financial impacts associated with serving HILs on Tri-State's Utility Members, Tri-State and its Utility Members have determined the need to establish a comprehensive study process to evaluate HIL requests. The HIL Program therefore adapts several processes and principles borrowed from the Commission's standardized generator interconnection procedures to evaluate interconnection feasibility.⁸⁸ As demonstrated below, the HIL Program is designed to enable economic development of HILs and limit the associated financial risks to Utility Members (particularly in light of the potential for stranded assets) in a manner that ensures Tri-State and its Utility Members continue to meet all federal and state regulatory requirements.⁸⁹

B. The Components of the HIL Program are Just and Reasonable

The HIL Program establishes a process for Tri-State to evaluate the reliability, economic, and regulatory impacts of incorporating a HIL onto its system.⁹⁰ A HIL is defined as load exceeding 45 MW or forecasted to exceed 45 MW within four years.⁹¹ The primary tariff components of the HIL Program are established through one set of tariff records; the HILT itself and the *pro forma* HILA appended thereto. The HILT sets forth all implementation details, terms and conditions of the HIL Program.⁹² The HILT includes provisions addressing eligibility for participation in the HIL Program, the HIL evaluation and planning cycle process, as well as other important program requirements. As part of the HILT, Tri-State proposes Commission acceptance of the HILA, which is a *pro forma* agreement between Tri-State and a Utility Member that intends to serve a HIL customer.⁹³ The purpose of the HILA is to provide assurances as to the viability of a HIL customer to bring forth the HIL, the ability for Tri-State to serve the HIL, and establish risk mitigation for Tri-State, the Utility Member, and Tri-State's

⁸⁶ *Id.* at 22-23.

⁸⁷ Hubbard Testimony at 6-7.

⁸⁸ *See, e.g., id.*

⁸⁹ Tiffin Testimony at 18; *see also* Hubbard Testimony at 5-7 (explaining the HIL Program provides Tri-State greater flexibility to accommodate the integration of HILs into its system).

⁹⁰ Tiffin Testimony at 16-18, 22.

⁹¹ *Id.* at 16.

⁹² *See id.* at 16-17.

⁹³ *Id.* at 18.

membership in serving the HIL.⁹⁴ The HIL Program framework is modeled on two of Tri-State's Commission-approved tariffs: Demand Response and Bring Your Own Resources.⁹⁵ Additionally, the HIL Program also adopts key components of the Commission's *pro forma* Large Generator Interconnection Procedures.

1. The 45 MW Threshold

Tri-State has established a threshold for the MW level at which the HIL Program will be utilized for load requests on Tri-State's Utility Members' systems. Tri-State evaluated several factors in establishing the 45 MW threshold for the HIL. As explained by Ms. Lisa Tiffin in her testimony, Tri-State conducted industry research to determine thresholds utilized by other utilities for similar load programs and had iterative discussions through workshops with its Utility Members.⁹⁶

Tri-State also analyzed the historical size of load additions and modifications requested by Utility Members in recent years and explored resource limitations to determine a meaningful threshold at which adverse impacts to reliability, affordability, and responsibility could be mitigated without compromising a Utility Member's ability to continue to organically grow its load. In reviewing the past five years of Utility Member delivery point requests, the mean new load size was approximately 7 MW.⁹⁷ In contrast, load requests that have been initiated through the recent Utility Member project request process and preliminary discussions of potential loads with Utility Members not yet in the Utility Member project request process are significantly larger, ranging from 50 MW to 1 GW. Therefore, as part of establishing a clear process for managing HIL additions, and to minimize system risks, Tri-State established a 45 MW threshold. Loads above the threshold will be subject to the HIL Program and must proceed through a biennial planning cycle which includes necessary evaluation steps and agreements as discussed further below.⁹⁸ In addition, for purposes of determining whether proposed load additions will be combined and processed pursuant to the HIL, Tri-State intends to reasonably limit the aggregation of loads and will consider factors including, but not limited to, the premises sharing one or more of the following: common owner(s), a common parent company, common local electrical infrastructure, physical layout, character of service, end use, and common control.⁹⁹

⁹⁴ *Id.*

⁹⁵ *See Tri-State Generation and Transmission Ass'n*, 191 FERC ¶ 61,142 (2025); *Tri-State Generation and Transmission Ass'n*, 188 FERC ¶ 61,106 (2024).

⁹⁶ Tiffin Testimony at 27-30.

⁹⁷ *Id.* at 28; Exhibit No. LKT-003.

⁹⁸ Tiffin Testimony at 16-19.

⁹⁹ *Id.* at 29.

2. The HIL Cycle Process

Loads above the 45 MW HIL threshold are included in a biennial planning cycle which includes necessary evaluation steps and agreements. The HILT establishes a study cycle that occurs every two years, beginning with a “kickoff” meeting with Tri-State, Utility Members, and their potential HIL customers.¹⁰⁰ During these kickoff discussions, the Utility Member and the potential HIL customers collaborate to set forth the requirements and timing for a HIL Participation Package, a process for verifying the Participation Package components are met, and a HIL evaluation process.¹⁰¹ The HILA and Member-Customer High-Impact Load Agreement (“MCHIL”) are also executed at this stage, thereby establishing the obligations and responsibilities of Tri-State, the Utility Member, and the potential HIL customer during the HIL evaluation process.¹⁰² HIL customers that successfully pass this initial load evaluation step are then included in Tri-State’s regulated resource planning and acquisition process, as well as other applicable OATT processes for transmission service.¹⁰³

This separate HIL planning cycle process is necessary because HILs are of a size that require significant generation capacity additions or procurement of long-term PPAs, which necessitates proper planning.¹⁰⁴ Ratepayers may suffer financial consequences if capacity additions are completed only for a HIL to not materialize.¹⁰⁵ Thus, the proposed two-year cycle will allow Tri-State to plan for reliable incorporation of HILs onto the Tri-State system.¹⁰⁶

i. The Participation Package

At or following the kickoff meeting, the Utility Member is required to prepare the Preparation Package and submit it to Tri-State for review.¹⁰⁷ The Participation Package also ensures that only vetted, non-speculative projects are presented to Tri-State for consideration and study.¹⁰⁸ The Participation Package consists of the following: (1) a completed Member Project Request Form; (2) a demonstration that the HIL customer has at least 90% site control over the planned HIL project location; (3) payment of the non-refundable HIL Evaluation Fee; (4) a certified engineering diagram of the expected load of the HIL project and property acreage

¹⁰⁰ Tiffin Testimony at 16-17; HILT § 3.4.

¹⁰¹ Tiffin Testimony at 16-17; HILT § 5.2.

¹⁰² Tiffin Testimony at 17; HILT §§ 5.2, 5.6.

¹⁰³ Tiffin Testimony at 17.

¹⁰⁴ *Id.* at 15.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 15-16.

¹⁰⁷ *See id.* at 19.

¹⁰⁸ *Id.* at 20.

required for the project; (5) an executed MCHIL; and (6) a HILA executed by the Utility Member.¹⁰⁹

The Participation Package also provides information necessary for Tri-State to adequately evaluate the operational and financial impacts of serving the requesting HIL.¹¹⁰ Specifically, these materials allow Tri-State to perform the evaluation process for a particular HIL as described below.¹¹¹ Tri-State will complete its review and notify the Utility Member within 20 business days of receipt of whether the Participation Package is deemed complete or contains deficiencies, and will provide an opportunity for the Utility Member to cure any identified defects.¹¹²

Accordingly, the Participation Package is designed to ensure that all parties (the Utility Member, HIL customer, and Tri-State) are made aware of and understand the potential operational and financial ramifications of serving a new HIL.

ii. Non-Refundable Fee

As part of the Participation Package, Utility Members must include a non-refundable HIL Evaluation Fee.¹¹³ As explained by Witness Hubbard, the HIL evaluation fee is tied to the size of the HIL in MW.¹¹⁴ The HIL Evaluation Fee is \$35,000 plus \$1,000 per MW for HIL requests less than 80 MW.¹¹⁵ For projects between 80 and 200 MW, the HIL Evaluation Fee is \$150,000.¹¹⁶ For projects above 200 MW, the HIL Evaluation Fee is \$250,000.¹¹⁷ These blocks are consistent with the MW deposit thresholds for interconnection customers submitting generator interconnection requests under Tri-State's Large Generator Interconnection Procedures.¹¹⁸ Further, these blocks are consistent with thresholds recently adopted by FERC in Order No. 2023.¹¹⁹

¹⁰⁹ Tiffin Testimony at 19-20; HILT § 5.5.2.

¹¹⁰ Tiffin Testimony at 19-20.

¹¹¹ *Id.* at 22-24.

¹¹² *Id.* at 21.

¹¹³ Tiffin Testimony at 20; HILT § 5.5.2.

¹¹⁴ Hubbard Testimony at 15; HILT § 2.2.1.

¹¹⁵ Hubbard Testimony at 15; HILT § 2.2.1.

¹¹⁶ Hubbard Testimony at 15; HILT § 2.2.1.

¹¹⁷ Hubbard Testimony at 15; HILT § 2.2.1.

¹¹⁸ Hubbard Testimony at 15-16; Tri-State OATT, Attachment N (9.0.0).

¹¹⁹ *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054 at P 502, *order on reh'g*, 185 FERC ¶ 61,063 (2023), *order on reh'g*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024); *Errata Notice*, 188 FERC ¶ 61,134 (2024).

iii. Evaluation Process

Following the submission and verification of a Participation Package, Tri-State will review the information provided in the Participation Package using resource plan modeling software.¹²⁰ The modeling software will analyze the load itself, the resources available to meet that load, and any environmental, reliability, or transmission constraints.¹²¹ In particular, the evaluation process will analyze the feasibility of timely serving the requested HIL without compromising Tri-State's ability to comply with applicable reliability criteria, affordability metrics, and environmental regulations.¹²²

The evaluation will focus on reliability, economic, and environmental criteria, as well as transmission metrics.¹²³ The reliability review will ensure the HIL will not have an adverse impact on the reliable operation of Tri-State's system, including compliance with Level I (base metrics) and Level II (extreme weather events) reliability metrics.¹²⁴ The economic criteria focuses on whether the HIL project is economically priced so as to minimize Tri-State's system costs, and reduce or maintain Tri-State's rate requirements.¹²⁵ As discussed in the testimony of Mr. Raymond McHugh, HILs will be subject to the A-41 Rate (currently the Class A Rate).¹²⁶ The environmental review will use state and federal environmental tools to determine whether the HIL adversely impacts Tri-State's compliance with its environmental goals and regulatory requirements, with particular focus on state requirements.¹²⁷ Finally, Tri-State will analyze the HIL for compliance with transmission metrics, which includes analyzing whether necessary transmission upgrades for the HIL are feasible by the project's Expected Operation Date.¹²⁸

Tri-State will review all submitted Participation Packages and inform the submitting Utility Member of the results of the evaluation within 150 days from the start of the HIL Cycle ("Proposal Period").¹²⁹ If any HILs are not accepted as part of this initial evaluation process, a revised proposal may be initiated at the Utility Member's request and HIL project's mutual request.¹³⁰ Following the end of the Proposal Period, Utility Members that fail the initial

¹²⁰ Tiffin Testimony at 22-23; HILT §§ 5.4, 5.7.

¹²¹ Tiffin Testimony at 22.

¹²² *See id.*; HILT § 5.10.

¹²³ Tiffin Testimony at 22-25; HILT § 5.10.

¹²⁴ Tiffin Testimony at 24; HILT § 5.10.1.

¹²⁵ HILT § 5.10.2.

¹²⁶ McHugh Testimony at 3, 5; HILT § 5.10.2.

¹²⁷ Tiffin Testimony at 23-24; HILT § 5.10.3.

¹²⁸ Tiffin Testimony at 22; HILT § 5.10.4.

¹²⁹ Tiffin Testimony at 21; HILT § 5.7.

¹³⁰ Tiffin Testimony at 22-23.

evaluation process will have 20 days to resubmit a Participation Package for further review (“Revised Proposal Period”).¹³¹ Tri-State will provide its Utility Members with information needed to determine what would make the specific HIL projects more likely to succeed in the revised evaluation process, which utilizes the same evaluation criteria as that applied within the Proposal Period.¹³² Revised applications which fail the evaluation process will be rejected without prejudice to the Utility Member resubmitting a Participation Package in future HIL Program Cycles.¹³³ In the event that competing HILs in the same general location lead both Utility Member’s requests to failure, Tri-State will rank both projects based on economic criteria and select the most economically beneficial option.¹³⁴

To confirm that Tri-State is conducting the HIL evaluation process consistently with the terms of the HILT, Tri-State will employ an independent evaluator to review the evaluation process each Program Cycle.¹³⁵ The independent evaluator will complete its review, using reasonable efforts, within 15 business days of the end of the Proposal Period or Revised Proposal Period.¹³⁶ As described by Witness Hubbard, the independent evaluator will be funded by the HIL Evaluation Fees collected as part of the submitted Participation Packages.¹³⁷

The HIL Program’s cyclical application process, Participation Package requirements, and evaluation process are just and reasonable because they support orderly and timely study and evaluation of HIL requests using objective criteria, and provide meaningful opportunity for engagement by those stakeholders that are directly affected: the Utility Member, HIL customer, and Tri-State. This cyclical evaluation process is designed to streamline Tri-State’s handling of HIL requests by ensuring that only non-speculative HIL project requests are studied, which enables Tri-State to process HIL requests efficiently and avoids the potential for backlog.

Further, by providing pertinent operational and financial information in the Participation Package at this early stage in the evaluation process, Tri-State can protect its Utility Members from paying for stranded assets associated with a HIL project that is later determined to be speculative or uneconomic.

¹³¹ *Id.* at 25-26; HILT § 5.8.

¹³² Tiffin Testimony at 26; HILT § 5.8.

¹³³ HILT § 5.11.

¹³⁴ Tiffin Testimony at 26; HILT § 5.10.5.

¹³⁵ Tiffin Testimony at 26-27; HILT § 5.13.

¹³⁶ Tiffin Testimony at 26; HILT § 5.13.1.

¹³⁷ Hubbard Testimony at 16; HILT § 2.21.

3. The High-Impact Load Agreement (“HILA”)

To appropriately implement the HILT program, Tri-State has developed a *pro forma* HILA. The HILA is an agreement between Tri-State and a Utility Member associated with a specific HIL project. The HILA provides assurances regarding the viability of a HIL customer to bring the HIL online, the ability for Tri-State to serve the HIL, and risk mitigation for Tri-State, the Utility Member, and Tri-State’s membership in serving the HIL.¹³⁸ To develop the HILA, Tri-State adapted common contract terms utilized by other utilities in their large load agreements.¹³⁹ The key components of the HILA include: identification of the HIL as a Class A load with a minimum billing demand and minimum energy threshold, security posting requirements, and a minimum 15-year term,¹⁴⁰ amongst other terms. The HILA also includes key requirements that the Utility Member must include in the MCHIL with its HIL customer.¹⁴¹ Because the HILA is a *pro forma* agreement, Tri-State will file any non-conforming or unexecuted HILA with the Commission for approval, consistent with Commission policy.¹⁴² The details of the HILA are explained further below.

a. Security

One of the key risk-mitigating components of the HILA is the minimum security requirement, which requires the Utility Member’s HIL customer to provide security to Tri-State.¹⁴³ As explained by Ms. Danielle Bradberry in her testimony, the required collateral is intended to help mitigate the risks to Tri-State’s members of a HIL customer’s load not materializing.¹⁴⁴ For instance, because a HIL customer’s proposed new load will trigger Tri-State to acquire significant additional resources, and Tri-State will be obligated to pay for these resources regardless of the HIL customer’s performance, it is appropriate for the HIL customer to provide security to support such resource acquisition. In this case, the security will mitigate the risk that the HIL customer begins commercial operations late, ceases operations before the expiration of the HILA term, or the HIL does not operate at the expected level (or at all). In short, the security requirement enables Tri-State to avoid socializing the risk of the HIL customer’s under- or non-performance across Tri-State’s entire membership.¹⁴⁵

¹³⁸ Tiffin Testimony at 18.

¹³⁹ Wishart Testimony at 18-23.

¹⁴⁰ See Tiffin Testimony at 36 (explaining development of the 15-year minimum term).

¹⁴¹ *Id.* at 18. As a wholesale generation and transmission cooperative, Tri-State does not have retail customers or make retail sales. Consequently, Tri-State’s Utility Members will be responsible for contracting with HIL customers.

¹⁴² 18 C.F.R. § 35.1 (2025).

¹⁴³ Testimony of Danielle Bradberry, Exhibit No. DB-001 at 6 (“Bradberry Testimony”).

¹⁴⁴ *Id.* at 4.

¹⁴⁵ *Id.* at 3. To be clear, security provided under the HILA is not intended to mitigate risks of transmission investment, which is handled according to the applicable OATT. *Id.* at 4.

Tri-State proposes a security amount of \$2.7 million/MW. Tri-State based this amount on costs for capacity referenced in its recent Commission-approved cost-based rate, which used an approximate capacity market price of \$15.00/kW-mo.¹⁴⁶ Witness Bradberry explains that the proposed security amount is also commercially reasonable because it reflects the financial commitments Tri-State must make to resource project developers to acquire resources to support HIL customers.¹⁴⁷ The HILA also allows HIL customers to reduce the security posting amount through the Utility Member's participation in Tri-State's applicable BYOR Tariff through self-supply resource credits.¹⁴⁸

Tri-State proposes various options to satisfy the security requirement. Witness Bradberry explains that the HILA allows for credit support requirements to be satisfied with cash pursuant to an escrow arrangement, a letter of credit, a guaranty, or a combination of the foregoing.¹⁴⁹ If provided in the form of cash, Tri-State and the HIL customer must enter into an escrow agreement with an acceptable financial institution, with the earned interest accruing to the HIL customer.¹⁵⁰ If security is provided in the form of a letter of credit, the letter of credit must be issued by an acceptable financial institution.¹⁵¹ If security is provided in the form of a guaranty, the guarantee must be from a guarantor with a minimum credit rating of BBB+ or equivalent, and a minimum net worth of at least \$500 million.¹⁵² In addition, the amount of security that may be in the form of a guarantee cannot exceed two percent of the tangible net worth of the guarantor, with a cap on the security in the form of a guarantee of \$150 million.¹⁵³ Security amounts above that will have to be provided as either cash pursuant to an escrow agreement or a letter of credit.

Tri-State also proposes that security be due in two phases tied to the CO PUC's resource regulation of Tri-State across its entire footprint: once when Tri-State files its resource implementation plan with the CO PUC (25 percent), and again when it is approved by the CO PUC (75 percent). According to Witness Bradberry, however, if the HIL customer's load is located in the Eastern Interconnection and served pursuant to Basin's Wholesale Power Contract, Tri-State's process may include notifying Basin and complying with any Basin-required process

¹⁴⁶ Tri-State Cost-Based Tariff, § V (1.0.0).

¹⁴⁷ See Bradberry Testimony at 6.

¹⁴⁸ See HILA § 7(B)(a).

¹⁴⁹ Bradberry Testimony at 7; HILA § 7(A)(a).

¹⁵⁰ HILA § 7(A)(a).

¹⁵¹ HILA § 1 (noting, within the definition of Letter of Credit, that a Letter of Credit can only be issued by an Issuer, which defines acceptable types of financial institutions).

¹⁵² Bradberry Testimony at 8; HILA § 1 (noting, within the definition of Guarantor, that a Guarantor must have a credit rating of BBB+ or higher as defined by S&P).

¹⁵³ Bradberry Testimony at 8. The \$150 million cap is roughly 10 percent of Tri-State's annual revenue, and such a cap is intended to limit concentration risk on any single counterparty.

or procedures related to security.¹⁵⁴ Additionally, security can be drawn on by Tri-State in certain limited circumstances, such as if the HIL customer ceases operations, fails to reach commercial operation, maintain the required security, or if Tri-State is not receiving minimum demand and energy payments.¹⁵⁵ If the security is drawn upon prior to the termination of the HILA, the HILA requires that the security be restored to the required security amount stated in the HILA at that time.¹⁵⁶ Further, if the posted security is insufficient to cover HILA-defined issues, the Utility Member (not the HIL customer) will be invoiced for any shortfall between the security amount and the required termination amount.¹⁵⁷ Conversely, if security is more than sufficient to cover problems, any residual security remaining after satisfaction would be returned to the HIL customer.¹⁵⁸

Tri-State's security also provides for a "stepdown" in a HIL customer's required security over time. The stepdown will kick in during the last nine years of the HILA in order to reflect the decline in financial exposure to Tri-State's membership. According to Witness Bradberry, because the original security is determined based only on the cost of capacity and does not cover all costs of procuring the resources like energy payments, the stepdown does not take effect until after six years in order to ensure Tri-State's membership is protected.¹⁵⁹ Once in effect, the stepdown will reduce the original security amount by one-ninth on an annual basis until reaching zero at the expiry of the HILA. In this manner, the stepdown in credit support will reflect the reduction in Tri-State's risk related to the HIL customer as Tri-State meets its resource obligations.

b. Minimum Billing Demand and Energy Components

Another key risk-mitigating component of the HILA is the establishment of minimum billing demand and energy floors. As explained by Witness Tiffin, minimum billing demand and energy components ensure that, regardless of whether the HIL materializes as forecasted, it will provide sufficient payments to cover Tri-State's resource acquisition costs to prevent cost shifting to other Utility Members and their member-consumers.¹⁶⁰ To accommodate varying types of HILs, Tri-State allows the Utility Member to select among two options of minimum demand and minimum energy charges. The first option is 90% Minimum Demand and 75% Minimum Energy. The second option is 75% Minimum Demand and 50% Minimum Energy.

¹⁵⁴ *Id.* at 9.

¹⁵⁵ *Id.* at 10; *See* HILA § 7(H).

¹⁵⁶ Bradberry Testimony at 10; HILA § 7(G).

¹⁵⁷ Bradberry Testimony at 10.

¹⁵⁸ *Id.* at 11.

¹⁵⁹ *Id.* at 11-12.

¹⁶⁰ Tiffin Testimony at 32. While Tri-State uses single-system resource planning, with each resource dispatched to supply its system in the most cost-effective manner, the sheer size of HILs relative to Tri-State's excess capacity will drive new resource acquisition.

With both these options, Minimum Demand and Minimum Energy are both applied to demand and energy forecasts as identified in the load ramp projection provided by the HIL customer.¹⁶¹ These sets are representative of low- and high-load factor systems and give flexibility to potential HILs. For each monthly billing period, if the monthly demand and/or energy of the HIL is less than the minimum percent as identified in the HILA (and identified in the HIL's load ramp projection), the Utility Member will be assessed a minimum monthly demand and/or energy charge, respectively.¹⁶² Witness Tiffin notes that the use of minimum billing requirements has been used by other utilities with HIL programs.¹⁶³

Tri-State determined that a necessary minimum demand and energy level equivalent to the level used in the HIL evaluation process is required to avoid cost shifting underutilized transmission or generation resources to Class A member loads.¹⁶⁴ Further, the minimum energy thresholds help mitigate financial risk without impacting the affordability of power supply.¹⁶⁵ Tri-State is expected to build or procure resources with a minimum life of fifteen years to bring sufficient resources to the system mix to meet HIL additions. Given historical capacity sales, Tri-State anticipates limited ability to sell firm system capacity of significant quantities if proposed HILs fail to materialize. According to Witness Tiffin, recently observed capacity sales to non-Utility Members have made up approximately 10% of overall demand sales; thus, setting a minimum demand and energy level applicable to both the HIL evaluation and HILA duration was determined as necessary to ensure cost recovery of significant resource builds without adversely impacting the affordability of power supply to other Utility Members.¹⁶⁶

As an example of how the minimum billing demand and energy floors would work in practice, if 90% and 75% minimum demand and energy levels, respectively, were identified in the HILA, a 60 MW HIL with a monthly usage of 43,800 MWh would have a 54 MW demand floor and a 32,850 MWh energy floor.¹⁶⁷ If that HIL's actual demand in a monthly billing period is 50 MW, the Utility Member would pay charges based on Class A demand rates multiplied by a 54 MW demand. If that HIL's actual energy in a monthly billing period is 36,000 MWh, the Utility Member would pay charges based on Class A energy rates multiplied by a 36,000 MWh energy.¹⁶⁸ If the HIL's actual demand was 55 MW, the Utility Member would pay charges based on Class A demand rates multiplied by a 55 MW demand. If that HIL's actual energy in a

¹⁶¹ A load ramp is a forecast of the size and timing of load over the term of the HILA, and is stated at a monthly level.

¹⁶² Tiffin Testimony at 33.

¹⁶³ *Id.* at 35.

¹⁶⁴ *Id.* at 31.

¹⁶⁵ *Id.* at 34.

¹⁶⁶ *Id.* at 32-34.

¹⁶⁷ *See* HILA, Exhibit C.

¹⁶⁸ *See* HILA, Exhibit C.

monthly billing period is 30,000 MWh, the Utility Member would pay charges based on Class A energy rates multiplied by 32,850 MWh energy. This illustrative example shows how the minimum billing demand and energy floors would work in practice to protect Tri-State's Utility Members from rate impacts absent this risk-mitigation mechanism.

c. Other Requirements

The HILA provides for additional requirements worth noting here. In addition to a HIL being evaluated at the outset based on a project's load ramp projection, the HILA also requires the Utility Member to provide Tri-State with updated monthly projections of energy and demand every three years for the remainder of the term of the HILA.¹⁶⁹ The HILA additionally requires that each updated load ramp projection may not decrease or increase the monthly projections of energy and demand by greater than five percent from the prior version and, further, that in no event may the demand projection exceed the maximum project peak demand, nor may the aggregate monthly energy projection, for a calendar year, exceed the maximum annual energy specified in the HILA.¹⁷⁰

The HILA also has a 15-year minimum operation timeline for HILs, which enables Tri-State to incorporate HILs on its system in a responsible manner to the existing Utility Members.¹⁷¹ The 15-year term minimizes potential cost shifts to Utility Members and accounts for Tri-State's procurement of generation resources on a 15-25 year timeframe.¹⁷² The HILA also permits a Utility Member to request an extension of the HILA for a term up to an additional ten years upon mutual agreement between the Utility Member and Tri-State.¹⁷³

The HILA also describes events eligible for early termination, including Tri-State's option to terminate the HILA early, if any of the following conditions occur: the HIL project fails to commence operations with a load that is at least 90 percent of the monthly minimum demand level by 180 days following expected operation; the HIL project ceases operations for 180 or more consecutive days; HIL customer fails to establish security within ten days of notice of security being due or notice of the requirement to maintain/replenish security; the HIL exceeds the maximum annual energy or peak demand or the monthly energy and demand as stated in the load ramp projection and does not correct the reason for the exceedance within 30 days; a breach or default of HIL customer under the MCHIL; or termination of the MCHIL.¹⁷⁴ Tri-State also has the option to terminate the HILA early, prior to commercial operations, as part of the acquisition and planning process if resource or transmission expenses exceed those used in

¹⁶⁹ See HILA § 3(F).

¹⁷⁰ HILA § 3(F).

¹⁷¹ Tiffin Testimony at 36.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ HILA § 10(A)(1).

evaluation by 10 percent.¹⁷⁵ A Utility Member can terminate the HILA prior to Tri-State's receipt of the CO PUC's approval of the resource implementation plan.¹⁷⁶

4. The Member-Customer High-Impact Load Agreement

To appropriately implement the HILT program, a MCHIL must be executed. The MCHIL is an agreement between the Utility Member and HIL customer that ensures that applicable HILT requirements are passed on to the HIL customer. The MCHIL mitigates risks related to the HIL for Tri-State, the Utility Member, and Tri-State's membership.¹⁷⁷ As a wholesale generation and transmission cooperative, Tri-State does not have retail customers or make retail sales. Consequently, Tri-State will not directly enter into contracts (MCHILs) with HIL customers. Rather, Tri-State's Utility Members will be responsible for contracting with HIL customers to implement the requirements of the HILT.¹⁷⁸ Therefore, MCHILs will not be filed with the Commission. This approach is nearly identical to the framework approved by the Commission as part of Tri-State's new demand response rider program, wherein the participating Utility Member is responsible for directly contracting with its end-use customers to ensure their compliance with Tri-State's demand response program parameters.¹⁷⁹

As explained by Witness Tiffin, the Utility Member is responsible for ensuring that the MCHIL is consistent with the terms and conditions of the HILA.¹⁸⁰ For instance, the MCHIL requires the HIL customer to post financial security in favor of Tri-State and expressly authorizes Tri-State to draw upon the security. The MCHIL also requires the HIL customer to satisfy minimum energy and demand requirements, and sets a term that is co-terminus with the term of HILA. Additionally, the MCHIL implements certain operational restrictions, including preventing the HIL customer from: energizing earlier than three months prior to the expected operation date;¹⁸¹ exceeding maximum annual energy or peak demand for the HIL; exceeding maximum the monthly energy or peak demand, and operating during times when Utility Member metering equipment is not installed and operating.¹⁸² By setting forth the parameters of the MCHIL, as implemented via the jurisdictional HILAs, Tri-State is able to facilitate serving the HILs in a manner that protects system reliability, affordability, and responsibility, and is, therefore, just and reasonable.

¹⁷⁵ HILA § 10(B)(1)(i).

¹⁷⁶ See Tiffin Testimony at 15, 37-38.

¹⁷⁷ *Id.* at 18.

¹⁷⁸ *Id.* at 18-19.

¹⁷⁹ See *Tri-State Generation and Transmission Ass'n*, 191 FERC ¶ 61,142 at P 8 (2025); *Tri-State Generation and Transmission Ass'n*, 188 FERC ¶ 61,106 (2024).

¹⁸⁰ Tiffin Testimony at 18.

¹⁸¹ HILA § 3(G) and (G) provides the Utility Member flexibility to change the expected operation date.

¹⁸² Tiffin Testimony at 19.

5. Resource Acquisition

Tri-State's generally applicable resource acquisition and RFP processes are also important components of the HIL Program. Because HIL represents a substantial, rapid increase in Tri-State's system-wide load profile, the integration of HILs will generally require Tri-State to timely secure additional generation or other resources to serve HIL customers. Tri-State typically obtains additional resources by either entering into long-term power purchase agreements ("PPAs") or by constructing its own resources.¹⁸³ Section 3(E) of the *pro forma* HILA, however, permits Utility Members to pursue resource acquisition in connection with serving a HIL customer where the target resource is a BYOR or Distributed Resource pursuant to the terms of the WESC, Tri-State's board policies, and the Tri-State tariff.¹⁸⁴ Due to the size of a HIL and resulting need to procure significant resources to serve that HIL on a long-term basis, the HIL Program framework conditions Tri-State's approval of a HIL request on Tri-State's or its Utility Member's ability to procure the resources necessary to support service to the HIL customer within specified price caps.¹⁸⁵

The grant of authority to Tri-State to condition approval of a HIL request on the ability to procure sufficient resources within specified price caps is just and reasonable because it ensures that Tri-State can continue to satisfy its obligations as a full requirements generation and transmission service provider under the WESC. As a full requirements generation and transmission cooperative, Tri-State is contractually obligated to use good utility practice to procure resources at reasonable cost,¹⁸⁶ and Tri-State also seeks to protect Members from rate shock that could occur absent the risk-mitigation mechanisms within HIL Program. Absent the aforementioned resource price cap, Tri-State and its Utility Members would be beholden to incurring any and all resource acquisition costs associated with a HIL request, which may render the HIL request uneconomic for Tri-State. Moreover, the resource price cap ensures that Tri-State's HIL-related resource acquisition determinations are made in an objective, non-discriminatory manner based on economic dispatch considerations. Tri-State's resource price cap mechanism is therefore just and reasonable.

6. Transmission Cost Allocation

HILs that successfully pass the initial or revised load evaluation process will be included in Tri-State's transmission planning efforts under the applicable OATT processes for transmission service.

¹⁸³ See *id.* at 8-9. Note that if the HIL customer will be located in the Eastern Interconnection, Tri-State may be required to procure resources pursuant to the Basin Wholesale Power Contract. HILA § 4(B).

¹⁸⁴ HILA § E.

¹⁸⁵ HILA § 10(B).

¹⁸⁶ E.g., Tri-State Generation & Transmission Ass'n, Inc., Rate Schedule No. 2, Carbon Power (9.0.0), at §§ 3, 17(s).

As mentioned, Tri-State's transmission system, resources, and load are located within six (6) different balancing authority areas each managed by different balancing authorities ("BA"). Tri-State is not a BA, but it does have an OATT for a portion of its transmission system. Tri-State Transmission is the transmission provider function of Tri-State and administers Tri-State's OATT. On the other hand, Tri-State Merchant is the transmission customer function of Tri-State and is a transmission customer of multiple transmission providers across the Mountain West region on behalf of Tri-State's Utility Members. Because Tri-State's transmission system spans multiple balancing authority areas and transmission provider regions in the Mountain West, Tri-State's member system planning group (which supports Tri-State Merchant) interfaces with other OATT providers and transmission planning regimes on behalf Tri-State Utility Members when considering the addition of new loads and resources.¹⁸⁷

Under the HIL program, Tri-State proposes to follow the transmission cost allocation regime under each applicable OATT, depending upon where the load will be located. Witness Hubbard explains in detail two of the most applicable transmission cost allocation regimes Tri-State expects to utilize on behalf of Utility Members to economically integrate HILs (Tri-State and SPP).¹⁸⁸ Notwithstanding some unique characteristics in SPP, in general, network transmission upgrade costs would be rolled into the network rate and paid by all transmission customers under both the SPP and Tri-State OATTs. However, in some cases, upgrades and interconnection facilities could be directly assigned to Tri-State Merchant (the transmission customer). Accordingly, to mitigate the cost and risk to Tri-State's Utility Members not associated with the specific HIL request, Tri-State proposes to allocate directly to the Utility Member the cost of interconnection facilities and directly assigned upgrades under an OATT; the Utility Member may then choose to pass those costs directly to its HIL customer.¹⁸⁹

To effectuate this arrangement, Tri-State proposes to use a Facilities Construction Agreement ("FCA") between itself and the participating Utility Member, and to file the FCAs at the Commission for acceptance. The FCA will require the Utility Member to be responsible for the costs of all interconnection facilities and upgrades directly assigned to Tri-State necessary to serve the HIL, and provide appropriate security for such interconnection facilities and upgrades prior to execution of the applicable OATT study agreement, unless other terms are mutually agreed upon. This mitigates the risk to remaining Utility Members to ensure costs are not shifting to Utility Members not involved with HILs.¹⁹⁰

¹⁸⁷ Hubbard Testimony at 3-4.

¹⁸⁸ *Id.* at 7-12.

¹⁸⁹ *Id.* at 12.

¹⁹⁰ *Id.* at 16.

III. CONTENTS OF FILING

Tri-State includes the following materials with this filing:

- This transmittal letter
- The HILT
- Proposed Protective Agreement
- Attachment A: List of Persons Receiving Copy of Filing
- Exhibit No. DB-001: Testimony of Danielle Bradberry
- Exhibit No. LKT-001: Testimony of Lisa K. Tiffin
- Exhibit No. LKT-002: Tri-State Load and Resource Table
- CUI_PRIV_Exhibit No. LKT-003: Analysis of Five Years of Historical Load Requests
- PUBLIC_Exhibit No. LKT-003: Analysis of Five Years of Historical Load Requests
- Exhibit No. MH-001: Testimony of Matthew Haag
- Exhibit No. MH-002: Member Project Request Form
- Exhibit No. RH-001: Testimony of Ryan Hubbard
- Exhibit No. RPM-001: Testimony of Raymond P. McHugh
- CUI_PRIV_Exhibit No. RPM-002: Potential Rate Impacts Example
- PUBLIC_Exhibit No. RPM-002: Potential Rate Impacts Example
- Exhibit No. SWW-001: Testimony of Steven W. Wishart
- Exhibit No. SWW-002: Steven Wishart Educational and Professional Background

IV. WAIVERS

Tri-State respectfully requests waiver of any component of the Commission's filing requirements not met by this application.

V. PROPOSED EFFECTIVE DATE

Tri-State respectfully requests that the Commission accept this filing, effective October 28, 2025.

VI. REQUEST FOR PRIVILEGED TREATMENT

Tri-State respectfully requests privileged treatment in accordance with Section 388.112 of the Commission's regulations for the non-public versions of Exhibit Nos. LKT-003 and RPM-002, which contain commercially-sensitive information. Accordingly, good cause exists for the Commission to grant this request for privileged treatment of this information. Tri-State is submitting privileged and public versions of Exhibit Nos. LKT-003 and RPM-002 and is including a proposed form of protective agreement.

VII. CORRESPONDENCE AND SERVICE

Tri-State requests that all communications regarding this filing be directed to the individuals listed below and that their names be placed on the official service list maintained by the Secretary for this proceeding.¹⁹¹

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Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, Tri-State is providing an electronic copy of this filing to its Members. In addition, Tri-State is providing a mailed copy of this filing to the state regulatory commissions included in Attachment A.

VIII. CONCLUSION

For the reasons set forth above, Tri-State respectfully requests that the Commission accept for filing the HILT and HILA.

[Signature blocks on the following page]

¹⁹¹ Tri-State respectfully requests waiver of 18 C.F.R. § 203(b)(3) to permit more than two individuals to be listed on the official service list.

Respectfully submitted,

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Dated: August 28, 2025

ATTACHMENT

CLEAN RATE SCHEDULE FERC NO. 425

(Submitted in pdf format for inclusion in eTariff viewer)

Rate Schedule FERC No. 425

High Impact Load Tariff

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TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.
HIGH IMPACT LOAD PROGRAM TARIFF ("TARIFF")

I. APPLICABILITY, PURPOSE, AND OVERVIEW

This Tariff sets forth the procedures, terms, and conditions governing the High Impact Load Program ("Program").

- 1.1. Applicability. The Program is available to all Tri-State Generation and Transmission Association, Inc. ("Tri-State") Utility Members.
- 1.2. Purpose. To establish a fair, repeatable method for integrating High Impact Loads onto the Tri-State system without adverse impacts to reliability, affordability, or responsibility in Tri-State's provision of electric service to its Utility Members.
- 1.3. Overview. Tri-State has a robust annual load forecast process that includes Utility Member input aimed at forecasting resource needs over the term of the WESC. Tri-State includes the impacts of legislative, regulatory, and industry initiatives across its territory in the load forecasting process, to the extent known and quantifiable. Moreover, Tri-State is resource-regulated by the Colorado Public Utilities Commission. Outside of Tri-State's routine load forecasting and planning processes, which capture the addition or expansion of certain Utility Member loads, High Impact Loads will have significant impacts to resource and transmission planning processes and related reliability, affordability, and responsibility metrics. To ensure that all planning metrics can be successfully met, Tri-State is establishing a threshold at which a Utility Member-requested load addition or modification must occur under this Tariff. The Program is composed of two elements: (a) a High Impact Load Tariff ("HILT") and (b) a pro forma High Impact Load Agreement ("HILA") (Appendix A).

II. DEFINITIONS AND ACRONYMS

The following definitions and acronyms apply to the Tariff.

- 2.1 Applicable OATT shall mean the Open Access Transmission Tariff governing a transmission provider's rates and non-rate terms and conditions for transmission service, including transmission and market administration tariffs applicable to the Tri-State Delivery Point which serves the Utility Member where the High Impact Load Project will interconnect.
- 2.2 Business Day shall mean any day except (a) any Saturday or Sunday, (b) any day which is a legal holiday or any day on which banking institutions in Colorado are authorized or required by law or other governmental action to close, or (c) any other day that is a Tri-State holiday.
- 2.3 Class A Rate shall mean the rate charged by Tri-State to Utility Members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

- 2.4 Current High Impact Load Cycle shall mean the High Impact Load Cycle that Tri-State is in the process of evaluating.
- 2.5 Day shall mean all days, inclusive of weekends and holidays. For clarity, all deadlines will be counted exclusive of the start date, i.e. 30 days from August 1 shall not include August 1 in the calculation, but would be August 31. If a deadline would fall on a non-Business Day, that deadline shall instead be the following Business Day.
- 2.6 Delivery Point shall mean Tri-State's delivery point for Utility Member under the WESC that is applicable to the High Impact Load Project.
- 2.7 Expected Operation Date shall mean the date upon which the High Impact Load Project is expected to commence operations with its load expected to be at least eighty (80) percent of the Expected Project Demand.
- 2.8 Expected Project Demand shall mean the expected load/demand of the Project as identified in Exhibit A of the HILA.
- 2.9 Facilities Construction Agreement shall mean the contract between Tri-State and Utility Member to construct any required transmission upgrades to serve the High Impact Load. All construction costs under the Facilities Construction Agreement shall be paid by the Utility Member, per the terms of the Facilities Construction Agreement.
- 2.10 Facilities Construction Agreement Execution Deadline shall mean the date described in Section 6.2.
- 2.11 Feasibility Study Assessment shall mean the initial evaluation performed by Tri-State during the Proposal Planning Period. The Feasibility Study Assessment will be performed at no cost to Utility Member, and is required to enter a High Impact Load Cycle. The Feasibility Study Assessment is generally modeled on a standard system impact study, and will consider alternatives, including a single entity concept analysis and storage alternatives, where applicable. Further, the Feasibility Study Assessment will incorporate existing designated network loads in the Tri-State queue. Tri-State will use reasonable efforts to complete the Feasibility Study Assessments within 90 Days after the meeting with the Utility Member to discuss the Member Project Request.
- 2.12 FERC shall mean the Federal Energy Regulatory Commission and any successor organization thereto.
- 2.13 High Impact Load shall mean any load addition that: (1) exceeds 45 MW at the time of the Member Project Request; or (2) is forecasted to exceed 45 MW within four years from the time of the Member Project Request. High Impact Load served under this Tariff shall generally mean a single Tri-State delivery point. Aggregation of loads under this Tariff shall be limited. Tri-State shall exercise reasonable discretion when choosing to aggregate loads, with such discretion based on factors including, but not limited to, premises sharing one or more of the following: common owner(s), a common parent company, common local electrical infrastructure, physical layout, character of service, end use, and common control.

- 2.14 HILA shall mean the High Impact Load Agreement in the form of Appendix A to this Tariff between Tri-State and the Utility Member to facilitate the responsibility for serving the High Impact Load Project.
- 2.15 High Impact Load Customer shall mean the retail customer of the Utility Member related to the High Impact Load Project as specified in the MCHIL.
- 2.16 High Impact Load Cycle shall mean the two-year cycle, beginning no later than 60 Days after FERC acceptance of this Tariff for the first High Impact Load Cycle, as further described in Section 3.4, and beginning in the third quarter of a calendar year for all future High Impact Load Cycles.
- 2.17 High Impact Load Cycle Kickoff Meeting shall mean the informational meeting Tri-State will hold with all Utility Members and those High Impact Load Customers that have executed or are working towards executing a MCHIL. The High Impact Load Cycle Kickoff Meeting will occur no later than 15 Business Days after the start of a new High Impact Load Cycle.
- 2.18 High Impact Load Cycle Kickoff Notice shall mean the formal notice sent to all Utility Members 30 Days prior to the launch of a new High Impact Load Cycle. For the first High Impact Load Cycle, the effective date of this Tariff as established by FERC shall constitute the High Impact Load Cycle Kickoff Notice.
- 2.19 High Impact Load Cycle Planning & Participation Period shall mean the process described in Section IV.
- 2.20 High Impact Load Evaluation shall mean the evaluation process described in Section 5.7 of this Tariff to determine whether the High Impact Load meets the Program Evaluation Criteria.
- 2.21 High Impact Load Evaluation Fee shall mean the non-refundable fee that Utility Member must pay to Tri-State as part of the Participation Package. The High Impact Load Evaluation Fee shall be as follows: \$35,000 plus \$1,000 per MW for Member Project Requests less than 80 MW; \$150,000 for Member Project Requests between 80 MW and 200 MW; and \$250,000 for Member Project Requests larger than 200 MW. Tri-State will pool all High Impact Load Evaluation Fees during the same High Impact Load Cycle and use them for the cost of the Independent Evaluator and for OATT-required studies on a pro rata basis.
- 2.22 High Impact Load Project shall mean any High Impact Load submitted by a Utility Member to Tri-State under this Tariff.
- 2.23 Independent Evaluator shall have the meaning described in Section 5.13.
- 2.24 Member Contract with High Impact Load ("MCHIL") shall mean the commitment agreement between the Utility Member and High Impact Load Customer for the High Impact Load Project whereby the High Impact Load Customer provides assurance as to viability of the High Impact Load Customer to proceed with the High Impact Load Project, the ability for the High Impact Load Project to be served, and risk mitigation for the Utility Member, its membership, and Tri-State related to the High Impact Load Project, and which meets the terms specified in the HILA.
- 2.25 Member Project Request shall mean the Tri-State form that Utility Members use to provide information regarding High Impact Load Project proposals to Tri-State. Information required therein may include, but is not limited to, High Impact Load Project size, location, Expected

Operation Date, term of requested service, projected demand, projected monthly energy usage, technology, load profile, operational characteristics, interconnection-related information, and other details as may reasonably be required for evaluation purposes. A Utility Member may submit a Member Project Request to Tri-State at any point to initiate the Proposal Planning Process. A pro forma Member Project Request is attached hereto as Appendix B.

- 2.26 MW shall mean megawatt(s).
- 2.27 MWh shall mean megawatt-hour(s).
- 2.28 Network Customer shall have the meaning in the Applicable OATT.
- 2.29 Network Integration Transmission Service shall have the meaning in the Applicable OATT.
- 2.30 Network Resource shall have the meaning in the Applicable OATT.
- 2.31 Participation Package shall mean all items which a Utility Member must provide to Tri-State to participate in the High Impact Load Cycle Planning Process as specified in Section 5.5.2.
- 2.32 Participation Requirements shall mean the criteria specified in Sections IV and V that Utility Member must provide to participate in the High Impact Load Program, including the completed Participation Package.
- 2.33 Program Evaluation Criteria shall mean the economic, reliability, and responsibility criteria described in Section 5.10.
- 2.34 Proposal Planning Process shall mean the process that must be completed prior to entering a High Impact Load Cycle, as described in Section IV. A Utility Member may initiate the Proposal Planning Process at any time by submitting a Member Project Request for a High Impact Load Project.
- 2.35 Revised High Impact Load Evaluation Process shall mean the process described in Section 5.8 used to evaluate High Impact Load Projects that fail the initial High Impact Load Evaluation, which is available at the mutually agreed upon option of the Utility Member and High Impact Load Customer.
- 2.36 Security Requirement shall mean those final security requirements in Section 7 of the HILA.
- 2.37 Site Control shall mean the exclusive land right to develop, construct, operate, and maintain the High Impact Load Project over the term of the HILA. Site Control may be demonstrated by documentation establishing: (a) ownership of, a leasehold interest in, or a right to develop a site of sufficient size to construct and operate the High Impact Load Project; (b) an option to purchase or acquire a leasehold site of sufficient size to construct and operate the High Impact Load Project; or (c) any other documentation that clearly demonstrates the right of the High Impact Load Customer to exclusively occupy a site of sufficient size to construct and operate the High Impact Load Project.
- 2.38 Utility Member shall mean a Tri-State member-owner distribution cooperative or public power district with a WESC.
- 2.39 WESC shall mean the all-requirements wholesale electric service contract between Tri-State and Utility Member.

III. HIGH IMPACT LOAD DEVELOPMENT THROUGH THE PROGRAM

- 3.1 Program. The Program described in this Tariff applies to a Utility Member serving or seeking to serve High Impact Load Projects. Such request for service must be done pursuant to the terms, conditions, and procedures described herein. Utility Members that seek to add High Impact Loads under the Program will do so by contracting with High Impact Load Customer(s) for High Impact Load Project(s) and submitting a Member Project Request to Tri-State, along with other materials required under the Participation Requirements, including the completed Participation Package. Subject to passing the Program Evaluation Criteria and agreeing to the terms of this Tariff, the Utility Member will enter into a HILA with Tri-State to facilitate serving the High Impact Load. Tri-State will model the High Impact Load as part of its resource planning and acquisition process and transmission service will be provided pursuant to the Applicable OATT.
- 3.2 Proposal Planning Process. This Tariff requires that Tri-State's Proposal Planning Process must be completed prior to a project entering the High Impact Load Cycle (Section IV). The Proposal Planning Process will end once a Utility Member has received the final Feasibility Study Assessment it requests.
- 3.3 HILA. This Tariff requires that a Utility Member execute a HILA to proceed to the High Impact Load Cycle. A pro forma HILA is attached here to as Appendix A, and Utility Member must comply with all the terms and conditions contained therein, including the Security Requirements.
- 3.4 High Impact Load Cycles. This Tariff establishes a project evaluation and contracting process wherein Tri-State will provide detailed feedback on specific High Impact Loads submitted by Utility Members. This process, referred to herein as a High Impact Load Cycle, will be conducted every two years, with the first High Impact Load Cycle starting in the year that this Tariff is accepted and becomes effective with FERC. Notwithstanding, if FERC issues an order or sets an effective date for this Tariff after November 1, 2025, Tri-State will instead initiate the first High Impact Load Cycle on the first Business Day following January 1, 2026, or as soon thereafter as reasonably allowed by the effective date.
- 3.5 Overall Availability of Service Under the High Impact Load Program. There is no maximum amount of High Impact Load under the High Impact Load Tariff.
- 3.6 Basin. To the extent that Basin Electric Power Cooperative ("Basin") develops a large load tariff that defines a High Impact Load as less than 45 MW, provides different timelines, or security requirements, Basin's requirements will flow through to Utility Members in the Eastern Interconnection.

IV. PROPOSAL PLANNING PROCESS

- 4.1 Proposal Planning Process. A Utility Member may initiate the Proposal Planning Process at any time and at no cost by submitting to Tri-State a Member Project Request that Tri-State has verified as complete and accurate. Based on the Member Project Request, during the Proposal Planning Process, Tri-State and Utility Member will work collaboratively through the Feasibility Study Assessment to identify optimal locations to interconnect the High Impact Load. Tri-State will undertake multiple rounds of Feasibility Study Assessments, at Utility Member's request.

Tri-State will use reasonable efforts to complete the Feasibility Study Assessments within 90 Days after the meeting with the Utility Member to discuss the Member Project Request.

V. HIGH IMPACT LOAD CYCLE PLANNING PROCESS

- 5.1 Schedules for the First and Subsequent High Impact Load Cycles. To allow for timely implementation, the first High Impact Load Cycle will follow the “First High Impact Load Cycle” deadlines and time periods provided in Schedule 1 to this Tariff, notwithstanding any other provision of this Tariff to the contrary. All subsequent High Impact Load Cycles will follow the deadlines and time periods described in the body of this Tariff and summarized in Schedule 1 under “Subsequent High Impact Load Cycles.” The first High Impact Load Cycle will begin 60 Days after the effective date of the Tariff established by FERC. Subsequent High Impact Load Cycles will commence every fall, two years after the first High Impact Load Cycle, 30 Days after issuance of a High Impact Load Kickoff Notice.
- 5.2 High Impact Load Kickoff Meeting. No later than 15 Business Days after the start of the High Impact Load Cycle, Tri-State will hold an informational High Impact Load Cycle Kickoff Meeting regarding the Current High Impact Load Cycle available to all Utility Members and to all their High Impact Load Customers that have executed or are working towards executing a MCHIL. Tri-State will send notice of the High Impact Load Cycle Kickoff Meeting to all Utility Members. Utility Members will be responsible for providing notice to their High Impact Load Customers that have executed or are in the process of executing a MCHIL. During the High Impact Load Cycle Kickoff Meeting, Tri-State will outline the timing and steps of the Current High Impact Load Cycle, provide Participation Package requirements, and be available to answer any Utility Member questions.
- 5.3 HILA. Utility Member will execute a HILA as part of the Participation Package within 30 Days of the High Impact Load Cycle Kickoff Meeting. Tri-State will promptly countersign the HILA and return a fully executed HILA to Utility Member once the High Impact Load Project passes the evaluation process described below.
- 5.3.1. Tri-State plans to use the *pro forma* HILA filed with and accepted by FERC, and will not file such conforming HILAs at FERC. To the extent that a non-conforming HILA is executed, or FERC directs otherwise, Tri-State will file the HILA with FERC within 60 Days after the High Impact Load Project passes the evaluation process described below.
- 5.4 High Impact Load Evaluation Process. Once the Current High Impact Load Cycle has begun, Tri-State will promptly begin evaluating all High Impact Load Projects participating in that Cycle that meet the Tariff’s requirements pursuant to the requirements of this Section.
- 5.5 Participation Package Contents, Verification, and Deadlines
- 5.5.1. Submission Deadline. Within 30 Days of the High Impact Load Cycle Kickoff Meeting, Utility Member will submit to Tri-State a complete Participation Package.
- 5.5.2. Contents. The Participation Package will include the following: (a) a completed Member Project Request; (b) demonstration that the High Impact Load Customer has acquired 90% Site Control over the site planned for the High Impact Load Project; (c) a High Impact Load Evaluation Fee; (d) a Professional Engineer (licensed in the state where the High Impact

Project is located) stamped drawing that demonstrates the expected load of the High Impact Load Project and land (in acres) required for such project; (e) an executed MCHIL that conforms with the minimum requirements set forth in the HILA; and, (f) an executed HILA.

5.5.3. Verification. Within 20 Business Days of the receipt of the Participation Package, Tri-State will complete its verification of Participation Package for accuracy and completeness and provide Utility Member with notice if the Participation Package is deemed complete or stating any deficiencies.

5.5.3.1. For High Impact Load Projects that fail the verification process, Utility Member will have 10 Business Days to cure any defects identified in its Participation Package.

5.5.3.1.1. A Utility Member that fails to submit a cured Participation Package will be deemed to have its High Impact Load Project withdrawn from the current High Impact Load Cycle.

5.5.3.2. Within 5 Business Days of the receipt of a revised Participation Package, Tri-State will complete its verification of the revised Participation Package for accuracy and completeness and provide Utility Member with notice if the Participation Package is deemed complete or if there are any uncured deficiencies.

5.5.3.3. High Impact Load Projects that pass either stage of the verification process will proceed to the High Impact Load Evaluation.

5.5.3.4. By mutual agreement, Tri-State and Utility Member may extend any of the deadlines in Section 5.5.3 by up to 5 Business Days to cure administrative errors.

5.5.3.5. High Impact Load Projects that fail both stages of the verification process will be deemed withdrawn from the Current High Impact Load Cycle, without prejudice to the Utility Member resubmitting the High Impact Load Project during a subsequent High Impact Load Program Cycle.

5.6 MCHIL Requirements. As part of the Participation Package, Utility Member must submit a fully executed MCHIL that meets the criteria set forth in the HILA.

5.6.1. Utility Member is solely responsible for: (a) entering into the MCHIL with High Impact Load Customer(s), and (b) ensuring that its MCHIL is consistent with the terms and conditions of this Tariff and the HILA. The Utility Member must demonstrate compliance with this provision to Tri-State's reasonable satisfaction. Tri-State is not responsible for compliance with any terms or conditions of a Utility Member's agreements with third parties.

5.7 Evaluation Process for Initial Proposal Period. No later than 150 Days from the start of the Current High Impact Load Cycle, Tri-State will complete the evaluation of all valid High Impact Load Projects and will provide to Utility Members that submitted a validated Participation Package notice of the results of the evaluation of that Utility Member's High Impact Load Project, including an analysis of the characteristics that led to acceptance or rejection.

5.7.1. Tri-State may request additional information not identified in the Participation Package but reasonably necessary for the evaluation of a High Impact Load during the Initial Proposal Period. Utility Members are solely responsible for meeting the submission deadline and

ensuring the submittal of complete and accurate information, provided that Tri-State may allow for the correction of any deficiencies, where doing so will not materially impact the evaluation process, in terms of delay, additional costs, or otherwise.

- 5.8 Revised Proposal Period. If there are High Impact Load Projects that were not accepted under the evaluation process described above in Section 5.7, a Revised Proposal Process will be initiated. The Revised Proposal Process will start on the first Business Day after the Initial Proposal Period ends and will last for 20 Business Days. If no High Impact Load Project fails the evaluation during the Initial Proposal Period, or if all Utility Members participating in the Current High Impact Load Cycle who were not accepted during the Initial Proposal Period inform Tri-State in writing that they do not intend to submit a revised Participation Package, the Revised Proposal Period and evaluation under this Section will be skipped.
- 5.8.1. Within 5 Business Days of the start of the Revised Proposal Period, Tri-State will meet with the applicable Utility Member(s) to review the results for High Impact Load Project(s) that failed the evaluation and discuss modifications to those Participation Package(s) that could make the High Impact Project more likely to succeed. Discussions during these meetings do not constitute acceptance of High Impact Load Project, which can only be achieved through the evaluation process.
- 5.8.2. The Utility Member will have 10 Business Days from its meeting with Tri-State to submit a revised Participation Package to trigger reevaluation. Revisions can include material changes, including but not limited to: High Impact Load Project size, minimum demand threshold, location, and load ramp. An additional High Impact Load Evaluation Fee will not apply to a revised Participation Package. The revised High Impact Load Project will be subject to the same requirements in Section 5.10 as other High Impact Load Project submitted under Section 5.7. If no Revised High Impact Load Projects are submitted within the Revised Proposal Period, the remainder of the Revised Proposal Period will be skipped.
- 5.8.3. Tri-State may request additional information not identified in the revised Participation Package but reasonably necessary for the evaluation of a High Impact Load during the Revised Proposal Period. Utility Members are solely responsible for meeting the submission deadline and ensuring the submittal of complete and accurate information, provided that Tri-State may allow for the correction of any deficiencies, where doing so will not materially impact the evaluation process, in terms of delay, additional costs, or otherwise.
- 5.8.4. No later than the last Business Day of the Revised Proposal Period, Tri-State will complete the evaluation of all revised Participation Packages and will provide to Utility Members that submitted a revised Participation Package during the Revised Proposal Period notice of the results of the evaluation of that Utility Member's revised High Impact Load Project, including an analysis of the characteristics that led to acceptance or rejection.
- 5.9 Evaluation Methodology for High Impact Load Projects. Tri-State will evaluate High Impact Load Projects using the same commercially available resource planning software in use at Tri-State at the time of that High Impact Load Program Cycle.

5.9.1. Tri-State will use the software to assess bulk power system and market characteristics, as well as the price and non-price characteristics of submitted High Impact Load Projects, in determining whether the criteria in Section 5.10 have been satisfied.

5.10 Evaluation Criteria. Tri-State will evaluate High Impact Load Projects in terms of material compliance with the four criteria set forth below. Absent a relevant change in law or regulation, the evaluation criteria will comport, as appropriate, with the metrics and standards applied by Tri-State in its most recent resource planning process or Bring Your Own Resource Tariff cycle and will not be altered or otherwise diverge for purposes of High Impact Load Program evaluation, though the High Impact Load Evaluation may utilize more recent data inputs, as appropriate. An Independent Evaluator will review and confirm that Tri-State's High Impact Load Evaluation Process was conducted consistently with the terms of this Tariff.

5.10.1. Reliability Criteria. The evaluation will consider whether the High Impact Load Project has an adverse impact on the reliable operation of the Tri-State system as measured by reliability metrics identified in Tri-State's resource planning processes, along with any other reliability or regulatory requirements that may apply. Only High Impact Load Projects which are determined to not have an adverse impact on the reliable operation of the Tri-State system will pass evaluation.

5.10.2. Economic Criteria. The evaluation will consider whether the new generation and transmission resource(s) modeled based on the minimum demand and minimum energy amount selected in the HILA to serve the High Impact Load Project is economically priced to minimize Tri-State's overall system costs and avoid cost-shifts among Utility Members by analyzing whether the High Impact Load Project reduces or holds stable Tri-State's rate requirements compared to the forecasted baseline rate requirement included in Tri-State's Class A Rate effective at FERC on the first day of the High Impact Load Cycle. Such analysis will consider, among other things, the High Impact Load Project's transmission costs. Only High Impact Load Projects that are determined to reduce or hold stable Tri-State's rate requirements compared to the forecasted baseline rate requirement included in Tri-State's Class A Rate effective at FERC on the first day of the High Impact Load Cycle will pass the evaluation.

5.10.3. Environmental Criteria. The evaluation will consider whether the High Impact Load Project adversely impacts Tri-State's compliance with: (a) Tri-State's environmental goals and (b) mandated greenhouse gas reduction targets, renewable energy procurement obligations, or other environmental targets as established by applicable regulatory authorities. Only High Impact Load Projects that do not adversely impact Tri-State's compliance with: (a) Tri-State's environmental goals and (b) mandated greenhouse gas reduction targets, renewable energy procurement obligations, or other environmental targets as established by applicable regulatory authorities will pass the evaluation.

5.10.4. Transmission metrics. The evaluation will consider whether the timing of necessary transmission upgrades to meet the High Impact Load Project's Expected Operation Date is feasible. Only High Impact Load Projects where it is determined to be feasible

to timely make necessary transmission upgrades to meet the High Impact Load Project's Expected Operation Date will pass the evaluation.

5.10.5. Competing Loads Ranking. In the event that two or more High Impact Load Projects in the same general location would result in a failure of one or more Evaluation Criteria, but would otherwise succeed individually, Tri-State will rank those High Impact Load Projects based on their results under the Economic Criteria. Only the High Impact Load Project(s) which are most economical will proceed.

5.10.5.1. Pro-Rating. Alternatively, Utility Members whose High Impact Load Projects were subject to a competing loads ranking may mutually agree to pro rate their High Impact Load Projects by modifying their High Impact Load Projects so that they would pass all Evaluation Criteria. If the Utility Members are unable to mutually agree on how to pro rate their High Impact Load Projects within 10 Business Days, Tri-State will move forward with the most economical High Impact Load Projects as described in Section 5.10.5.

5.11 High Impact Load Projects that Fail Evaluation. A High Impact Load Project that fails evaluation under Section 5.10 or any other provision of this Tariff will not result in a financial penalty to the relevant Utility Member, and will be without prejudice to the Utility Member resubmitting the High Impact Load Project during a subsequent High Impact Load Program Cycle.

5.12 Expected Operation Date. The Utility Member must identify an Expected Operation Date in its Member Project Request that, after a High Impact Load Project is accepted, may only be changed as provided by the HILA.

5.13 Independent Evaluator. Tri-State will retain an Independent Evaluator to review whether Tri-State's High Impact Load Evaluation Process was conducted consistently with the terms of this Tariff, including any ranking that may occur under the Economic Criteria.

5.13.1. Tri-State will request that the Independent Evaluator use reasonable efforts to complete its review 15 Business Days from the later of the end of the Proposal Period or the Revised Proposal Period (if applicable). Independent Evaluator will notify Tri-State of the results of its review, subject to applicable confidentiality agreements described in Section 7.1. After Tri-State and the Independent Evaluator mutually agree that the review is complete and accurate, Tri-State will promptly forward such results to all Utility Members.

VI. HIGH IMPACT LOAD TRANSMISSION PROCESS

6.1. Transmission Service. All transmission service, requests, planning, and other related processes will take place under the Applicable OATT. Nothing in this Tariff is intended to otherwise affect rights under the Applicable OATT.

- 6.2. Facilities Construction Agreement. Utility Member must execute a Facilities Construction Agreement requiring that Utility Member be responsible for costs of all interconnection facilities and upgrades directly assigned to Tri-State necessary to serve the High Impact Load, and provide appropriate security for such interconnection facilities and upgrades prior to the execution of Applicable OATT study agreement, unless otherwise mutually agreed to. Tri-State will file at FERC the executed Facilities Construction Agreement within 15 Business Days of receipt of an executed Facilities Construction Agreement from Utility Member. If Tri-State and Utility Member cannot come to an agreement, Tri-State will instead file an unexecuted Facilities Construction Agreement with FERC.

VII. CONFIDENTIALITY AND DISPUTE RESOLUTION

- 7.1. Confidentiality Agreements. Upon request of the Utility Member or Tri-State to protect the confidential information and data of Tri-State, Utility Member, and its High Impact Load Customer, Tri-State, Independent Evaluator, and as applicable, Utility Member and its High Impact Load Customer, will execute a standard confidentiality agreement that provides for the confidential treatment of commercially sensitive information. Notwithstanding the foregoing, Tri-State may disclose any confidential information and data to applicable third parties, including regulatory or judicial authorities, in connection with any transmission service, requests, planning, and other processes that will take place under the Applicable OATT and this Tariff.
- 7.2. Dispute Resolution. Any Utility Member that disputes how a High Impact Load Cycle was conducted, or the outcome of a High Impact Load Cycle, may file a complaint with FERC. Utility Member must first avail themselves of the Dispute Resolutions procedures contained in the HILA, to the extent the dispute is related to the scope of the HILA.

Schedule 1: Schedule of Key Deadlines for High Impact Load

High Impact Load Tariff Milestones	Tariff Section	First High Impact Load Cycle	Subsequent High Impact Load Cycles (if different from First HIL Cycle)
Notice of Commencement of High Impact Load Cycle	2.18	Contemporaneous with FERC Filing	During the third quarter of every other calendar year
Commencement of High Impact Load Cycle	2.16, 3.1	60 Days Following FERC Acceptance of the Tariff	30 Days After Notice of Commencement of HIL Cycle
Proposal Planning Process (Section IV)			
Member Project Request	2.25, 4.1	Utility Member can submit at any time	Same
Feasibility Study Assessment	4.1	Utility Member can request at any time, Tri-State will use reasonable efforts to complete	Same
Initial Proposal Period (Section V)			
High Impact Load Kick-Off Meeting	5.2	Within 15 Business Days after the start of the High Impact Load Cycle	Same
Utility Member will execute a HILA	5.3	Within 30 Days of the High Impact Load Cycle Kickoff Meeting	Same
Participation Package Due	5.5	Within 30 Days of the High Impact Load Cycle Kickoff Meeting	Same
Participation Package Verification Notice	5.5.3	Within 20 Business Days of receipt of Participation Package	Same
Revised Participation Package Due	5.5.3.1	Within 10 Business Days of issuance of Participation Package Verification Notice (if necessary)	Same
Revised Participation Packaged Verification Notice	5.5.3.2	Within 5 Business Days of receipt of the revised Participation Package	Same
Evaluation Process for Initial Proposal Period; End of Initial Proposal Period	5.7	Tri-State will complete evaluation no later than 150 Days from start of Current High Impact Load Cycle, which will be end of the Initial Proposal Period (if necessary)	Same
Revised Proposal Period (Section V)			
Start of Revised Proposal Period (if applicable)	5.8	First Business Day after End of Initial Proposal Period (if necessary)	Same
Individual Utility Member Meetings to Discuss Revised High Impact Load Project Proposals	5.8.1	Within 5 Business Days of the start of Revised Proposal Period (if necessary)	Same
Deadline to Submit revised Participation Package	5.8.2	10 Business Days from Utility Member meeting with Tri-State (if necessary)	Same
End of Revised Proposal Period	5.8, 5.8.4	No later than 20 Business Days from the start of the Revised Proposal Period	Same
Transmission (Section VII)			
Transmission Service	6.1	Per the deadlines of the Applicable OATT	Same
Deadline to Execute Facilities Construction Agreement	6.2	Prior to execution of the Applicable OATT study agreement, unless otherwise mutually agreed	Same
Deadline to File Facilities Construction Agreement	6.2	14 Business Days after receipt of executed Facilities Construction Agreement from Utility Member	Same

APPENDIX A - FORM OF HIGH IMPACT LOAD AGREEMENT FOR _____

TS-__-____

This High Impact Load Agreement for _____ ("**Agreement**") is made and entered into this ____ day of _____, 20____ ("**Execution Date**"), by and between TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. ("**Tri-State**"), a Colorado cooperative corporation, and _____ ("**Utility Member**"), a _____. Tri-State and Utility Member may be referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Tri-State sells to Utility Member, and Utility Member purchases from Tri-State, wholesale electric power and energy under the terms and conditions of the WESC; and

WHEREAS, Tri-State filed Rate Schedule No. ____ (High Impact Load Tariff) with FERC in Docket No. ER____-____ ("**HIL Tariff**"), which was accepted by FERC on _____, 20____, that sets forth the terms, conditions, and procedures for a High Impact Load; and

WHEREAS, in accordance with the HIL Tariff and to facilitate the responsibilities related to the High Impact Load for Utility Member's HIL Customer, the Parties are required to execute this Agreement to provide assurance as to the viability of HIL Customer to proceed with the Project, the ability for Tri-State to serve the Project, and risk mitigation for Tri-State, Utility Member, and Tri-State's membership related to the Project.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

SECTION 1 - DEFINITIONS

The following terms, when used in this Agreement with initial capitalization, and not otherwise textually defined or defined in the HIL Tariff, will have the meanings set forth below:

"**Basin**" means Basin Electric Power Cooperative or any successor thereto.

"**Basin East WPC**" means the applicable Wholesale Power Contract for the Eastern Interconnection, between Tri-State and Basin, as it may be amended, restated, or superseded from time to time.

“Basin Security” means any maximum security, collateral, or other financial commitment that Tri-State may be required to provide to Basin related to the Project pursuant to any Basin-required tariff, policy, procedure, or process.

“Billing Period” means the billing period for Tri-State’s billing for power and energy to Utility Member under the WESC.

“Billing Start” means the earlier of the Operation Date or the Expected Operation Date.

“Business Day” shall have the meaning set forth in the HIL Tariff.

“BYOR Program Cycle” shall have the meaning set forth in Tri-State’s Bring Your Own Resource Tariff.

“Calendar Year” means the annual calendar period beginning January 1, 00:00 MPT through and including December 31, 24:00 MPT.

“Class A Demand Charges” shall mean the Class A Rate charges for demand by Tri-State to utility members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

“Class A Energy Charges” shall mean the Class A Rate charges for energy by Tri-State to its utility members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

“Class A Rate” shall have the meaning set forth in the HIL Tariff.

“COPUC” means the Colorado Public Utilities Commission and any successor organization thereto.

“Day” shall have the meaning set forth in the HIL Tariff.

“Delivery Point” means Tri-State’s delivery point for Utility Member under the WESC that will serve the load from the Project and further identified in Exhibit A of this Agreement, attached hereto and incorporated herein.

“Effective Date” has the meaning set forth in Section 2(A) of this Agreement.

“Execution Date” shall have the meaning set forth in the preamble to this Agreement.

“Expected Operation Date” means the date upon which the Project is expected to commence operations with at least eighty (80) percent of the Expected Project Demand as identified in Exhibit A, with the date subject to change pursuant to Sections 3(G) and 3(H) of this Agreement.

“Expected Project Demand” means the expected load/demand of the Project at commencement of operations as identified in Exhibit A of this Agreement.

“Event of Default” has the meaning set forth in Section 8 of this Agreement.

“FERC” shall have the meaning set forth in the HIL Tariff.

“Force Majeure Event” shall have the meaning of Force Majeure Event as set forth in the WESC.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Guarantor” means any person (a) having an issuer credit rating equivalent to BBB+ or higher as determined by the lowest rating from any rating agencies, one of which must be either S&P or Moody’s, and (b) having a tangible net worth of five hundred million U.S. Dollars (\$500,000,000), or other person otherwise approved by Tri-State in its sole discretion.

“Guaranty” means the payment and performance guaranty provided by Guarantor to Tri-State (as the beneficiary) in the form provided by Guarantor that is customary, commercially reasonable, and reasonably acceptable to Tri-State.

“High Impact Load” shall have the meaning set forth in the HIL Tariff.

“HIL Customer” means the retail customer of Utility Member that is identified in Exhibit A of this Agreement.

“HIL Tariff” shall have the meaning set forth in the recitals to this Agreement.

“Initial Term” has the meaning set forth in Section 2(A) of this Agreement.

“Issuer” means a U.S. commercial bank or a licensed U.S. branch of a foreign bank, with such bank having (a) an unsecured bond rating equivalent to A- or better as determined by at least two (2) rating agencies, one of which must be either S&P or Moody’s, and (b) an asset value of at least thirty billion U.S. Dollars (\$30,000,000,000), or a person otherwise approved by Tri-State in its sole discretion. An Issuer cannot be an Affiliate of Utility Member or HIL Customer.

“Letter of Credit” means an unconditional, irrevocable, standby letter of credit from an Issuer in substantially the form provided by Tri-State to Utility Member, provided, however, that such form may be modified by the Issuer as long as such modifications are customary, commercially reasonable, and reasonably acceptable to Tri-State.

“Load Ramp Projection” or **“LRP”** has the meaning set forth in Section 3(F) of this Agreement.

“Maximum Annual Energy” means maximum annual energy (in MWh) to be consumed by the Project as measured at the Project Metering Point during any Calendar Year as identified in

Exhibit A of this Agreement; provided that for any Partial Year (for the first year after Billing Start and last year of the Term), the Maximum Annual Energy shall be prorated.

“Maximum Project Peak Demand” means maximum peak load/demand of the Project, at any time, as identified in Exhibit A of this Agreement.

“MCHIL” shall have the meaning set forth in the HIL Tariff.

“MDQ” has the meaning set forth in Section 5(B) of this Agreement.

“MEQ” has the meaning set forth in Section 5(C) of this Agreement.

“MMDC” has the meaning set forth in Section 5(B) of this Agreement.

“MMEC” has the meaning set forth in Section 5(C) of this Agreement.

“Moody’s” means Moody’s Investors Services, Inc., or any successor thereto.

“MPT” means Mountain Prevailing Time.

“Operation Date” means the date upon which the Project has commenced operations, and the load of the Project is at least eighty (80) percent of the Expected Project Demand.

“Partial Year” means (a) the period between the Billing Start and the end of the Calendar Year in which the Billing Start occurred (Year 1 of operation) and (b) for the last year of the Term, the period between the beginning of the Calendar Year in which this Agreement expires or terminates and the expiration or termination date of this Agreement.

“Project” means the project of the HIL Customer as further described in Exhibit A of this Agreement.

“Project Metering Point” means the point of interconnection between Utility Member’s electric power distribution facilities and the HIL Customer’s electric power distribution facilities located at the Project where electric power and energy consumption for the Project is measured, as further described in Exhibit A of this Agreement.

“Resources RFP” has the meaning set forth in Section 4(B) of this Agreement.

“RFP Subsequent” has the meaning set forth in Section 7(B)(2) of this Agreement.

“RFP Subsequent Security Amount” has the meaning set forth in Section 7(B)(2) of this Agreement.

“S&P” means S & P Global Ratings, or any successor thereto.

“Serve Ready Notice” has the meaning set forth in Section 4(C) of this Agreement.

“Security” has the meaning set forth in Section 7(A) of this Agreement.

“Security Amount” means the initial amount in U.S. Dollars as set forth in Exhibit A of this Agreement, as stepped down after the Operation Date in accordance with Section 7(F) of this Agreement, if applicable.

“Security Due Notice” means any of the Security Due Notice – Approval, Security Due Notice – EI, Security Due Notice – Filing, and Security Due Notice – RFP Subsequent.

“Security Due Notice – Approval” means the written notice that Tri-State sends to Utility Member once the COPUC has approved Tri-State’s resource implementation plan by a written decision.

“Security Due Notice – EI” means the written notice that Tri-State sends to Utility Member upon the earlier of the following: (a) Tri-State receives confirmation from Basin of its ability and timing for serving the new Eastern Interconnection load for the Project, (b) when Tri-State is required to enter an agreement with Basin related to the Project or (c) when Tri-State is required to provide Basin Security related to the Project.

“Security Due Notice - Filing” means the written notice that Tri-State sends to Utility Member once Tri-State has submitted its resource implementation plan filing related to the Project to the COPUC.

“Security Due Notice – RFP Subsequent” means the written notice that Tri-State sends to Utility Member once Tri-State has submitted its resource implementation plan filing for the RFP Subsequent related to the Project to the COPUC.

“Self-Supply Resource Credit” means the capacity credit (as a percentage) that Tri-State applies to generation resources based upon the nameplate capacity of the resource multiplied by the effective load carrying capacity of the applicable technology of the generation resource as utilized by the current BYOR Program Cycle.

“Self-Supply Tariff” has the meaning set forth in Section 3(E) of this Agreement.

“Term” has the meaning set forth in Section 2(C) of this Agreement.

“Termination Amount” has the meaning set forth in Section 10(A)(4) of this Agreement.

“TPP/MCP” shall mean the Tri-State Peak Period/Member Coincident Peak, a calculation of Utility Member’s peak demand during Tri-State’s peak period, or any other similar demand cost allocation calculation, performed in accordance with the then-applicable Class A Rate effective with FERC or any successor tariff thereto. TPP/MCP is expressed in MW or KW.

“Transmission Entity” mean a transmission provider, transmission owner, or regional transmission organization, including Tri-State, in its role as transmission provider or transmission owner.

“Transmission Improvements” upgrades or changes to the transmission system(s) (including upgrades and direct assigned facilities) of a Transmission Entity(ies) because of the Project.

“Utility Member Meter Equipment” has the meaning set forth in Section 6(A) of this Agreement.

“WESC” means the Wholesale Electric Service Contract, between Tri-State and Utility Member, dated _____, 20____, as it may be amended, restated, or superseded from time to time.

SECTION 2 – EFFECTIVE DATE; TERM; AND EXTENSION

- A. Effective Date and Term. This Agreement is dated as of the Execution Date and effective upon the Execution Date, unless Tri-State, in its sole discretion, determines this Agreement should be filed with FERC for acceptance, then the effective date established by FERC upon acceptance of this Agreement for filing will be the effective date of this Agreement (“**Effective Date**”). Commencing with the Effective Date, this Agreement will remain in effect until the termination date set forth in Exhibit A of this Agreement, subject to extension as provided in Section 2(C) of this Agreement or early termination as provided in this Agreement (the “**Initial Term**”), which will be for a minimum of fifteen (15) years after the Operation Date, and the Initial Term may not extend beyond the term of the WESC. Upon expiration of the Initial Term, subject to extension as provided in Section 2(C) of this Agreement, the Project will deenergize and not operate, unless the Utility Member resubmits the Project pursuant to the HIL Tariff in a High Impact Load Cycle and the Project is subject to a new effective HILA prior to expiration of this Agreement.
- B. FERC Action. Tri-State will promptly provide written notice to Utility Member (i) if Tri-State determines this Agreement should be filed with FERC and (ii) the Effective Date of this Agreement once this Agreement is accepted by FERC, if so filed. If this Agreement is filed with FERC, in the event that FERC issues an order that rejects this Agreement or requires a modification or condition of this Agreement that is unacceptable to either Party, such Party will provide notice to the other Party so that the Parties may undertake good faith negotiations to modify the Agreement in a manner that will satisfy the concerns identified by FERC. If the Parties cannot agree on how to modify this Agreement after thirty (30) Days of good faith negotiations, either Party may provide written notice to the other Party to terminate this Agreement.
- C. Extension. Utility Member may, upon not less than four (4) years advance written notice to Tri-State prior to expiration of Initial Term, request an extension of the Initial Term up to an additional ten (10) years or such longer time as agreed upon by the Parties. If the Parties mutually agree, the term of this Agreement will be extended for the term agreed to by the Parties, not to exceed an additional (10) years (“**Renewal Term**”); provided that in no event may the term of this Agreement extend beyond the term of the WESC. The Initial Term, together with any Renewal Term agreed upon by the Parties, will mean the **Term**.
- D. WESC Termination. Notwithstanding any other provision of this Agreement, this Agreement will terminate concurrently with the termination of the WESC; provided that, to the extent the WESC is terminated prior to the fifth (5th) anniversary of the Operation Date, the provisions of Sections 10(A)(3) and (4) of this Agreement, including Tri-State’s right to draw the full amount of the Security and Utility Member’s obligation to pay the difference between the Security drawn and the Termination Amount, will apply. Utility Member will continue to be responsible for any costs that it is responsible for as set forth in the Facilities Construction Agreement.

- E. Survival. Applicable provisions of this Agreement will continue in effect after termination or expiration, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: billings related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this Agreement, and the limitations of liability specified in this Agreement. All remedies in this Agreement and rights for Tri-State to use the Security and payment of the Termination Amount will survive termination or expiration of this Agreement.

SECTION 3 – UTILITY MEMBER’S OBLIGATIONS

- A. MCHIL. Utility Member will maintain in effect and perform its obligations under the MCHIL with HIL Customer for the Project. Utility Member will provide to Tri-State a copy of the executed MCHIL with HIL Customer for the Project, consistent with timing requirements of Section 5.5 of the HIL Tariff. The MCHIL will include the following requirements:

1. Require the HIL Customer to select an option for minimum monthly demand percentage and minimum monthly energy percentage consistent with the percentage selected by Utility Member in Section 5(A) of this Agreement;
2. Require the HIL Customer to provide Tri-State the Security in accordance with Section 7 of this Agreement and by the times and in the Security Amounts specified in Section 7 of this Agreement and require the HIL Customer to maintain the Security in accordance with Section 7 of this Agreement, including replenishing the Security Amount in accordance with Section 7;
3. Expressly authorize Tri-State to draw upon the Security as provided in this Agreement and for such rights to survive termination of the MCHIL;
4. Require the HIL Customer to satisfy the minimum load and energy requirements set forth in Section 5 of this Agreement or pay Utility Member for such failure consistent with Section 5 of this Agreement;
5. A term of the MCHIL co-terminus with the term of this Agreement;
6. Not permit the Project to operate or energize earlier than three (3) months prior to the Expected Operation Date, subject to change consistent with Sections 3(G) and 3(H) of this Agreement;
7. Not permit the Project to operate or energize prior to Tri-State providing to Utility Member the Serve Ready Notice;
8. Not permit the Project to exceed the Maximum Annual Energy nor the Maximum Project Peak Demand;

9. Not permit the Project to exceed the monthly energy nor the demand for the Project as stated in the LRP for that applicable month; and
 10. Not permit the Project to operate during any time the Utility Member Metering Equipment is not installed and operating as required by Section 6 of this Agreement.
- B. Amendments to MCHIL. Utility Member will provide Tri-State a copy of any proposed amendment to the MCHIL between Utility Member and HIL Customer for the Project prior to its execution to ensure the contract terms conform with the terms and conditions of this Agreement. If Utility Member anticipates entering into a new amendment to the MCHIL referenced in the prior sentence or new agreement or any amendment or modification to an existing contract related to the Project, Utility Member will provide Tri-State with a copy of such at least thirty (30) Days prior to its execution so that Tri-State may review and approve it.
- C. MCHIL Breach or Termination. Utility Member will provide Tri-State written notice if HIL Customer breaches or defaults under the MCHIL within five (5) Business Days of such event occurring. Utility Member will provide Tri-State written notice if Utility Member breaches or defaults under the MCHIL within five (5) Business Days of such event occurring. Utility Member will provide Tri-State written notice if the MCHIL is terminated within five (5) Business Days of such event occurring.
- D. Operation Date. Utility Member will prohibit the Project from operating or energizing earlier than ninety (90) Days prior to the Expected Operation Date, with such operation and energization subject to Utility Member's receipt of the Serve Ready Notice and to permitted change of the Expected Operation Date consistent with Sections 3(G) and 3(H) of this Agreement. Utility Member will provide Tri-State written notice at least thirty (30) Days prior to the anticipated Operation Date. Utility Member will provide Tri-State written notice within two (2) Business Days after the Operation Date and such notice shall specify the Operation Date.
- E. Self-Supply and Distributed Resource. As permitted by and subject to the terms of the WESC and/or any other of Tri-State's Board policies and/or tariffs effective at FERC, if applicable (a "**Self-Supply Tariff**"), Utility Member may be permitted to pursue generation resource(s) in connection with the Project. If applicable, the specifics of such generation resource(s) are described in Exhibit B of this Agreement, attached hereto and incorporated herein. If no specifics are described in Exhibit B of this Agreement, as of the Execution Date, the Utility Member is deemed to not be pursuing any such resource(s) in connection with the Project. The Parties may amend Exhibit B after the Execution Date to update, add, or remove any generation resource(s) Utility Member is pursuing in connection with the Project.
- F. Load Ramp. Within ten (10) Business Days after the Effective Date, Utility Member will provide Tri-State the monthly projections of energy and demand for the Project for the Term in the form of Exhibit D, attached hereto and incorporated herein (or such other form as provided by Tri-State from time to time). On the third anniversary of the Effective Date and every third year thereafter, the Utility Member will provide Tri-State with the updated monthly projections of energy and demand for the Project for the remainder of the Term in the form of Exhibit D (or such other form as provided by Tri-State from time to time) (the latest version of such projection, the "**Load Ramp Projection**"); provided that each three (3) year updated version of the monthly projections of

energy and demand may not decrease or increase the monthly projections of energy and demand by greater than five percent (5%) from the prior version; and provided, further, that in no event may the demand projection exceed the Maximum Project Peak Demand nor the aggregate monthly energy projection for a Calendar Year exceed the Maximum Annual Energy. For any Partial Year, the Maximum Annual Energy will be prorated proportional to the length of the Partial Year.

- G. Delay of Expected Operation Date. Utility Member may, upon written notice to Tri-State, delay the Expected Operation Date by up to six (6) months. Utility Member may exercise this delay in the Expected Operation Date only one time and Utility Member must provide the notice to Tri-State prior to the Security Due Notice – Filing or Security Due Notice – EI, as applicable; provided any delay may not extend the Initial Term beyond the term of the WESC. Utility Member's notice will specify the revised Expected Operation Date (not to exceed six (6) months from the original Expected Operation Date) and such notice will also specify the reason for the delay.
- H. Early Operation Date. Utility Member may, upon written notice to Tri-State, move earlier the Expected Operation Date by up to ninety (90) Days. Utility Member may exercise this early Expected Operation Date only one time and all other applicable requirements of this Agreement and the HIL Tariff continue to apply, including receipt of Serve Ready Notice. Utility Member's notice will specify the revised Expected Operation Date.

SECTION 4 – TRI-STATE'S OBLIGATIONS

- A. Transmission. Tri-State will use commercially reasonable efforts to perform the applicable transmission studies or cause the applicable Transmission Entities to perform the applicable transmission studies to serve the load of the Project up to the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date. Tri-State will use commercially reasonable efforts to cause the Transmission Improvements and other facilities to be constructed, tested, and energized as required to serve the load of the Project up to the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date.
- B. Resources. Consistent with the WESC, Tri-State uses Good Utility Practice to supply the load of Utility Member. In connection therewith and Tri-State using Good Utility Practice to supply the load of all its utility members, Tri-State will use commercially reasonable efforts to construct, procure and/or acquire the generation and/or storage resources that Tri-State reasonably determines are required to serve the load of Tri-State's utility members, include the load of the Project up to the maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period commencing upon the Expected Operation Date. Tri-State's process may include initiating and pursuing a resource acquisition process for a resource acquisition period as required by applicable law, including, if needed, issuing a request for proposal for new resources ("**Resource RFP**"), performing modeling of bids that advanced to modeling from the Resource RFP, and filing a resource implementation plan with the COPUC. Tri-State will promptly provide Utility Member the Security Due Notice - Filing after the resource implementation plan is filed with the COPUC. Tri-State will promptly provide Utility Member the Security Due Notice – Approval after

the resource implementation plan is approved by the COPUC by a written decision. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, Tri-State's process may include notifying Basin and complying with any Basin-required tariff, policy, procedure, or process. In lieu of the Security Due Notice - Filing or Security Due Notice – Approval, Tri-State will promptly provide Utility Member Security Due Notice – EI once an event in such definition is satisfied. Utility Member will, and require the HIL Customer to, cooperate with Tri-State and Basin and provide any information or documentation required or requested by Basin and execution of any documents Basin may require in connection with any Basin-required tariff, policy, procedure, or process.

- C. Serve Ready Notice. When (i) Tri-State reasonably determines that the resources are available to serve the load of the Project maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period and (ii) all Transmission Improvements and other facilities are constructed, tested, and energized that Tri-State reasonably determines are required to serve the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date, Tri-State will provide Utility Member written notice that the Project may be energized ("**Serve Ready Notice**").

SECTION 5 – MINIMUM AND MAXIMUM ENERGY AND LOAD AND BILLING

- A. Selection of Minimums. Utility Member must select one of the following options for minimum monthly demand and minimum monthly energy that will be applicable and binding for the Term (if Utility Member fails to selection an option, Option 1 applies):
1. Option 1 ☐: (a) minimum monthly demand of ninety (90) percent and (b) minimum monthly energy of seventy-five (75) percent; or
 2. Option 2 ☐: (b) minimum monthly demand of seventy-five (75) percent and (b) minimum monthly energy of fifty (50) percent.
- B. Minimum Monthly Demand. Commencing with the Billing Start, at the end of each Billing Period, if the monthly demand of the Project is less than the selected minimum monthly demand percent, as selected in Section 5(A), of the monthly demand for the Project as stated in the LRP (the "**MMD**"), Utility Member will be assessed a minimum monthly demand charge ("**MMDC**") for the Project, which is the product derived by the supplemental demand quantity ("**SDQ**") multiplied by the Class A Demand Charges, for the Project, as calculated below, on Tri-State's invoice to the Utility Member for electric service pursuant to the WESC. SDQ (kW) is a result and occurs when the monthly demand quantity ("**MDQ**") is less than the MMD and is assessed by calculating the difference between MMD and MDQ. MDQ is calculated below as the HIL Demand in kW at monthly TPP/MCP of Billing Period pursuant to the WESC.

The following formulas will apply in the calculation of the MMDC:

MDQ = HIL Demand (kW) at the TPP/MCP, where **HIL Demand** means the coincident peak billing demand of the Project as measured by the metering equipment at the Project Metering Point at the maximum kilowatt demand established by the Project for any period of 30 consecutive minutes during the TPP/MCP of the Billing Period.

$MMD (kW) = \text{Project demand for the month of the Billing Period as stated in the LRP (kW)} \times [0.9 \text{ or } .75 \text{ based upon the selected percentage specified in Section 5(A)}].$

If $MDQ > MMD$, then $MMDC = \$0$.

If $MDQ < MMD$, then $MMD - MDQ = SDQ$, and

$MMDC = SDQ \times \text{Class A Demand Charges}$.

- C. Minimum Monthly Energy. Commencing with the Billing Start, at the end of each Billing Period, if the monthly energy usage of the Project is less than the selected minimum monthly energy percent, as selected in Section 5(A), of the monthly energy for the Project as stated in the LRP ("**MME**"), Utility Member will be assessed a minimum monthly energy charge ("**MMEC**") for the Project, as calculated below, on Tri-State's invoice to the Utility Member for electric service pursuant to the WESC, which is the product of the supplemental energy quantity ("**SEQ**") in kWh multiplied by the Class A Energy Charges. SEQ (kWh) is a result and occurs when the monthly energy quantity ("**MEQ**") is less than the MME and assessed by calculating the difference between MME and MEQ. SEQ is a result and occurs when the monthly energy quantity ("**MEQ**") is less than the MME and is assessed by calculating the difference between the MME and MEQ. MEQ is calculated below as the HIL Energy (kWh) assessed during Billing Period pursuant to the WESC.

The following formulas will apply in the calculation of the MMEC:

$MEQ = \text{HIL Energy (kWh) during Billing Period, where HIL Energy means the energy (in kWh) consumed by the Project as measured by the metering equipment at the Project Metering Point during the Billing Period.}$

$MME (kWh) = \text{Project energy for the month of the Billing Period as stated in the LRP (kWh)} \times [0.75 \text{ or } .5 \text{ based upon the selected percentage specified in Section 5(A)}].$

If $MEQ > MME$, then $MMEC = \$0$.

If $MEQ < MME$, then $MME - MEQ = SEQ (kWh)$, and

$MMEC = SEQ \times \text{Class A Energy Charges}$.

- D. Payments of Charges. Utility Member will pay any MMDC or MMEC assessed pursuant to this Section 5 of this Agreement in accordance with the WESC.
- E. Class A Rate. Tri-State and Utility Member acknowledge the load for the Project will be billed at Tri-State's Class A Rate and/or other applicable Tri-State rate schedule in effect.
- F. Relationship with WESC. This Agreement sets forth the provisions related to facilitating the Parties in serving the Project and mitigation of the Project risk for Tri-State, Utility Member and Tri-State's membership and is in no way intended to affect the delivery of power and energy or the billing under the terms of the WESC, except as specifically set forth in this Agreement. The terms regarding the actual sales of energy, including, but not limited to, title and risk of loss, are outside the scope of this Agreement.

- G. Excess Energy and Load. Tri-State is under no obligation to provide power and energy for the Project under this Agreement in excess of the Maximum Annual Energy and Maximum Project Peak Demand. In addition, Tri-State is under no obligation to provide power and energy for the Project under this Agreement more than the monthly energy and demand for the Project as stated in the LRP for that applicable month. In the event the Project exceeds the Maximum Project Peak Demand or the monthly energy and demand for the Project as stated in the LRP for that applicable month, Utility Member will, upon written notice (or oral notice in the event of an emergency) from Tri-State to Utility Member, immediately take action to curtail electric service to the Project below the Maximum Project Peak Demand and the monthly energy and demand for the Project as stated in the LRP for that applicable month, as applicable, which may include use of circuit breakers or switches to disconnect the Project from the Utility Member's system, if necessary.
- H. Example. An example of the MMDC and MMEC are shown in Exhibit C of this Agreement, attached hereto and incorporated herein.

SECTION 6 – METERING AND LICENSE

- A. Metering. Except as otherwise provided in Exhibit A of this Agreement, Utility Member will own, operate, and maintain metering, recording, and telecommunications devices at the Project Metering Point at no expense to Tri-State and of a type and accuracy reasonably acceptable to Tri-State ("**Utility Member Meter Equipment**"). Except as otherwise provided in Exhibit A of this Agreement, Tri-State may determine, at its sole discretion, to install metering, recording, and telecommunications devices at the Project Metering Point ("**Tri-State Meter Equipment**") to accommodate this Agreement at Tri-State's expense. Tri-State reserves the right to witness, perform testing, or request testing of Utility Member Meter Equipment, at Tri-State's expense. Utility Member reserves the right to witness, at Utility Member's expense, testing of the Tri-State Meter Equipment.
- B. License
1. Utility Member hereby grants to Tri-State, its employees, agents, and contractors, a non-exclusive license (each, a "Property License") to construct, install, locate, re-locate, connect, inspect, test, operate, maintain, repair, and replace the Tri-State Meter Equipment at the Project Metering Point ("**Equipment Property**"), together with the right to enter the Equipment Property for the purposes stated, provided reasonable advance arrangements are made with Utility Member.
 2. Utility Member hereby grants to Tri-State, its employees, agents, and contractors, a non-exclusive license (each, "**Access License**", and together with the Property License, a "**License**") of ingress and egress between the Equipment Property and the nearest public access or road ("**Access Property**", and together with the Equipment Property, the "**Property**").

3. The Property may be either: (i) owned in fee simple by Utility Member, or (ii) property for which Utility Member holds a lease, easement or permit.
 4. It is the Parties' intent that each License be coupled with Tri-State's interest in the Tri-State Meter Equipment constructed or installed on or attached to the Property and, therefore, such License will be non-revocable to the maximum extent permitted by applicable law.
 5. Tri-State hereby assumes any and all risks and obligations associated with the License and Tri-State's activities on the Property, and will repair, at the expense of Tri-State, any damage to the Property or improvements resulting from Tri-State's use of the License, or will reimburse Utility Member for such repairs; provided that the foregoing will not apply with respect to any claim, damage, or loss caused by or resulting from Utility Member's negligence.
 6. Utility Member hereby represents and warrants that it has the full power and authority to grant to Tri-State each License granted hereunder. Utility Member covenants and agrees to indemnify, hold harmless and defend Tri-State, its other members, directors, officers, employees, agents, and contractors, from and against any and all claims, demands, losses, damages, expenses, liabilities, or judgments (including reasonable attorneys' fees and costs) based on a third-party claim, suit, action, or proceeding (collectively, "**Claim**") challenging the validity of a License herein granted or the authority of Utility Member to grant such License. In the event of such Claim, Utility Member will bear the sole obligation and cost of confirming or obtaining such authority or rights as needed to grant the License hereunder.
- C. Except as otherwise provided in Exhibit A of this Agreement, metering and recording devices at the Project Metering Point will:
1. Be capable of measuring and registering demand and energy delivered; and
 2. Be capable of measuring and recording five (5) minute integrated demand for each five (5) minute time interval; and
 3. Have sufficient recording capability or memory to store at least forty-five (45) Days of five (5) minute integrated demand data; and
 4. Be capable of transmitting real-time energy measurement data ("**EMD**") to Tri-State in a format agreeable to both Parties and to a data collection point agreeable to Tri-State.
- D. Except as otherwise provided in Exhibit A of this Agreement, Utility Member, at its expense, will provide acceptable communications for daily remote interrogation of the 5 minute integrated

interval data and the real-time EMD by Tri-State of metering and recording devices at the Project Metering Point.

- E. Utility Member Meter Equipment will be installed and tested prior to the Project being energized.
- F. Additional metering and telecommunication equipment may be set forth in Exhibit A of this Agreement or exceptions to the requirements in this Section 6 may be set forth in Exhibit A of this Agreement.

SECTION 7 – SECURITY REQUIREMENTS

A. Security Timing.

1. Filing Security. As security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice - Filing, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's receipt of the Security Due Notice - Filing and maintain in favor of Tri-State (a) one or more Letter(s) of Credit from an Issuer, (b) a cash escrow account, at HIL Customer's expense, established with an Issuer in favor of Tri-State pursuant to an escrow agreement acceptable to Tri-State and to which any interest on the amounts held in escrow will be taxable to, and accrue for the benefit of, HIL Customer, (c) a Guaranty from a Guarantor, or (d) any combination of the foregoing (a) through (c) ("**Security**") in the amount of twenty-five (25) percent of the Security Amount; provided that (i) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (ii) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (ii) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that HIL Customer may qualify as a Guarantor if it satisfies such definition.
2. Approval Security. As security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice - Approval, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's receipt of the Security Due Notice - Approval and maintain in favor of Tri-State the Security for the full Security Amount (i.e. the remaining seventy-five (75) percent of the Security Amount); provided that (a) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (b) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (c) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that, HIL Customer may qualify as a Guarantor if it satisfies such definition.
3. Eastern Interconnection Security. As applicable as security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice – EI, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's

receipt of the Security Due Notice – El and maintain in favor of Tri-State the Security for the full Security Amount (i.e. one hundred (100) percent of the Security Amount); provided that (a) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (b) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (c) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that, HIL Customer may qualify as a Guarantor if it satisfies such definition.

- B. Security Amount and Duration. Subject to subsections (1) and (2) below, the Security Amount will be calculated as described below, with the per MW calculation based upon (a) the Maximum Project Peak Demand plus (b) Tri-State's planning reserve margin in effect at the time the final Participation Package is received by Tri-State. Security Amount will be \$2,700,000 per MW, stepped down pursuant to Section 7(F) of this Agreement. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, if the amount of the Basin Security is greater, the Security Amount will be the amount of the Basin Security and will step down in accordance with Basin-required tariff, policy, procedure, or process, if applicable. Subject to the prior sentence, the Security will remain in place for the entire Initial Term (except to the extent drawn upon or stepped down as provided herein).

1. Self-Supply Resource Credits. As referenced in Section 3(E), Utility Member may be permitted to pursue generation resource(s) in connection with the Project. The per MW calculation for the Maximum Project Peak Demand plus Tri-State's planning reserve margin described in Section 7(B) above will be reduced by the Self-Supply Resource Credit for the generation resource(s) listed in Exhibit B. Exhibit C includes an example calculation.

- i. The Self-Supply Resource Credit will be based upon the portion of nameplate capacity of the generation resource(s) listed in Exhibit B that is expected to be operational during applicable Resource RFP acquisition period.

- ii. In the event (a) the generation resource(s) listed in Exhibit B does not achieve commercial operation by the time specified in Exhibit B or permanently ceases operation during the Term or (b) any agreement with Tri-State related to the generation resource is terminated ("**Resource Change Event**"), Utility Member shall have the option of addressing the shortfall through a combination of either or both, with such selection by the Utility Member provided to Tri-State in writing within fifteen (15) Days after the Resource Change Event:

- i. The Self-Supply Resource Credit will no longer be applicable. In such event, within fifteen (15) Days after Utility Member's receipt of written notice from Tri-State, Utility Member will require the HIL Customer to increase the Security Amount without such Self-Supply Resource Credit reduction within the same fifteen (15) Days after Utility Member's receipt of written notice from Tri-State. If the increased Security Amount is not received as required above, Tri-State may terminate this Agreement pursuant to Section 10(A).

- ii. In the alternative, Utility Member may choose to reduce the Project's load, including the corresponding Maximum Annual Energy, Maximum Project Peak Demand, Expected Project Demand and LRP, by the amount of Self-Supply Resource Credit that that it is not self-supplying, on a MW-for-MW basis. The Parties shall promptly amend Exhibits A and B with these changes.
- 2. Resource RFP Acquisition Period Adjustment. As referenced in Section 4(B), Tri-State's resource acquisition process includes acquiring resources for a specific period specified in the resource acquisition process and applicable law. Subject to (i) below, the per MW calculation for the Maximum Project Peak Demand plus Tri-State's planning reserve margin described in Section 7(B) above will be based upon the maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period. Tri-State will promptly notify Utility Member of the Resource RFP acquisition period once it is determined as part of Tri-State's Resource RFP acquisition process. The resulting calculation of the Security Amount will be based upon the Resource RFP acquisition period and the Project's maximum demand during such period as specified in the LRP plus Tri-State's planning reserve margin ("**Initial Resource Acquisition Peak**"). Exhibit C includes an example calculation.
 - i. In subsequent Resource RFPs ("**RFP Subsequent**"), Tri-State will use commercially reasonable efforts to acquire additional resources based upon the maximum demand of the Project as specified in the LRP (minus the Initial Resource Acquisition Peak) during such Subsequent RFP acquisition period(s) and Security will be required for such. Tri-State will promptly provide Utility Member the Security Due Notice – RFP Subsequent after the resource implementation plan is filed with the COPUC for such RFP Subsequent with such notice specifying the Security Amount due based upon the Resource RFP acquisition period and the Project's maximum demand during such period as specified in the LRP (minus the Initial Resource Acquisition Peak) plus Tri-State's planning reserve margin ("**RFP Subsequent Security Amount**"). Within fifteen (15) Days after Utility Member's receipt of the Security Due Notice - RFP Subsequent, Utility Member will require the HIL Customer to post within the same fifteen (15) Days after Utility Member's receipt of the Security Due Notice - RFP Subsequent and maintain in favor of Tri-State the Security for the RFP Subsequent Security Amount.
- C. Letter of Credit Expiration. To the extent the Security consists of Letter(s) of Credit expiring before the end of the Initial Term, Utility Member will require the HIL Customer to cause the Letter(s) of Credit renewal or extension for additional consecutive terms of three hundred sixty (360) Days or more (or, if shorter, the remainder of the Initial Term) no later than thirty (30) Days prior to each expiration date of such Letter(s) of Credit and written proof of such renewal will be provided to Tri-State as soon as practicable thereafter, but in no event later than fifteen (15) Days prior to the expiration of the same. If the Letter of Credit(s) is not renewed or extended as required herein, Tri-State will have the right to demand payment under the Guaranty (if applicable and provided) or draw immediately upon the entire amount of the expiring Letter of Credit and to place the amounts so drawn in an account controlled by Tri-State until and unless HIL Customer provides a substitute Letter of Credit(s) meeting the requirements of this Section 7.

- D. Guarantor Financial Information. To the extent the Security consists of a Guaranty or the HIL Customer qualifies as a Guarantor, Utility Member will require the HIL Customer to cause the Guarantor (or the HIL Customer if it qualifies as a Guarantor) to provide financial information reasonably requested by Tri-State at least sixty (60) Days prior to providing the Guaranty, and annually thereafter to verify the Guarantor (or the HIL Customer if it qualifies as a Guarantor) meets the requirements of a Guarantor. Upon the request, Tri-State will execute a confidentiality agreement with the Guarantor to protect the confidentiality of Guarantor's financial information.
- E. Downgrades. Upon the occurrence of a downgrade event (including the annual review of the financial information described in Section 7(D) of this Agreement, such that the person providing the Security in the form of a Letter of Credit or Guaranty (or the HIL Customer if it qualifies as a Guarantor for purposes of the Security) no longer meets the requirements of an Issuer or Guarantor, as applicable, Utility Member will require the HIL Customer, within ten (10) Business Days after Tri-State provides Utility Member written notice of such downgrade event, to provide replacement security satisfying the requirements of this Section 7. If such replacement security is not provided within ten (10) Business Days of Tri-State's written notice to the Utility Member, Tri-State will have the right to draw immediately upon the entire amount of the Letter of Credit or demand payment under the Guaranty, as applicable, and to place the amounts so drawn in an account controlled by Tri-State until and unless HIL Customer provides a substitute security meeting the requirements of this Section 7. If HIL Customer qualifies as a Guarantor for purposes of the Security and fails to provide security satisfying the requirements of this Section 7 within ten (10) Business Days of Tri-State's written notice to the Utility Member, Tri-State may terminate this Agreement pursuant to Section 10(A). Utility Member may permit the HIL Customer to change the form of Security at any time and from time-to-time upon Utility Member's thirty (30) Days' prior written notice to Tri-State; provided that the Security must satisfy the requirements of this Section 7 at all times.
- F. Security Stepdown. Subject to Section 7(B) of this Agreement related to Basin Security, commencing with the ninth (9) anniversary prior to expiration of the Initial Term, the Security Amount will decrease by one ninth on each anniversary prior to expiration of the Initial Term and thereafter and as set forth in the Security Amount stepdown schedule set forth in Exhibit A of this Agreement. Promptly after each stepdown, Tri-State will authorize the release of any excess Security Amount to HIL Customer, including counter signing amendments to Letter(s) of Credit, a Guaranty, or escrow agreement, as applicable, to reduce the amount of such.
- G. Security Replenish. In the event Tri-State demands payment under or draws upon the Security, Utility Member will require the HIL Customer to replenish the Security to the Security Amount within ten (10) Business Days after such draw or demand.
- H. Draw on Security. Tri-State may demand payment under or draw on the amount of all Security upon any of the following: (i) a Utility Member Event of Default, (ii) the early termination or expiration of this Agreement pursuant to Section 10(A) of this Agreement, (iii) as provided pursuant to Section 2(D) of this Agreement, and (iv) a Utility Member's failure to pay any MMDC or MMEC assessed pursuant to Section 5 of this Agreement. Tri-State may draw or demand payment of all or any part of the appropriate amounts due to it from any form of Security to the extent available pursuant to this Section 7 of this Agreement and from all such forms, and in any

sequence Tri-State may select; provided that any failure to draw upon the Security for any damages or other amounts due to Tri-State will not prejudice Tri-State's rights to recover such damages or amounts in any other manner to the extent provided in this Agreement. Tri-State will notify Utility Member promptly following any draw on the Security by Tri-State, including the amount thereof and the basis therefor.

- I. Release of Security. Within thirty (30) Days following the expiration or termination of this Agreement and the satisfaction of all of Utility Member's obligations hereunder, Tri-State will release any remaining balance of the Security to HIL Customer.

SECTION 8 – DEFAULTS AND REMEDIES

- A. Tri-State Events of Default. Any of the following will constitute a Tri-State Event of Default upon its occurrence, and no cure period will apply, unless otherwise stated:

1. Tri-State dissolves or liquidates;
2. Tri-State makes a general assignment for the benefit of its creditors or is unable to pay its debts when due, becomes insolvent, or a receiver, custodian, administrator, or trustee is appointed to manage its affairs or business;
3. Tri-State's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any state, or Tri-State voluntarily taking advantage of any such law by answer or otherwise;
4. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Tri-State if Tri-State has not caused such case to be dismissed within sixty (60) Days after receipt of written notice from Utility Member; and/or
5. Tri-State breaches, or fails to perform or comply with, any term of this Agreement if Tri-State has not cured the breach within thirty (30) Days after receipt of written notice from Utility Member.

- B. Utility Member Events of Default. Any of the following will constitute a Utility Member Event of Default upon its occurrence and no cure period will apply, unless otherwise stated:

1. Utility Member dissolves or liquidates;

2. Utility Member makes a general assignment for the benefit of its creditors or is unable to pay its debts when due, becomes insolvent, or a receiver, custodian, administrator, or trustee is appointed to manage its affairs or business;
 3. Utility Member's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any state, or Utility Member voluntarily taking advantage of any such law by answer or otherwise;
 4. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Utility Member if Utility Member has not caused such case to be dismissed within sixty (60) Days after receipt of written notice from Tri-State;
 5. Utility Member breaches or defaults under the MCHIL; and/or
 6. Utility Member breaches, or fails to perform or comply with, any term of this Agreement, the Facilities Construction Agreement, the HIL Tariff, or the WESC, if Utility Member has not cured the breach within thirty (30) Days after receipt of written notice from Tri-State.
- C. Termination. If an Event of Default will have occurred and be continuing beyond the cure periods set out in this Section, if any, the non-defaulting Party may terminate this Agreement on written notice to the other Party. Upon termination of this Agreement, the Project will deenergize and not operate.
- D. Damages. If this Agreement is terminated for an Event of Default, the non-defaulting Party may pursue any remedies or damages available to it at law or in equity, including Tri-State's rights pursuant to Sections 10(A)(3) and (4).

SECTION 9 – LIMITATIONS OF LIABILITY

IN NO EVENT SHALL TRI-STATE OR UTILITY MEMBER BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

SECTION 10 – EARLY TERMINATION

A. Early Termination – HIL Customer.

1. HIL Customer Actions. Notwithstanding the other provisions of this Agreement, Tri-State may terminate this Agreement early at any time upon ten (10) Days written notice to Utility Member if:
 - a) The Project fails to commence operations with a load at least ninety (90) percent of the minimum monthly demand, based upon the percentage as selected in Section 5(A), by the date that is one hundred eighty (180) Days following the Expected Operation Date, unless caused by a delay of Tri-State to provide the Serve Ready Notice by the Expected Operation Date;
 - b) The Project ceases operations following the Operation Date for one hundred eighty (180) or more consecutive Days;
 - c) HIL Customer fails to establish within ten (10) Days of any Security Due Notice and, once established, maintain and/or replenish the Security in accordance with and in the Security Amounts specified in Section 7 of this Agreement;
 - d) HIL Customer breaches or defaults under the MCHIL;
 - e) The Project exceeds either the Maximum Annual Energy or Maximum Project Peak Demand and the reason the Project exceeded such is not corrected to Tri-State's reasonable satisfaction within thirty (30) Days after receipt of written notice from Tri-State of any exceedance; and/or
 - f) The Project exceeds either the monthly energy and demand for the Project as stated in the LRP and the reason the Project exceeded such is not corrected to Tri-State's reasonable satisfaction within thirty (30) Days after receipt of written notice from Tri-State of any exceedance.
2. MCHIL Termination. Notwithstanding the other provisions of this Agreement, this Agreement will automatically terminate early upon Tri-State's receipt of written notice from the Utility Member that the MCHIL has terminated.
3. Security Draw. Upon termination of this Agreement pursuant to this Section 10(A) or termination due to an Event of Default of Utility Member, Tri-State will have the right to demand payment under or draw on the full amount of all Security to offset any damages or costs incurred or expected to be incurred by Tri-State related to the Project and/or the early termination of this Agreement. Upon termination of this Agreement pursuant to this Section 10(A) or termination due to an Event of Default of Utility Member, the Utility Member will require the Project to deenergize and not operate. If requested by Tri-State in writing, the Utility Member will immediately open the breaker related to the Project.
4. Termination Amount. Tri-State will determine, in good faith, and in a commercially reasonable manner, the costs related to the early termination of this Agreement ("**Termination Amount**"), including, but not limited to, (i) the costs (both internal staff

costs and out-of-pocket costs) that Tri-State incurred after executing this Agreement and performing its responsibilities under this Agreement, (ii) the MMDC and MMEC for the remainder of the Term (as calculated pursuant to Section 5) with the MDQ and MEQ for the Project being zero, less any expected cost savings, and (iii) additional costs Tri-State has incurred or will continue to incur related to capacity and energy (to the extent not recovered in (ii) above), along with obtaining associated transmission service and ancillary services, acquired to serve the Project for the remainder of the Term, and (iv) other costs Tri-State will be required to incur to unwind actions taken in furtherance of, in reliance upon, or related to this Agreement. Tri-State will use commercially reasonable efforts to minimize the Termination Amount. Tri-State will refund to the Utility Member any Security drawn by Tri-State in excess of the Termination Amount. Tri-State will promptly provide to Utility Member in writing, after termination of this Agreement, in reasonable detail, the calculation of the Termination Amount. Utility Member will within sixty (60) Days of receipt of Tri-State's calculation of the Termination Amount pay Tri-State the difference between the Security drawn by Tri-State and the Termination Amount calculated by Tri-State to the extent the Security drawn is less than the Termination Amount.

B. Early Termination – Other Factors.

1. Other Factors.

- a) Notwithstanding the other provisions of this Agreement, Tri-State may terminate this Agreement early at any time upon ten (10) Days written notice to Utility Member if:
 - i. the average price of the resources selected after the modeling of the bids that advanced to modeling from the Resource RFP as described in Section 4(B) of this Agreement exceeds by 10% the “generic” resource price used by Tri-State as part of the evaluation criteria when evaluating the Project pursuant to the HIL Tariff; and/or
 - ii. the price for Transmission Improvements not paid for by the Utility Member pursuant to the HIL Tariff or Facilities Construction Agreement as reflected in the Transmission Entity's study exceeds by 10% the assumptions of the price for Transmission Improvements used by Tri-State as part of evaluation criteria when evaluating the Project pursuant to the HIL Tariff.
- b) Utility Member may terminate this Agreement upon written notice to Tri-State prior to or upon receipt of Security Due Notice – Approval; provided such written notice is received by Tri-State no later than ten (10) Days after Tri-State provides the Security Due Notice – Approval. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, any termination is subject to Basin-required tariff, policy, procedure, or process.

2. Release of Security. Upon termination of this Agreement pursuant to this Section 10(B), Tri-State will promptly release the remaining Security to HIL Customer. Upon termination of this Agreement pursuant to this Section 10(B), Utility Member will not permit the Project to commence operation. Utility Member may resubmit the Project pursuant to the HIL Tariff in a future High Impact Load Cycle.

SECTION 11 - ASSIGNMENT

Except as provided below, neither Party will assign any of its rights, titles, or interests or delegate any of its performances under this Agreement, without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. A Party will have the right at any time and from time to time to mortgage, create, or provide for a security interest in or convey in trust its respective rights, titles, and interests in this Agreement to a lender, mortgagee, or trustee under deeds of trust, mortgages, or indentures, or to secured parties under security agreements, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior consent of the other Party, and without such lender, mortgagee, trustee, or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Party. Any lender, mortgagee, trustee, or secured party under a present or future deed of trust, mortgage, indenture, or security agreement of any Party and any successor thereof by action of law or otherwise, and any purchaser, transferee, or assignee of any thereof may, without need for the prior consent of the other Party, succeed to and acquire all the rights, titles, and interests of such Party in this Agreement, and may foreclose upon said rights, titles, and interests of such Party. Any purported assignment in violation of this Section is void.

SECTION 12 - NOTICES

Any notice, consent or other communication required to be made in writing under this Agreement will be delivered (i) in person; (ii) by certified mail (postage prepaid, return receipt requested); (iii) by nationally recognized overnight courier (charges prepaid and with signature required upon receipt); or (iv) by electronic mail (provided the sender initiates electronic tracking that confirms that the electronic mail was read by the recipient or followed up by a telephone call between sender and recipient), in each case properly addressed to the persons specified below. Any Party may, from time to time, change its contact information by sending a notice in accordance with this Section. All notices, consents, or other communications required or permitted under this Agreement that are addressed as provided in this Section are deemed given upon delivery if delivered in person, by overnight courier or certified mail or upon confirmation of receipt in the case of electronic mail. Notices will be addressed as follows:

If to Utility Member:

Attn: _____

_____@_____

If to Tri-State:

Attn: _____

_____@_____

With a copy to:

Attn: Senior Vice President and General Counsel

Tri-State Generation and Transmission Association, Inc.

at the same mailing address set forth above

SECTION 13 - MISCELLANEOUS

- A. Force Majeure Event. Neither Party will be in default of any of its obligations under this Agreement, except Utility Member's obligation to make payments as specified in this Agreement or the WESC, when a failure of performance is due to a Force Majeure Event, but only to the extent thereof. If a Force Majeure Event occurs, then the affected Party must promptly notify the other Party in writing and, as soon as practicable after the occurrence of that Force Majeure Event, use reasonable endeavors to overcome that Force Majeure Event and minimize any resulting delay in the performance of its obligations under this Agreement. Nothing contained herein, however, will be construed to require either Party to prevent or settle a strike against its will. A Force Majeure Event of the Utility Member or HIL Customer does not excuse the obligation to satisfy the minimum load and energy requirements set forth in Section 5 of this Agreement, established, maintain and/or replenish Security, or pay Tri-State for such failure consistent with Section 5 of this Agreement.
- B. Waiver. A waiver at any time of a right with respect to a default or any other matter shall not be deemed a waiver with respect to any other or a subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.
- C. No Third-Party Beneficiaries. The Parties specifically disclaim any intent to create rights in any person as a third-party beneficiary to this Agreement.

- D. Governing Law. This Agreement shall in all respects be governed by, and controlled in accordance with, the laws of the State of Colorado, irrespective of conflict of law principles.
- E. Entire Agreement. This Agreement and its Exhibits, together with the HIL Tariff, constitute the entire agreement of the Parties and supersede all prior written and oral negotiations, agreements and understandings regarding the subject matter.
- F. Amendment. This Agreement may be amended only by a written document signed by the Parties.
- G. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.
- G. Counterparts. This Agreement may be signed in one or more counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument. Delivery may be affected by actual delivery or by electronic transmission of an executed counterpart copy to the other Party. The Parties agree that this Agreement may be electronically signed. The Parties agree that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- H. Relationship of the Parties. Nothing herein contained will be construed to create an association, joint venture, trust, or partnership between the Parties.
- I. Headings. Headings used herein, such as at the beginning of articles, sections, paragraphs, and provisions, are included solely for convenience and shall not affect the meaning and interpretation of any provision of this Agreement.
- J. Waiver of Jury Trial. EACH PARTY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT.
- K. Dispute Resolution.
1. Any dispute that arises under this Agreement will in the first instance be the subject of informal negotiations between the Parties. The period for informal negotiations will not exceed fifteen (15) Days from the date the dispute arises, unless the period is extended by written agreement of the Parties. A dispute will be deemed to arise when a Party sends the other a written notice describing the issue or issues in dispute and that the dispute resolution procedures of this Section are being invoked.
 2. If the Parties are unable to resolve a dispute by informal negotiation under the preceding paragraph, the dispute will be elevated to the General Manager/Chief Executive Officer of Utility Member, and the Senior Vice President, Energy Management of Tri-State (or any successor title) (the “**Managers**”). Within thirty (30) Days after the expiration of the informal dispute resolution period, the Parties will submit a written statement of position to the Managers. The Managers will review the written statements of position and will meet and confer in an attempt to resolve the dispute. The period for Manager negotiations will not exceed fifteen (15) Days from the date the Managers receive the

Parties' statements of position, unless the period is extended by written agreement of the Parties.

3. If a dispute cannot be resolved by informal dispute resolution, any Party may seek any other remedy available to it at law or in equity.
- L. Severability. If any article, section, paragraph, clause or provision of this Agreement shall be finally adjudged by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect as though such article, section, paragraph, clause or provision or any part thereof so adjudicated to be invalid or unenforceable had not been included herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Execution Date.

Tri-State: TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

Utility Member: _____

By: _____

Name: _____

Title: _____

EXHIBIT A – PROJECT SPECIFIC INFORMATION

Delivery Point:

Expected Operation Date: _____, 20__ (subject to change pursuant to Sections 3(G) and 3(H) of this Agreement)

Expected Project Demand (in MW): ____ MW

HIL Customer:

Maximum Annual Energy: ____ MWh

Maximum Project Peak Demand: ____ MW

Project (Description):

Project Location (GPS coordinates):

Project Metering Point:

Project Metering Point Location (GPS Coordinates):

Security Amount:

MW calculation:

- (a) ____ Maximum Project Peak Demand (in MW)
- (b) ____ Application of Tri-State's planning reserve margin (in MW)
- (c) ____ Self-Supply Resource Credit (in MW), if applicable
- (d) ____ Resource RFP Acquisition Period Adjustment (in MW)

Total per MW ____ (a + b - c - d) ("Security MW")

Total Security Amount = Security MW * \$2,700,000 = \$_____

Security Amount due at Security Due Notice – Filing (Total Security Amount *.25) =
\$_____

Security Amount due at Security Due Notice – Approval (Total Security Amount) =
\$_____ (additional Security Amount of Total Security Amount *.75 = \$_____)

Security Amount due at Security Due Notice – RFP Subsequent = \$_____ (Resource RFP
Acquisition Period Adjustment*\$2,700,000) = RFP Subsequent Security Amount

_____ U.S. Dollars (\$_____) as the initial Security Amount due at Security Due Notice –
Approval that will be stepped down on the ninth (9th) anniversary prior to expiration of the Initial
Term in accordance with the following table, subject to the RFP Subsequent Security Amount
due at Security Due Notice – RFP Subsequent:

Stepdown Schedule

Anniversary Prior to Expiration of Initial Term	Security Amount ¹
	\$

Termination Date (of Agreement for Initial Term) (Section 2(A) of this Agreement): _____² after the
Operation Date, subject to early termination or extension as provided in this Agreement.

¹ Decreases by one ninth (9th) on the ninth anniversary prior to expiration of the Initial Term and thereafter. Example: for a 15-year Initial Term, the initial Security Amount is \$90 million, decreases to \$80 million on the ninth (9th) anniversary prior to expiration of the Initial Term (i.e. sixth (6th) anniversary of the Operation Date) and then \$70 million on the eighth (8th) anniversary prior to expiration of the Initial Term (i.e. seventh (7th) anniversary of the Operation Date).

² 15 years minimum is required and may not extend beyond the term of the WESC.

Metering Specifics Deviation (Section 6 of this Agreement):

EXHIBIT B – SELF-SUPPLY TARIFF - BYOR AND DISTRIBUTED RESOURCE

EXHIBIT C – EXAMPLE CALCULATION OF MINIMUM MONTHLY DEMAND CHARGE, MINIMUM MONTHLY ENERGY CHARGE, AND SELF-SUPPLY RESOURCE CREDIT

Example Calculation of MMDC and MMEC:

Given a sample monthly billing period with:

Monthly LRP Demand = 60,000 kW

Monthly LRP Energy = 43,800,000 kWh

Class A Demand Charges¹ = \$23.86 per kW-month

Class A Energy Charges = \$0.03537 per kWh

Assumes minimum monthly demand of ninety (90) percent and (b) minimum monthly energy of seventy-five (75) percent selected by Utility Member.

If:

MDQ = 50,000 kW at Billing Period TPP/MCP

MEQ = 36,000,000 kWh for Billing Period

Then:

MMD = 60,000 kW x 0.9 = 54,000 kW

MDQ of 50,000 kW < MMD of 54,000 kW, thus

SDQ = MMD of 54,000 kW – MDQ of 50,000 kW = 4,000 kW

MMDC = 4,000 kW of SDQ x \$23.86 kW-month = \$95,440

And:

MME = 43,800,000 kWh x 0.75 = 32,850,000 kWh

MEQ of 31,620,000 kWh < MME of 32,850,000 kWh, thus

SEQ = 32,850,000 – 31,620,000 = 1,230,000 kWh

MMEC = 1,230,000 kWh x \$0.03537 = \$43,505

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

Example Calculation of Self-Supply Resource Credit and Security Amount:

Given sample information for generation resource:

Generation resource listed in Exhibit B: 100 MW solar nameplate capacity

Capacity credit for solar: 5%

Maximum Project Peak Demand: 150 MW

Planning reserve margin: 30.5%

Resource RFP acquisition period: 2029-2034

Resource expected commercial operation date: 2032

Self-Supply Resource Credit = $100 \text{ MW} \times .05 = 5 \text{ MW}$

Planning reserve margin application: $150 \text{ MW} \times .305 = 45.75 \text{ MW}$

After Self-Supply Offset = $(150 \text{ MW} + 45.75 \text{ MW}) - 5 \text{ MW (Self-Supply Resource Credit)} = 190.75 \text{ MW}$

Security Amount = $190.75 \times \$2,700,000 = \$515,025,000$

Security Amount due at Security Due Notice – Filing: \$128,756,250

Security Amount due at Security Due Notice – Approval: \$515,025,000 (an additional \$386,268,750)

Example Calculation of Resource RFP Acquisition Period Adjustment and Security Amount:

Resource RFP acquisition period: 2029-2034

Maximum Project Peak Demand: 70 MW

Maximum demand of Project per LRP during Resource RFP acquisition period (Initial Resource Acquisition Peak): 50 MW

Planning reserve margin: 30.5%

Resource RFP Acquisition Period Adjustment = $26.1 \text{ MW } ((70 \text{ MW} \times 1.305) - (50 \text{ MW} \times 1.305))$

After Resource RFP Acquisition Period Adjustment = $65.25 \text{ MW } (50 \times 1.305)$

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

Security Amount for 2029-2034 RFP acquisition period = $(65.25) * \$2,700,000 =$
\$176,175,000

Security Amount due at Security Due Notice – Filing: \$44,043,750

Security Amount due at Security Due Notice – Approval: \$176,175,000 (an additional
\$132,131,250)

Security for additional 26.1 MW is later required for applicable RFP Subsequent acquisition period

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

APPENDIX B – MEMBER PROJECT REQUEST FORM



TRI-STATE Member Project Request

Application For Performing Planning Studies for New or Modified Delivery Points

MEMBER NAME: _____

PROJECT NAME: _____

IN-SERVICE DATE REQUESTED: _____

Is the proposed project in the current construction work plan?

Yes: ☐ No: ☐ Date of CWP: _____

LOCATION:

County: _____

Latitude: _____ Longitude: _____

LOAD CENTER OR PROJECT CHARACTERISTICS:

	<u>Existing</u>	<u>Proposed</u>
Delivery Voltage (kV)	_____	_____
Transformer Capacity (MVA)	_____	_____
Voltage Regulation	<input type="checkbox"/> LTC	<input type="checkbox"/> Regulators <input type="checkbox"/> None

For Tri-State Use Only

Member Project Request Code:

Date Issued:

Project Delivery Point Type: ☐ New ☐ Modified ☐ Retired

Tri-State Planning Engineer:

Initial Load /10 Year Forecast (MW): _____ x MW / x MW

Tri-State Power Markets

Designated Resource:

Tri-State OATT Admin.

ATC Availability:

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM**PURPOSE & NEED:**

Provide the reason for a new or modified DP, typical examples include:

- New large Customer
- Area load growth
- Reliability
- New Customer with planned transfers from other area DP's
- Change in delivery voltage (High or Low side of the delivery point)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

DELIVERY POINT LOAD:

Provide the following information if known for new, existing, and/or transferred load:

- **Type:** Agricultural, rural, urban, residential, commercial, industrial, mixed, etc.
- **Characteristics:** If applicable, provide data for large motors or processes that may result in service issues such as power factor, low voltage, etc.
- **Diverse/Exclusive:** Provide data for percent of existing and new load at the DP that is for a sole customer.

PROJECT DESCRIPTION:

Provide project information known: (Attach Electrical One Line, area maps, diagrams, etc.)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

LOAD PROJECTION FOR NEW / MODIFIED DELIVERY POINT

Ten Year Forecast Summer or Winter	Year	Total Member Coincident Peak-MCP (kW)	Estimated Monthly Load Factor (%)	Amount of Transferred Load From Existing Delivery Point(s) (kW)
Reference Note	(a)	(b)	(c)	(d)
0 Previous Year				
1 In-Service				
2 Second Year				
3 Third Year				
4 Fourth Year				
5 Fifth Year				
6 Sixth Year				
7 Seventh Year				
8 Eighth Year				
9 Ninth Year				
10 Tenth Year				

Table 1 – Load Projection of New/Modified Delivery Point

- (a) Provide the load forecast the year before (if applicable) and the years after with the in-service year being the year of construction completion and commercial operation.
- (b) Provide the Summer or Winter load forecast based on the higher peak season. Include new load, estimated load growth, and amount of load transferred to this new/modified DP in the applicable years projected.
- (c) Provide the estimated monthly load factor for the total load forecast
 $\text{Load Factor} = \text{Energy Consumed (kWh)} / \text{Maximum Demand (kW)} * 720 \text{ (hours)}$
- (d) Provide the estimated total load transferred from other delivery points for Summer or Winter based on the higher peak season. Loads to be transferred are to be defined in Table 2.

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

**LOAD TRANSFERRED TO THE NEW / MODIFIED DELIVERY POINT
FROM EXISTING DELIVERY POINT(S)**

Name of the Existing Delivery Point(s) Summer or Winter	Existing Member Coincident Peak Load (kW)	Member Coincident Peak Load To Be Transferred (kW)	Year Transfer Occurs
Reference Note	(a)	(b)	(c)

Table 2 – Load Projection of Transferred Load to New/Modified Delivery Point

- (a) Provide the latest Summer or Winter Member Coincident Peak load at the existing DP based on the higher peak season. Forecasted load growth to be transferred should be included on Table 1 in the years subsequent to the initial transfer.
- (b) Provide the estimated peak load to be transferred to the New or Modified DP for Summer or Winter.
- (c) The year that the transfer from the existing DP to the New/Modified DP are projected to occur.

DATE ISSUED: _____**MEMBER SYSTEM CONTACT:** _____**PHONE:** _____ **EMAIL:** _____

If you have any questions, or need assistance in completing this delivery point form, please contact the Tri-State System Planning Department as referenced below.

TSGT PLANNING ENGINEER: _____**PHONE:** _____ **EMAIL:** _____

Proposed Protective Agreement

Tri-State Generation and Transmission Association, Inc.)

Docket No. ER25-__-000

PROTECTIVE AGREEMENT

This Protective Agreement (“Agreement”) is entered into this ____ day of _____, 20____, by and between Tri-State Generation and Transmission Association, Inc. (“Tri-State”) and _____ (“Intervenor”), and shall govern the use of all Privileged Material and/or Critical Energy/Electric Infrastructure Information (“CEII”), as those terms are defined herein, produced by Tri-State to Intervenor, or vice versa, in connection with the proceeding before the Federal Energy Regulatory Commission (“Commission”) in the captioned proceeding. Tri-State and Intervenor are sometimes referred to herein individually as a “Party” and jointly as the “Parties.”

1. Tri-State filed in the above-captioned proceeding Privileged Material and/or CEII. Intervenor is a Participant in such proceeding, as the term Participant is defined in 18 C.F.R. § 385.102(b), or has filed a motion to intervene or a notice of intervention in such proceeding. Tri-State and Intervenor enter into this Agreement to govern the use of Privileged Material and/or CEII produced by, or on behalf of, Tri-State and/or Intervenor in the above-captioned proceeding.

2. The Commission’s regulations¹ and its policy governing the labelling of controlled unclassified information (CUI),² establish and distinguish the respective designations of Privileged Material and CEII. As to these designations, this Agreement provides that a Party:

- A. *may* designate as Privileged Material any material which customarily is treated by that Party as commercially sensitive or proprietary or material subject to a legal privilege, which is not otherwise available to the public, and which, if disclosed, would subject that Party or its customers to risk of competitive disadvantage or other business injury; and
- B. *must* designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a), (c).

3. For the purposes of this Agreement, the listed terms are defined as follows:

- A. Party and Parties: As defined above.
- B. Privileged Material:³

¹ Compare 18 C.F.R. § 388.112, with 18 C.F.R. § 388.113. This Agreement does not alter the respective requirements imposed by these sections on Privileged Material or CEII.

² Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff, 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

³ The Commission’s regulations state that “[f]or the purposes of the Commission’s filing requirements, non-CEII subject to an outstanding claim of exemption from disclosure under FOIA will be referred to as privileged material.” 18 C.F.R. § 388.112(a). The regulations further state that “[f]or material filed in proceedings set for trial-

- i. Material (including depositions) provided by a Party in response to discovery requests or filed with the Commission, and that is designated as Privileged Material by such Party;⁴
- ii. Material that is privileged under federal, state, or foreign law, such as work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Privileged Material by such Party;⁵
- iii. Any information contained in or obtained from such designated material;
- iv. Any other material which is made subject to this Agreement by the Presiding Administrative Law Judge (“Presiding Judge”) or the Chief Administrative Law Judge (“Chief Judge”) in the absence of the Presiding Judge or where no presiding judge is designated, the Commission, any court, or other body having appropriate authority, or by agreement of the Parties (subject to approval by the relevant authority);
- v. Notes of Privileged Material (memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Privileged Material);⁶ or
- vi. Copies of Privileged Material.
- vii. Privileged Material does not include:
 - a. Any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court; or
 - b. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Agreement.

type hearing or settlement judge proceedings, a participant’s access to material for which privileged treatment is claimed is governed by the presiding official’s protective order.” 18 C.F.R. § 388.112(b)(2)(v).

⁴ See *infra* P 11 for the procedures governing the labeling of this designation.

⁵ The Commission’s regulations state that “[a] presiding officer may, by order . . . restrict public disclosure of discoverable matter in order to . . . [p]reserve a privilege of a participant. . . .” 18 C.F.R. § 385.410(c)(3). To adjudicate such privileges, the regulations further state that “[i]n the absence of controlling Commission precedent, privileges will be determined in accordance with decisions of the Federal courts with due consideration to the Commission’s need to obtain information necessary to discharge its regulatory responsibilities.” 18 C.F.R. § 385.410(d)(1)(i).

⁶ Notes of Privileged Material are subject to the same restrictions for Privileged Material except as specifically provided in this Agreement.

- C. Critical Energy/Electric Infrastructure Information (“CEII”): As defined at 18 C.F.R. §§ 388.113(a), (c).
 - D. Non-Disclosure Certificate: The certificate attached to this Agreement, by which Parties granted access to Privileged Material and/or CEII must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Agreement, and that such Parties have read the Agreement and agree to be bound by it. All executed Non-Disclosure Certificates must be provided to the Parties.
 - E. Reviewing Representative: A person who has signed a Non-Disclosure Certificate and who is:
 - i. Commission Trial Staff designated as such in this proceeding;
 - ii. An attorney who has made an appearance in this proceeding for a Party;
 - iii. Attorneys, paralegals, and other employees associated for purposes of this case with an attorney who has made an appearance in this proceeding on behalf of a Party;
 - iv. An expert or an employee of an expert retained by a Party for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;
 - v. A person designated as a Reviewing Representative by order of the Presiding Judge, the Chief Judge, or the Commission; or
 - vi. Employees or other representatives of Parties appearing in this proceeding with significant responsibility for this docket.
4. Privileged Material and/or CEII shall be made available under the terms of this Agreement only to Parties and only to their Reviewing Representatives as provided in Paragraphs 6-10 of this Agreement. The contents of Privileged Material, CEII or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in accordance with this Agreement and shall be used only in connection with this specific proceeding.
5. All Privileged Material and/or CEII must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to Paragraphs 7-9 of this Agreement.
6. Privileged Material and/or CEII must be handled by each Party and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 9 of this Agreement. Privileged Material and/or CEII shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person’s responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Material and/or CEII, but

such copies automatically become Privileged Material and/or CEII. Reviewing Representatives may make notes of Privileged Material, which shall be treated as Notes of Privileged Material if they reflect the contents of Privileged Material.

7. If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 7, such Reviewing Representative may not use information contained in any Privileged Material and/or CEII obtained in this proceeding for a commercial purpose (e.g., to give a Party or competitor of any Party a commercial advantage):

- A. Energy marketing;
- B. Direct supervision of any employee or employees whose duties include energy marketing; or
- C. The provision of consulting services to any person whose duties include energy marketing.

8. If a Party wishes to designate a person not described in Paragraph 3.E above as a Reviewing Representative, the Party must seek agreement from the Party providing the Privileged Material and/or CEII. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 3.D of this Agreement with respect to those materials. If no agreement is reached, the matter must be submitted to the Presiding Judge, the Chief Judge, or the Commission for resolution.

9. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Material and/or CEII pursuant to this Agreement until three (3) business days after that Reviewing Representative first has executed and served a Non-Disclosure Certificate.⁷ However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Agreement, and must take all reasonable precautions to ensure that Privileged Material and/or CEII are not disclosed to unauthorized persons. All executed Non-Disclosure Certificates must be provided to the Parties.

10. Any Reviewing Representative may disclose Privileged Material and/or CEII to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Privileged Material and/or CEII are disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 3.D of this Agreement, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate

⁷ During this three (3)-day period, a Party may file an objection with the Presiding Judge or the Commission contesting that an individual qualifies as a Reviewing Representative, and the individual shall not receive access to the Privileged Material and/or CEII until resolution of the dispute.

shall continue to be bound by the provisions of this Agreement and the Non-Disclosure Certificate for as long as the Agreement is in effect.⁸

11. All Privileged Material and/or CEII in this proceeding filed with the Commission, submitted to the Presiding Judge, or submitted to any Commission personnel, must comply with the Commission's *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*.⁹ Consistent with those requirements:

- A. Documents that contain Privileged Material must include a top center header on each page of the document with the following text: CUI//PRIV. Any corresponding electronic files must also include this text in the file name.
- B. Documents that contain CEII must include a top center header on each page of the document with the following text: CUI//CEII. Any corresponding electronic files must also include this text in the file name.
- C. Documents that contain both Privileged Material and CEII must include a top center header on each page of the document with the following text: CUI//CEII/PRIV. Any corresponding electronic files must also include this text in the file name.
- D. The specific content on each page of the document that constitutes Privileged Material and/or CEII must also be clearly identified. For example, lines or individual words or numbers that include both Privileged Material and CEII shall be prefaced and end with "BEGIN CUI//CEII/PRIV" and "END CUI//CEII/PRIV".

12. If any Party desires to include, utilize, or refer to Privileged Material or information derived from Privileged Material in testimony or other exhibits during the hearing in this proceeding in a manner that might require disclosure of such materials to persons other than Reviewing Representatives, that Party first must notify both counsel for the disclosing Party and the Presiding Judge, and identify all such Privileged Material. Thereafter, use of such Privileged Material will be governed by procedures determined by the Presiding Judge.

13. Nothing in this Agreement shall be construed as precluding any Party from objecting to the production or use of Privileged Material and/or CEII on any appropriate ground.

14. Nothing in this Agreement shall preclude any Party from requesting the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority, to find this Agreement should not apply to all or any materials previously designated Privileged Material pursuant to this Agreement. The Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority may alter or amend this Agreement as circumstances warrant at any time during the course of this proceeding.

⁸ See *infra* P 19.

⁹ 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017).

15. Each Party governed by this Agreement has the right to seek changes in it as appropriate from the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), the Commission, or any other body having appropriate authority.

16. Subject to Paragraph 18, the Presiding Judge (or the Chief Judge in the Presiding Judge's absence or where no presiding judge is designated), or the Commission shall resolve any disputes arising under this Agreement pertaining to Privileged Material according to the following procedures. Prior to presenting any such dispute to the Presiding Judge, the Chief Judge or the Commission, the Parties to the dispute shall employ good faith best efforts to resolve it.

- A. Any Party that contests the designation of material as Privileged Material shall notify the Party that provided the Privileged Material by specifying in writing the material for which the designation is contested.
- B. In any challenge to the designation of material as Privileged Material, the burden of proof shall be on the Party seeking protection. If the Presiding Judge, the Chief Judge, or the Commission finds that the material at issue is not entitled to the designation, the procedures of Paragraph 18 shall apply.
- C. The procedures described above shall not apply to material designated by a Party as CEII. Material so designated shall remain subject to the provisions of this Agreement, unless a Party requests and obtains a determination from the Commission's CEII Coordinator that such material need not retain that designation.

17. The designator will have five (5) days in which to respond to any pleading requesting disclosure of Privileged Material. Should the Presiding Judge, the Chief Judge, or the Commission, as appropriate, determine that the information should be made public, the Presiding Judge, the Chief Judge, or the Commission will provide notice to the designator no less than five (5) days prior to the date on which the material will become public. This Agreement shall automatically cease to apply to such material on the sixth (6th) calendar day after the notification is made unless the designator files a motion with the Presiding Judge, the Chief Judge, or the Commission, as appropriate, with supporting affidavits, demonstrating why the material should continue to be privileged. Should such a motion be filed, the material will remain confidential until such time as the interlocutory appeal or certified question has been addressed by the Motions Commissioner or Commission, as provided in the Commission's regulations, 18 C.F.R. §§ 385.714, .715. No Party waives its rights to seek additional administrative or judicial remedies after a Presiding Judge or Chief Judge decision regarding Privileged Material or the Commission's denial of any appeal thereof or determination in response to any certified question. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Material and/or CEII in the files of the Commission.

18. Privileged Material and/or CEII shall remain available to Parties until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Privileged Material and/or CEII is concluded and no longer subject to judicial review. After this time, the Party that produced the Privileged Material and/or CEII may request (in writing) that all other Parties return or destroy the Privileged Material and/or CEII. This request must be satisfied with within fifteen (15) days of the date the request is

made. However, copies of filings, official transcripts and exhibits in this proceeding containing Privileged Material, or Notes of Privileged Material, may be retained if they are maintained in accordance with Paragraph 5 of this Agreement. If requested, each Party also must submit to the Party making the request an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Privileged Material and/or CEII. To the extent Privileged Material and/or CEII are not returned or destroyed, they shall remain subject to this Agreement.

19. Regardless of any order terminating this proceeding, this Agreement shall remain in effect until specifically modified or terminated by the Presiding Judge, the Chief Judge, or the Commission. In the event this Agreement terminates, the obligations of Reviewing Representatives to maintain the confidentiality of Privileged Material and/or CEII as provided hereunder shall remain in effect for eighteen (18) months following the date of termination. All CEII designations shall be subject to the “[d]uration of the CEII designation” provisions of 18 C.F.R. § 388.113(e).

20. Any violation of this Agreement and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives as of the date first set forth above.

By:_____

By:_____

Name:_____

Name:_____

Title:_____

Title:_____

Representing: Tri-State Generation and
Transmission Association, Inc.

Representing: Intervenor

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the Protective Agreement dated _____, 20____ by and between Tri-State and [Intervenor] concerning materials in Federal Energy Regulatory Commission Docket No. ER25-____-000 ("Protective Agreement"), that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of Privileged Material and/or CEII, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Agreement. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By:_____

Printed Name:_____

Title:_____

Representing:_____

Date:_____

Attachment A
List of Filing Recipients:
State Utility Commissions

State Utility Commissions:

Colorado Public Utilities Commission 1560 Broadway, Suite 250 Denver, CO 80202 Main Number 303-894-2000	Nebraska Power Review Board 301 Centennial Mall South Lincoln, Nebraska 68508 Main Number 402-471-2301
New Mexico Public Regulation Commission Bokum Building 142 W Palace Avenue Santa Fe, NM 87501 Main Number 1-888-427-5772	Wyoming Public Service Commission 2515 Warren Avenue, Suite 300 Cheyenne WY 82002 Main Number 307-777-7427

Exhibit No. D8-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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)
)
)

Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
DANIELLE BRADBERRY
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
DANIELLE BRADBERRY
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Danielle Bradberry. I am Vice President of Finance at Tri-State Generation and Transmission Association, Inc. (“Tri-State”). My business address is 1100 West 116th Avenue, Westminster, Colorado 80234.

Q. Please briefly describe your educational background and employment history.

A. I joined Tri-State 15 months ago in my current role. Prior to working for Tri-State, I worked for ENGIE North America, Inc. (“ENGIE”) for over 15 years. I spent my last 7 years at ENGIE in a similar role with responsibility for Treasury, Finance, Insurance, Credit, and Risk. Before ENGIE, I spent 15 years of my career focused on project and corporate finance in the energy space working as both a banker and for a number of large investor-owned utilities and independent power producers.

1 **Q. Please describe your duties and responsibilities as Vice President of Finance at Tri-**
2 **State.**

3 **A.** I am responsible for managing the Finance and Risk organization at Tri-State. I oversee
4 treasury, corporate finance, investor/bank/rating agency relations, insurance, counterparty
5 and commodity risk, and enterprise risk management.

6 **Q. What is the purpose of your testimony in this proceeding?**

7 **A.** The purpose of my testimony is to discuss the use and function of security in Tri-State’s
8 High Impact Load Tariff (“HILT”). This includes the risk of high impact loads (“HIL”) and how those risks can be mitigated, the different types of security arrangements in the
9 HILT, how security amounts are calculated and replenished, the concept of a stepdown,
10 and the effects of default on security.
11

12 **Q. Have you provided testimony in prior proceedings before the Federal Energy**
13 **Regulatory Commission (“FERC” or “Commission”)?**

14 **A.** No.

15 **Q. Are you sponsoring any exhibits in connection with your testimony?**

16 **A.** No.

17 **II. SECURITY**

18 **Q. What is the purpose of financial security in contracts?**

19 **A.** Security, or collateral, is intended to provide payment or performance assurance for
20 obligations that a counterparty enters into over a defined contract life. It is used to mitigate
21 the exposures above a threshold amount that a party is comfortable with for a counterparty.
22 Security is typically required when a counterparty is: (a) not credit worthy; (b) a newly
23 formed entity; (c) a special purpose entity; (d) is entering into a contract presenting large

1 exposures; or (e) when there is a change in the credit profile of a counterparty over time.
2 Security may take various forms including cash deposit, a letter of credit, or a guaranty
3 from a credit-worthy affiliate or parent. Credit support terms are typically negotiated by
4 parties at the inception of an agreement. If the counterparty fails to perform its obligations
5 during the contract life, the other party can draw on the security pursuant to the contract.

6 **Q. How is security used in Tri-State's HIL Agreement?**

7 **A.** The parties to the HIL Agreement ("HILA") are Tri-State and the Utility Member whose
8 customer seeks to interconnect a HIL. The HILA requires the Utility Member's customer
9 (*i.e.*, the HIL customer) to provide collateral to Tri-State as payment assurance under the
10 HILA, because Tri-State must, in turn, acquire resources to supply the load of Tri-State's
11 Utility Members, including the load related to the HIL customer.

12 It is appropriate for the HIL customer to provide collateral to support such resource
13 acquisition because the HIL customer's new load will be significant in size in the context
14 of Tri-State's resource planning and will likely require Tri-State to acquire additional
15 resources outside of its normal four-year resource acquisition period—resources which Tri-
16 State will be obligated to pay for regardless of the HIL customer's performance. Tri-State's
17 contractual right to call on this security avoids socializing the risk of the HIL customer's
18 performance across Tri-State's entire membership.

19 **Q. Are there unique risks associated with HILs specific to generation and transmission**
20 **cooperatives?**

21 **A.** Yes. As explained in the testimony of Witness Ms. Lisa K. Tiffin, Exhibit LKT-001, as a
22 generation and transmission cooperative, both the potential financial benefits from
23 thoughtful load growth and the potential financial burdens from stranded assets or

1 regulatory penalties, are directly paid for by Utility Members through their wholesale rate.
2 It would be inappropriate for Tri-State to enter into contracts to procure generation
3 resources but pass those costs to its Utility Members if the load did not materialize or left
4 the system, especially given the potential size of a HIL compared to Tri-State's average
5 load.

6 **Q. What are the risks that security for a HIL project would mitigate?**

7 **A.** The security is intended to help mitigate the risks to Tri-State's Utility Members if a HIL
8 customer's load does not fully materialize within the expected timeline (for example, a load
9 comes online late), not at all, ceases operations before the expiration of the HILA term, or
10 does not come online at the level of load originally anticipated (for example, below the
11 monthly demand or energy requirements). The collateral obligation would also be used to
12 protect Tri-State's membership from a HIL customer with a weak credit profile, because
13 security is used in part to mitigate against payment issues.

14 **Q. Is the security for a HIL project intended to mitigate similar risks for transmission**
15 **investment?**

16 **A.** No, the security amount associated with the HILT is not intended to mitigate risks for
17 transmission investment. Transmission risk is handled according to the applicable Open
18 Access Transmission Tariff ("OATT") and the applicable facilities construction agreement.

19 **Q. How did Tri-State determine the security amount to be used for the HILT?**

20 **A.** Tri-State based the amount of security on costs for capacity referenced in its recent
21 Commission-approved cost-based rate of \$14.78 per kilowatt-month ("kW-month"). This
22 security amount may be revised via a future FERC filing if Tri-State conducts a resource
23 planning process which confirms that market capacity prices have changed.

1 The \$2.7 million per MW of security set forth in the HILA was calculated by
2 rounding the market price of capacity to \$15.00 per kW-month, which becomes \$180,000
3 per kilowatt-year (\$15,000 for one MW multiplied by 12 months), multiplied by a
4 minimum HILA term of 15 years, which equals \$2.7 million per MW.

5 As provided in the HILA, Tri-State is proposing to calculate the amount of security
6 based on the Maximum Project Peak Demand plus Tri-State's planning reserve margin in
7 effect at the time the final Participation Package is received by Tri-State. Given that this
8 security amount will remain posted and available to Tri-State for at least the first full cycle
9 of Tri-State's Bring Your Own Resource ("BYOR") Program (discussed further below), I
10 believe this level of security is prudent because it protects Tri-State's Utility Members from
11 cost shifts based on known capacity costs and thus ensures that only the entity creating the
12 risk – *i.e.*, the HIL customer – bears the financial risk in the event the HIL does not
13 materialize as anticipated in an amount commensurate with Tri-State's anticipated costs for
14 the HIL project.

15 **Q. Are there any potential reductions in the collateral requirement?**

16 **A.** Yes. As detailed in the HILT, Tri-State would reduce the collateral requirement on a *pro*
17 *rata* basis for any self-supply resources awarded to a Utility Member during a BYOR cycle
18 associated with a HIL.¹ Tri-State is able to reduce the amount of collateral on a *pro rata*
19 basis because the Utility Member is offsetting the amount of new resources Tri-State will
20 need to procure through a BYOR project. Thus, Tri-State no longer needs to utilize the

¹ Under the BYOR Program, Utility Members may own or contract for the development of power supply resources up to 40 percent of the Utility Member's load. See Tri-State Wholesale Electric Service Contracts, Rate Schedule No. 371, BYOR Program Tariff (0.0.0). The BYOR program is administered through BYOR Program Cycles, which occur once every two years, and include, among others, a Utility Member's BYOR project proposal and Tri-State's evaluation of the BYOR project proposal. *Id.*

1 security provided under the HILT to protect against the risk that HIL-related costs may
2 become socialized across other Utility Members.

3 **Q. Is the proposed security amount commercially reasonable?**

4 **A.** Since the proposed security amount reflects Tri-State's cost of capacity and accounts for
5 anticipated market constraints, economic factors, and will be the basis of what Tri-State
6 will need to commit to resource project developers to acquire the resources needed to
7 support HIL customers, I believe this amount is commercially reasonable.

8 Mr. Steven W. Wishart's testimony, Exhibit No. SWW-001, provides further detail
9 regarding how other utilities approach security for HILs. His testimony mentions that, on
10 average, other utilities have collateral requirements equivalent to seven years of minimum
11 billing under their tariffs. The HILT provides two options to HIL customers for minimum
12 load and energy, and each have the same collateral requirement. Depending on the load
13 option selected, the collateral requirement is equivalent to six to eight years of revenue
14 under the HILA. As such, Tri-State's proposed security amount under the HILT is
15 consistent with the average collateral requirements in the industry.

16 **Q. Who is providing security under the HILT?**

17 **A.** The HIL customer of the Utility Member under the HILA provides the collateral to Tri-
18 State. Since Tri-State will be committing to securing additional resources on behalf of the
19 HIL customer for its system and therefore undertaking the financial risk associated with
20 HIL interconnection, it is appropriate that Tri-State manage the collateral rather than having
21 a Utility Member hold the collateral.

22

1 **Q. What is the relationship between a Utility Member's obligations for the HILT and**
2 **HIL customer-provided security?**

3 **A.** A Utility Member will pay Tri-State for energy and demand obligations at Tri-State's Class
4 A Member Rate. Tri-State may draw on the collateral and use it as an offset to reduce the
5 transmission revenue requirement charged to its Utility Members in certain circumstances.
6 For example, Tri-State may draw on the collateral if the HIL customer does not meet the
7 minimum demand or energy levels, the monthly invoice for such is not paid, or if the
8 monthly invoice remains unpaid or underpaid for any other reason. The collateral can also
9 be drawn in the event the collateral is no longer acceptable—*i.e.*, the guarantor or bank no
10 longer meets Tri-State's defined criteria (and is not replaced within a cure period) or if the
11 collateral is about to expire (and will not be replaced within the requisite period). Collateral
12 can also be drawn if the HILA is terminated or the host Utility Member otherwise defaults
13 under the HILA.

14 **Q. What are the options for providing the security and how did Tri-State determine**
15 **them?**

16 **A.** The HILT allows for acceptable credit support to be provided in the form of: (a) cash
17 pursuant to an escrow arrangement; (b) a letter of credit; (c) guaranty; or (d) a combination
18 of any of the above.

19 If security is provided in the form of cash pursuant to an escrow agreement, Tri-
20 State and the HIL customer will enter into an escrow agreement with an acceptable
21 financial institution. The HIL customer will be able to direct the investment of such cash
22 into permitted low-risk investments such as money market funds, and all interest of such

1 investment will accrue to the benefit of the HIL customer. The HIL customer will be able
2 to withdraw such excess funding from the escrow account on a periodic basis.

3 If security is provided in the form of a letter of credit, the letter of credit will be
4 issued by an acceptable financial institution. The HILA defines the requirements of an
5 acceptable financial institution as a bank with a minimum net worth of \$20 billion and a
6 credit rating equal to A- or better from at least two rating agencies, one of which must be
7 S&P or Moody's. This "acceptable financial institution" requirement is the same that Tri-
8 State imposes for accepting letters of credit under Tri-State's Open Access Transmission
9 Tariff.² Tri-State's proposed credit rating requirements are also consistent with other
10 utilities and regional transmission organizations.³

11 If security is provided in the form of a guaranty, the guaranty will be provided from
12 a guarantor with a minimum credit rating of BBB+ or equivalent (as defined by the lowest
13 credit rating from any rating agency, provided that they are rated by either S&P or Moody's,
14 or both) and a minimum net worth of at least \$500 million. The amount of security that
15 may be in the form of a guarantee under the HILA cannot exceed two percent of the tangible
16 net worth of the guarantor nor \$150 million. Security amounts above that will have to be
17 provided as either cash pursuant to an escrow agreement or a letter of credit. The \$150
18 million cap is roughly 10 percent of Tri-State's annual revenue, and such a cap is intended
19 to limit concentration risk on any single counterparty. In my experience, Tri-State's
20 proposed security framework reflects the traditional forms of credit support and payments

² See Tri-State Generation and Transmission Association, OATT, Attachment L (Creditworthiness Procedures) (1.0.0).

³ See Southwest Power Pool, Inc., OATT Attachment X (Credit Policy), § 7.1.3.2 (2.0.0).

1 of security that Tri-State typically uses when dealing with third parties. In my view, Tri-
2 State's proposed security terms are commercially reasonable insofar as they are
3 substantially similar to the security terms that are customarily utilized in the industry.
4 Because guarantees are unsecured, Tri-State has proposed a two percent cap on the net
5 worth of the guarantor to ensure that the majority of the security provided is in the form of
6 secured collateral.

7 **Q. When is security due?**

8 **A.** Security is due in two phases, which are tied to the Colorado Public Utility Commission's
9 ("Colorado PUC") resource planning timelines for Tri-State's entire footprint. Once Tri-
10 State files its resource implementation plan with the Colorado PUC, Tri-State will send
11 notice of the filing to those Utility Members that have an executed HILA. A HIL customer
12 must provide 25 percent of the security amount within 10 days following the Utility
13 Member's receipt of that notice. Once the resource implementation plan is approved by
14 the Colorado PUC, Tri-State will again send a notice of approval to those Utility Members
15 with an executed HILA. A HIL customer must then provide the remaining 75 percent of
16 the security amount within 10 days after a Utility Member's receipt of that notice.

17 However, if the HIL customer's load is located in the Eastern Interconnection and
18 served pursuant to Basin Electric Power Cooperative's ("Basin") Wholesale Power
19 Contract, Tri-State's security deadlines may include notifying Basin and complying with
20 any Basin-required processes or procedures related to security. Furthermore, the HIL
21 customer's security amount will be directly pro-rated based on the portion of the load that
22 the HIL customer has forecasted during the applicable resource acquisition period. This
23 means that, for example, if a 100 MW HIL (plus applicable planning reserve margin)

1 project's load ramp has 50 MW planned in the current resource acquisition period and 50
2 MW planned in the subsequent resource acquisition period, half of the security amount
3 would be due in each resource acquisition period.

4 **Q. When will security be drawn on?**

5 **A.** Security can be drawn under the limited circumstances stated in the HILA, including in an
6 event of default by the Utility Member, certain actions of the HIL customer such as ceasing
7 operations, breaching its contract with the Utility Member, failing to reach commercial
8 operation, failing to maintain the security, and payment defaults (including default for
9 failing to meet the minimum demand and energy requirements).

10 **Q. How does replenishment of security work under the HILT?**

11 **A.** If the security is drawn upon prior to the termination of the HILA, the HILA requires that
12 the security be restored to the required security amount stated in the HILA at that time.

13 **Q. What happens if security is insufficient to cover HILA termination events?**

14 **A.** If the HILA is terminated due to an event of default by the Utility Member or due to certain
15 actions by the HIL customer as set forth in section 10(A) of the HILA and the security
16 amount is not sufficient to cover the costs of such events, the Utility Member will be
17 invoiced for any shortfall between the security amount and the required termination
18 amount. Because Tri-State does not have a contract directly with the HIL customer, Tri-
19 State will invoice the Utility Member for any shortfall, and the Utility Member will need
20 to recover such amounts pursuant to its contract with the HIL customer.

21 **Q. What happens if there is excess security?**

22 **A.** Tri-State would only be entitled to draw security for any amounts due at that time from the
23 Utility Member. For example, if there is a HILA termination event and an escrow security

1 covers more than the termination amount, the excess amount would be refunded to the
2 Utility Member, and that Utility Member would be responsible for refunding such amount
3 to the HIL customer. Upon satisfaction of the termination amount when a guaranty or letter
4 of credit was provided, the instrument would be returned to the Utility Member and noted
5 as paid. The Utility Member would then return the security amount to the HIL customer.

6 **Q. How does a stepdown work generally?**

7 **A.** The stepdown in credit support would reflect the reduction in Tri-State's risk related to the
8 HIL customer as Tri-State meets its obligations for having procured the resources to serve
9 its additional system load through monthly billing payments from the HIL customer to the
10 host Utility Member, and, in turn, to Tri-State.

11 **Q. Why is Tri-State using a stepdown here?**

12 **A.** I believe utilizing a stepdown under the HILT is prudent to ensure that the HIL customer is
13 not unduly burdened over time, and it more accurately reflects the remaining risk exposure
14 of a HIL customer.

15 **Q. How did Tri-State determine the number of years for the stepdown?**

16 **A.** The stepdown will kick in during the last nine years of the HILA term and reflects the
17 decline in exposure of Tri-State's membership to the HIL customer. On an annual basis
18 commencing on the ninth anniversary prior to expiry, the security amount will decrease by
19 one ninth of the original security amount. This will reduce the security to zero at the expiry
20 of the HILA. The stepdown period ensures that the HIL customer has met its obligations
21 over time and ensures that Tri-State is adequately protected when sourcing new resources.
22 Given that security is based only on the amount of capacity and cost of capacity, the
23 security provided under the HILA does not cover all costs of procuring the necessary

1 resources, such as the cost of Tri-State's energy payments. As a result, the stepdown is
2 delayed to ensure Utility Members are protected because the revenues in the first years of
3 the HILA term do not go just to paying off the cost of capacity.

4 **Q. Does this conclude your testimony?**

5 **A.** Yes.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read
and know the contents of the foregoing testimony and any exhibits attached thereto;
and they were prepared by me or under my direct supervision; and that the answers contained
therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 25, 2025


/s/ 

Exhibit No. LKT-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
LISA K. TIFFIN
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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LIST OF EXHIBITS

Exhibits

Exhibit No. LKT-002	Tri-State Load and Resource Table
Exhibit No. LKT-003	Analysis of Five Years of Historical Load Requests

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
LISA K. TIFFIN
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Lisa Tiffin. I am Senior Vice President, Energy Management at Tri-State Generation and Transmission Association, Inc. (“Tri-State”). My business address is 1100 West 116th Avenue, Westminster, Colorado 80234.

Q. Please briefly describe your educational background and employment history.

A. I have 30 years of experience in the electric utility industry. I have worked for Tri-State for 18 years, non-consecutively, and have served in a variety of management leadership roles within the organization focused on energy planning, management, and delivery. These roles included overseeing teams supporting day-ahead trading and scheduling, budgeting and forecasting, resource planning, state regulatory affairs, and analytics. In my current role, I oversee Tri-State’s long-term generation resource plan, load forecasting, merchant transmission function, marketing and trading operations, resource acquisition and state regulatory affairs.

1 Prior to joining Tri-State, I worked in consulting, bulk electric system marketing
2 and operations, and energy transportation and sales for the Structure Group, Illinois
3 Municipal Electric Agency, Freeman Energy, and ABB Power T&D. I have a Bachelor's
4 of Science degree in Political Science from MacMurray College in Illinois and held a North
5 American Electric Reliability Corporation ("NERC") Balancing Interchange and
6 Transmission Operator certification for 18 years.

7 **Q. What is the purpose of your testimony in this proceeding?**

8 **A.** The purpose of my testimony is to support Tri-State's High-Impact Load Tariff ("HILT")
9 filing before the Federal Energy Regulatory Commission ("FERC" or "Commission").
10 Generally, I will describe the planning risks and challenges that Tri-State is facing due to
11 the large number of Utility Member requests seeking to add significant high impact loads
12 ("HILs") onto the Tri-State system, provide an overview of the HIL program that Tri-State
13 is proposing through a new tariff, and thoroughly explain the specific HIL program
14 components that Tri-State developed with its Utility Members and data center developers.

15 **Q. Have you provided testimony in prior proceedings before FERC?**

16 **A.** Yes. I submitted pre-filed testimony on behalf of Tri-State in Docket Nos. ER21-2818-
17 000, ER23-2171-000, and ER24-2171-000.

18 **Q. Are you sponsoring any exhibits in connection with your testimony?**

19 **A.** Yes. I am sponsoring the following exhibits, which are attached to and made a part of my
20 testimony:

- 21 • **Exhibit No. LKT-002:** Tri-State Load & Resources Table
- 22 • **Exhibit No. LKT-003:** Analysis of Five Years of Historical Load Requests

1 **Q. What other witnesses provide testimony on behalf of Tri-State in this proceeding?**

2 **A.** My testimony also serves to introduce the following witnesses and the purpose of their
3 testimony:

- 4 • Ryan Hubbard sponsors testimony to provide an overview of the transmission-
5 related aspects of the proposed HILT (Exhibit No. RH-001);
- 6 • Raymond P. McHugh sponsors testimony to describe the HILT's relationship to Tri-
7 State's Commission-accepted Utility Member rate (Exhibit No. RPM-001);
- 8 • Danielle Bradberry sponsors testimony to support the financial security
9 components of the HILT (Exhibit No. DB-001);
- 10 • Matthew Haag sponsors testimony to explain how the HILT interacts with Tri-
11 State's current Utility Member system planning process (Exhibit No. MH-001); and
- 12 • Steven W. Wishart sponsors testimony to provide nationwide industry context
13 supporting the necessity and composition of the HILT (Exhibit No. SW-001).

14 **II. THE EXISTING RESOURCE PLANNING PROCESS AT TRI-STATE AND THE**
15 **CHALLENGES OF NEWLY EMERGING HIGH-IMPACT LOAD REQUESTS**

16 **Q. How does Tri-State currently conduct resource planning?**

17 **A.** Fundamentally, Tri-State's resource planning process creates an Electric Resource Plan
18 ("ERP") to meet forecasted energy and demand obligations over a twenty-year period. The
19 ERP models existing resources, new resources, and/or market purchases, in light of
20 environmental and transmission constraints, while complying with applicable federal and
21 state statutory and regulatory obligations. The ERP seeks to optimize the data for the most
22 economical and reliable decisions.

1 A key input to the planning process is the most recent long-term base load forecast,
2 as developed annually through an interactive process with Tri-State's Utility Members.
3 Tri-State also updates a variety of other pivotal modeling inputs, such as: generation unit
4 characteristics, environmental constraints, transmission limitations, and commodity
5 pricing, among many others. Tri-State inputs all of the load and resource data into planning
6 models to analyze outcomes under varying scenarios. The scenario modeling outputs
7 enable Tri-State to determine a least cost, reliable, and responsible expansion plan to meet
8 capacity needs and enable evaluation of a related hourly energy dispatch. The scenario
9 modeling outputs are also fed into transmission planning and financial models to arrive at
10 forecasted total resource plan costs, including transmission and generation capital
11 expenses.

12 The load forecast, along with firm sales obligations, is compared to the available
13 resources to produce an overall load and resource ("L&R") balance. For example, see Tri-
14 State's most recent L&R table in Exhibit No. LKT-002. The L&R balance demonstrates
15 the resource adequacy of each scenario by taking into consideration the capacity credit of
16 existing and planned resources as compared to forecasted peak, firm obligations, and
17 sufficient planning reserve margin, which is the additional resource capacity credit held to
18 allow for reliable operations at times of unanticipated or adverse system conditions.
19 Evaluating and demonstrating the ability of planned generation to adequately meet each
20 year's peak load forecast is a necessary foundation for enabling reliability in real-time
21 system operations.

22 Tri-State's transmission planning processes are separate from the ERP process;
23 however, the ERP does evaluate indicative transmission expansion needs associated with

1 generation planning and forecasted costs for interconnection upgrades to accommodate
2 new generation, though it is not a comprehensive transmission planning analysis.

3 **Q. Please briefly describe the challenges that Tri-State faces in planning for and**
4 **acquiring generating resources.**

5 **A.** Tri-State's mission as a not-for-profit association is to provide its Utility Members with a
6 reliable, affordable, and responsible supply of electricity in accordance with cooperative
7 principles. Tri-State's approach to its mission is guided by, and implemented at the
8 direction of, Tri-State's Board of Directors which includes representation from each Utility
9 Member.

10 In the context of Tri-State's mission, "reliable" means not only complying with
11 applicable NERC standards, Western Electricity Coordinating Council ("WECC")
12 standards, and applicable balancing authority and regional markets requirements, but also
13 developing and managing a resource portfolio that can meet the needs of all of Tri-State's
14 Utility Members in each of the four states in which they are located, as well as applicable
15 Tri-State Board Policies and federal, state, and local laws, rules, and regulations. This is
16 increasingly challenging because Tri-State is moving rapidly to a resource portfolio that
17 includes a significant increase in intermittent, renewable energy resources. Tri-State has
18 developed two sets of reliability metrics—Level 1 Reliability Metrics, which establish a
19 planning reserve margin aimed at limiting loss of load to a one day in ten-year threshold,
20 and Level 2 Reliability Metrics, which establish minimum reliability thresholds for
21 simulated extreme weather event modeling—for use in all resource plan modeling
22 scenarios to ensure system reliability is planned for Tri-State's Utility Members in both
23 normal seasonal peak periods and in extreme weather events.

1 “Affordable” means seeking the least-cost solutions for serving Tri-State’s Utility
2 Members. It also means keeping in mind that Tri-State’s Utility Members serve some of
3 the most economically challenged regions in our multistate service area, where the cost of
4 electricity is a significant quality of life consideration, as well as mountainous terrains
5 where extreme temperatures can become life-threatening without reliable power for
6 heating, cooling, and essential services. As the nation moves toward an increasingly
7 electrified economy, the cost of electricity must remain affordable so that the end-use
8 customers served by Tri-State’s Utility Members can take advantage of beneficial
9 electrification opportunities and realize benefits in the transition to a clean energy grid,
10 while maintaining service reliability. Tri-State is currently undergoing what is planned to
11 be the largest resource acquisition in its almost-80-year history just to meet normal load
12 growth and moderate beneficial electrification. This is occurring during a time of
13 significant change in the overall mix of resources on the grid, resulting from the retirement
14 of traditional dispatchable resources, as well as economic and regulatory forces. Economic
15 impacts resulting from policy changes, such as tariffs and changes to resource tax credits,
16 and potential for changes to federal funding availability, create additional resource price
17 pressures and supply chain risks that result in additional challenges for resource
18 acquisitions.

19 “Responsible” means that Tri-State is responsible and responsive to its Utility
20 Members, its employees, and the communities they serve, as well as those areas where Tri-
21 State’s transmission and generation facilities are located, and gives consideration to
22 environmental factors and regulatory requirements. Additional factors in Tri-State’s
23 resource planning include maintaining a diverse technology mix to support system

1 resilience and adaptability and evaluating local siting and economic development impacts.

2 I discuss these requirements further in Section VI.

3 **Q. How does Tri-State conduct resource planning among its Eastern Utility Members?**

4 **A.** The majority of Tri-State's Utility Members' systems are located in the Western
5 Interconnection, while a small subset of Utility Members' systems are either fully or
6 partially located in the Eastern Interconnection. Tri-State's Eastern Utility Members' load
7 is supplied through a full requirements contract with Basin Electric Power Cooperative
8 ("Basin"). As a result, Basin is responsible for incorporating Tri-State's Eastern Utility
9 Members' loads into its resource planning processes.

10 **Q. Is Tri-State's resource planning process regulated?**

11 **A.** Yes. Beginning in 2020, the Colorado Public Utilities Commission ("Colorado PUC") has
12 regulated Tri-State's system-wide resource planning.¹ No other state in which Tri-State
13 operates requires regulatory oversight of Tri-State's resource planning.

14 **Q. How is Tri-State's resource planning process regulated by the Colorado PUC?**

15 **A.** The statute and rules creating the Colorado PUC's oversight of Tri-State's ERP provide
16 that the ERP must "meet[] the energy policy goals of the state." This is done through a
17 two-phase process explained in this answer.

18 Tri-State employs a robust resource planning process utilizing industry-standard
19 software for expansion plan and dispatch modeling. Tri-State's resource plan and resource
20 acquisitions, including those to accommodate changes to load on our system, are subject
21 to state regulatory requirements that culminate with Tri-State's ERP being subject to

¹ See COLO. REV. STAT. § 40-2-134 (2024); 4 C.C.R. 723-3-3605 (2024).

1 Colorado PUC approval. Even so, Tri-State plans its generation on a system-wide basis,
2 inclusive of Wyoming, Nebraska, Colorado, and New Mexico, for the collective benefit of
3 all its Utility Members. The ERP reviewed by the Colorado PUC is a systemwide plan
4 analyzed under a two-phase process required every four years and involves extensive
5 engagement with stakeholders from across Tri-State's system before, during, and after the
6 proceeding. All potential resource acquisitions or retirements are reflected in Tri-State's
7 ERP and are evaluated through this regulated process.

8 Phase I of the ERP identifies generation quantities (in Megawatts ("MWs")),
9 resource types (technologies), regions of the system, and timing of resource needs for
10 meeting load requirements over a twenty-year forecast period. Phase I modeling includes
11 the development of an expansion plan, which must meet certain performance criteria and
12 policy objectives, based on assumed generic resource characteristics. The outcome of
13 Phase I of the ERP is a long-term vision for future generation additions, modifications, and
14 retirements.

15 Phase II of the ERP begins with Tri-State issuing a competitive solicitation for new
16 resource bids, aligned to the Phase I plan's resource needs. Phase II modeling results in
17 Tri-State's selection of a preferred portfolio of bids that meets Tri-State system needs and
18 timing and also implements Colorado PUC directives resulting from the ERP proceeding.
19 Tri-State uses an independent evaluator to oversee the Phase II bid selection process.
20 Following Colorado PUC approval or modification of the preferred portfolio, Tri-State
21 initiates next steps for resource procurements or retirements.

22 Subsequent to Phase II of the ERP, if Tri-State's preferred portfolio includes the
23 selection of Tri-State-owned resources located in Colorado, siting of those resources may

1 also require Tri-State to obtain a siting certificate—Certificate of Public Convenience and
2 Necessity (“CPCN”)—from the Colorado PUC, through a separate proceeding. A CPCN
3 is not required for power purchase agreements (“PPAs”). Other regulatory processes in
4 New Mexico, Nebraska, or Wyoming may be required for similar siting certificates for
5 resource construction in those states.

6 **Q. Does the Colorado PUC allow for limited resource plan modifications without**
7 **regulatory approval?**

8 **A.** Yes. Reasons for these limited modifications include:

- 9 • capacity and/or energy from newly constructed, utility-owned, supply-side resources
10 with a nameplate rating of not more than 20 MW;
- 11 • capacity and/or energy from the generation facilities of other utilities or from non-
12 utility generators pursuant to agreements for not more than a two-year term (including
13 renewal terms) or for not more than 20 MW of capacity;
- 14 • improvements or modifications to existing utility generation and energy storage
15 facilities that change the production capability of the generation facility site in question,
16 by not more than 20 MW, based on the utility’s share of the total power generation at
17 the facility site and that have an estimated cost of not more than \$30 million; and/or
- 18 • modification to, or amendment of, existing PPAs, provided the modification or
19 amendment does not extend the agreement more than four years, does not add more
20 than 20 MW of capacity to the utility’s system, and is cost effective in comparison to
21 other supply-side alternatives available to the utility.

22

23

1 **Q. Please briefly explain Tri-State's ERP cycles, including out-of-cycle procurements.**

2 **A.** The Colorado PUC's ERP process involves a defined cycle for resource procurement, with
3 limited exceptions. Tri-State's next ERP Phase I filing, pursuant to Colorado PUC rules,
4 is due June 1, 2027, and every four years thereafter.

5 Tri-State may also choose to file an interim ERP in between the required four-year
6 cycles. The application for an interim ERP must state the reasons and changed
7 circumstances that justify the interim filing. Alternatively, Tri-State may file an application
8 to amend the contents of an approved plan at any time. Specifically, the Colorado PUC
9 requires that the amended plan "shall identify each proposed amendment [and] shall state
10 the reason for each proposed amendment[.]" This option allows Tri-State to seek approval
11 without opening a new two-phase ERP proceeding by relying on past approvals and filings
12 to support its amended plan. Tri-State also has the ability to seek a waiver or variance, for
13 good cause shown, from Colorado PUC rules or substantive requirements contained in
14 Colorado PUC decisions.

15 **Q. You mentioned planning reserve margins. Can you briefly describe how planning**
16 **reserve margins are determined on the Tri-State system?**

17 **A.** Tri-State's Level 1 Reliability Metrics establish a planning reserve margin aimed at limiting
18 loss of load to a one day in ten-year threshold. To determine the planning reserve margin,
19 Tri-State uses a consulting firm with industry expertise to prepare a study for the
20 development of planning reserve margins and related resource accreditation to determine
21 capacity credit and effective load carrying capability of various technologies in its resource
22 mix. These studies use historical load, resource, weather and other system data,
23 incorporating the transmission and environmental complexity of the Tri-State system, to

1 perform stochastic modeling to determine the amount of planning reserve margin required
2 to limit forecasted outages to an industry standard of not more than one day of load loss in
3 ten years while taking into consideration that only a percentage of nameplate capacity for
4 each resource type (technology) is truly available at times of system peak.

5 As Tri-State is a summer peaking system, the planning reserve margin developed
6 through stochastic modeling is oriented around summer peak load and firm obligations to
7 produce a summer peak planning reserve margin. Tri-State has increased its summer peak
8 planning reserve margin, based on its last consultant study, from 15 percent to 22 percent
9 in the near term and 30.5 percent in 2028, due to resource retirements.

10 Tri-State's planning reserve margin is submitted to the Colorado PUC as part of its
11 ERP for review and approval. The Colorado PUC does not set required planning reserve
12 margins, but it is Tri-State's obligation to provide sufficient data from its consultant study
13 to prove the adequacy of the proposed planning reserve margin and receive approval from
14 the Colorado PUC. Tri-State does not currently have a winter peak planning reserve margin
15 requirement as it is a summer peaking system. However, given changes to Tri-State's
16 resource mix, it plans to engage a consultant to develop this metric, which will be submitted
17 for approval in a future Colorado PUC ERP proceeding.

18 **Q. Are there other systems for which Tri-State must determine planning reserve**
19 **margins?**

20 **A.** Tri-State's load in the Eastern Interconnection is located in the Southwest Power Pool, Inc.
21 Regional Transmission Organization ("SPP RTO") and is served through a full
22 requirements contract with Basin. Basin adheres to the SPP RTO's resource adequacy
23 program for this load. Additionally, a portion of Tri-State's Western Interconnection load

1 is anticipated to move into the SPP RTO on April 1, 2026. That portion of Tri-State's load
2 will be subject to SPP RTO's resource adequacy program requirements. SPP's Open
3 Access Transmission Tariff ("OATT") reflects a FERC-approved resource adequacy
4 methodology for determining planning reserve margin in a manner very similar to Tri-
5 State's consultant's methodology. The SPP RTO has transitioned to separate summer and
6 winter peak planning reserve margin requirements.

7 Tri-State will plan its system in a manner that meets the most stringent planning
8 reserve margin requirements: either Colorado PUC-approved system-wide margins or the
9 market-specific planning reserve margin for applicable portions of the footprint.

10 **Q. Does Tri-State have reliability metrics beyond minimum planning reserve margins?**

11 **A.** Yes. In addition to the Level 1 Reliability Metrics, Tri-State, through our regulated ERP
12 process and in collaboration with our Utility Member and other ERP stakeholders, also
13 developed a set of "Level 2 Reliability Metrics" for its system aimed at planning for greater
14 than 99 percent reliability during extreme weather events. This is an additional level of
15 reliability certainty that all Tri-State resource plans are subject to in our regulated resource
16 process. Load additions, including HILs, will be evaluated to this standard.

17 Consequently, Tri-State acquires resources sufficient to meet both its Level 1
18 Reliability Metrics related to sufficient planning reserve margins and Level 2 Reliability
19 Metrics for assessing reliability during simulated extreme weather events. These two sets
20 of reliability metrics are complementary but neither set takes the place of the other.

21 **Q. How do Tri-State's existing resource planning processes address emerging HILs?**

22 **A.** First, Tri-State's Utility Members notify Tri-State's transmission planning team of all
23 potential load additions or modifications of any size, using a Utility Member project

1 request process, as more thoroughly discussed in the testimony of Matthew Haag, Exhibit
2 No. MH-001. This is an iterative process between the individual Utility Member and the
3 Tri-State member system planning team to evaluate the prospective new load from a
4 transmission planning perspective. From there, the Utility Member project request goes to
5 Tri-State's planning and analytics team for resource adequacy review. The resource
6 adequacy review process includes determining whether the anticipated load addition or
7 modification is already incorporated into the most current long-term load forecast and, by
8 extension, already incorporated into resource planning with sufficient capacity and reserve
9 margin to reliably serve the load.

10 If the load is determined to not be included in the current long-term load forecast,
11 then the seasonal peak of the load is incorporated into the current load and resource table
12 (for an example, see Exhibit No. LKT-002) to determine if there is sufficient resource
13 capacity and reserve margin, per Tri-State's reliability metrics and organized market
14 resource adequacy programs, as applicable, to serve the load. Historically, given the size
15 of load additions or modifications, and the excess capacity on the Tri-State system, this
16 process had been more of a confirmation exercise than a process that resulted in the
17 identification of an emergent capacity need. However, Tri-State is now seeing the potential
18 for capacity shortages in future years given: (1) Tri-State's planned retirement of
19 uneconomic dispatchable resources; (2) increasing system planning reserve margin levels
20 due to an evolving resource mix on the electric grid; and (3) new requests for loads at sizes
21 exponentially larger (roughly 50 MW) to 1 Gigawatt ("GW")) than the five-year (2020 to
22 2024) historical mean load requests (roughly 7 MW) (demonstrated in Exhibit No. LKT-
23 003).

1 **Q. Given Tri-State’s resource planning processes, what are the challenges of planning for**
2 **HILs?**

3 A. HILs drive large resource acquisitions and require accelerated, significant transmission
4 upgrades. Tri-State, as a regulated entity, is subject to compliance with specific rules for
5 timing of its resource planning and acquisitions, amongst other requirements. Those
6 regulated analyses include assessment of resource additions or transmission upgrades that
7 will result from significant load additions. The novelty and challenge of planning for this
8 potential growth in an era of evolving economic, policy, and market conditions results in
9 the need to develop a new approach to be responsive to load requests over a certain MW
10 threshold in a manner that appropriately mitigates Utility Member impacts and respects
11 regulatory requirements.

12 HILs that are unaccounted for in load forecasting processes due to timing can have
13 a significant impact on the ability of Tri-State’s system to reliably serve load and meet
14 capacity needs, including relevant planning reserve margins. Many studies show the
15 capacity on the bulk electric system shrinking over the next decade, as dispatchable
16 resources retire, beneficial electrification and data center loads increase, and supply chain
17 and other issues interfere with the ability of utilities to timely bring additional resources
18 online. The availability of excess capacity for purchase from other utilities is also
19 decreasing.

20 Tri-State’s proposed HILT will allow it to incorporate these loads into the current
21 long-term load forecast within a “high impact load” category in a not unduly discriminatory
22 or preferential manner, which will allow for the completion of a reliable, affordable, and
23 responsible planning process for determining the amount of resources needed to serve these

1 loads without adversely impacting Tri-State's ability to reliably serve its existing Utility
2 Member load and normal load growth.

3 **Q. Why do HILs merit a separate planning cycle with unique agreements?**

4 **A.** HILs merit a planning cycle, separate from the ERP process for normal load growth, and
5 require unique agreements because, by their nature, these loads are of a size that requires
6 acquisition of significant generation capacity additions or procurement of long-term PPAs,
7 which, in turn, takes time and proper planning to do so consistent with good utility practice.
8 When utilities make significant resource capacity additions to serve loads that do not
9 materialize, their ratepayers suffer the financial consequences. Tri-State has experienced
10 this first-hand, when several Tri-State Utility Members joined Tri-State after their original
11 generation and transmission cooperative went bankrupt as a result of building resources for
12 load that failed to materialize.

13 Tri-State's wholesale power costs are passed through to its Utility Members and,
14 ultimately, the member-consumers who pay the bill. As mentioned above, Tri-State's
15 Utility Members serve many economically challenged regions. This separate planning
16 cycle, with necessary agreements and security commitments, gives a path to prudently
17 investing in significant resource additions to the grid for reliably serving HIL customers,
18 while ensuring that HILs do not harm Tri-State or its existing Utility Members and their
19 member-consumers.

20 **Q. Why is the two-year cycle needed?**

21 **A.** The establishment of a biennial HIL cycle is important to reliably incorporate these loads
22 into Tri-State's existing regulatory planning processes for resource acquisition and
23 transmission interconnection and upgrades. The timeline of the HIL cycle, in addition to

1 the regulated resource planning and acquisition process and necessary OATT processes for
2 interconnection and transmission services, is approximately one year. Directly following
3 that time period, PPAs and/or engineering, procurement, and construction agreements will
4 be finalized. Any necessary CPCNs for construction projects will be initiated and can take
5 up to 180 days. The two-year cycle allows for time to adequately complete the regulatory
6 and acquisition processes and to finalize the new baseline prior to the initiation of another
7 cycle.

8 Additionally, the two-year cycle synchronizes with the two-year cycle of Tri-State's
9 Bring Your Own Resource program, which will allow Utility Members the opportunity to
10 develop resources that will be deemed to self-supply the HIL projects.

11 **III. OVERVIEW OF THE HILT, HIL AGREEMENT, AND MEMBER-CUSTOMER**
12 **HIL AGREEMENT**

13 **Q. Please provide an overview of the HILT.**

14 **A.** The HILT is a program that will enable a repeatable and fair process for incorporating high
15 impact loads—*i.e.*, loads exceeding 45 MW or forecasted to exceed 45 MW within four
16 years—into the Tri-State system without adverse impacts to reliability, affordability, or
17 responsibility.

18 The HILT establishes a cycle that occurs every two years, beginning with a kickoff
19 meeting with Utility Members and their potential HIL customers. In that kickoff meeting,
20 Tri-State will explain: (1) the requirements and timing for a HIL Participation Package; (2)
21 the process to verify the Participation Package components are met; and (3) the HIL
22 evaluation process—including reliability, affordability, responsibility, and transmission
23 metrics, and the ranking or prorating process for competing loads, as well as the

1 collaborative revision process in the event there are defects in a Participation Package or
2 through the evaluation of the Participation Package. The program also ensures oversight
3 by engaging an independent evaluator, who will assess whether Tri-State accurately
4 evaluated the reliability, affordability, environmental, and transmission evaluation metrics
5 for each HIL and will report its findings to Tri-State and our Utility Members.

6 To ensure HILT processes are followed, the HIL Agreement (“HILA”) and
7 Member-Customer HIL Agreement (“MCHIL”) are completed as part of this process,
8 establishing obligations and responsibilities of the Utility Member and their customer in
9 relation to the HIL.

10 HILs that successfully pass either the initial or revised load evaluation processes
11 are included in Tri-State’s regulated resource planning and acquisition process discussed
12 above, and applicable OATT processes for interconnection and transmission service. The
13 testimony of Ryan Hubbard, Exhibit No. RH-001, covers the OATT processes in further
14 detail.

15 **Q. Please describe the guiding principles for HILT development.**

16 **A.** The HILT will ensure no unjust, unreasonable, nor unduly discriminatory or preferential
17 treatment for Utility Members or HIL customers and will avoid cost shifts, as explained
18 further in Raymond McHugh’s testimony, Exhibit No. RPM-001.

19 Guiding principles for the development of the HILT include: (1) enabling economic
20 development across Tri-State’s Utility Members’ systems at an unprecedented level and
21 pace; (2) limiting the risk of stranded assets resulting from HIL integration, which could
22 create financial risk for Tri-State and its Utility Members; and (3) continuing to meet all
23 resource planning and associated regulatory requirements. These are appropriate guiding

1 principles for HILT development because, as a generation and transmission cooperative,
2 both the potential financial benefits from thoughtful load growth and the potential financial
3 burdens from stranded assets or regulatory penalties are directly paid by Utility Members
4 through their wholesale rate. Tri-State is guided by its mission to provide a reliable,
5 affordable, and responsible power supply for our membership.

6 **Q. Please provide an overview of the HILA.**

7 **A.** The HILA is an agreement between Tri-State and a Utility Member to facilitate the
8 responsibility of serving a HIL customer. The HILA provides assurances as to the viability
9 of a HIL customer to bring forth the HIL, the ability for Tri-State to serve the HIL, and risk
10 mitigation for Tri-State, the Utility Member, and Tri-State's membership in serving the
11 HIL. The Utility Member first signs the HILA as part of the Participation Package. Tri-
12 State then executes the HILA once the HIL successfully passes the load evaluation process.

13 Components of the HILA include amongst other terms: identification of the HIL as
14 a Class A Member load with a minimum demand and minimum energy threshold, security
15 posting requirements, a minimum 15-year term, and key requirements that the Utility
16 Member must include in the MCHIL with its HIL customer.

17 **Q. Please provide an overview of the MCHIL.**

18 **A.** The MCHIL is an agreement between the Utility Member and HIL customer to serve a HIL
19 in a manner that ensures that appropriate requirements are passed on to the HIL customer
20 through HILT implementation steps that mitigate risks related to the HIL for Tri-State, the
21 Utility Member, and Tri-State's membership.

22 The Utility Member is responsible for ensuring that the MCHIL is consistent with
23 the terms and conditions of the HILA. The MCHIL requires the HIL customer to post

1 financial security in favor of Tri-State expressly authorizing Tri-State to draw upon the
2 security, requires the HIL customer to satisfy minimum energy and demand requirements,
3 and sets a term that is co-terminus with the term of HILA. Operational restrictions include
4 not allowing the HIL customer to energize earlier than three months prior to the expected
5 operation date, not allowing the HIL customer to operate or energize prior to Tri-State
6 providing a Serve Ready Notice, not exceeding maximum annual energy or peak demand
7 for the HIL, not exceeding its monthly energy and demand stated in its load ramp
8 projection, and not operating during times when Utility Member metering equipment is not
9 installed and operating.

10 **Q. Why is Tri-State not directly entering into contracts with HIL customers?**

11 **A.** As a wholesale generation and transmission cooperative, Tri-State does not have retail
12 customers or make retail sales. Consequently, Tri-State's Utility Members will be
13 responsible for contracting with HIL customers.

14 **IV. PARTICIPATION PACKAGE**

15 **Q. Please briefly explain the purpose of the Participation Package.**

16 **A.** The Participation Package provides necessary information for Tri-State to adequately
17 evaluate a potential HIL against reliability, affordability, responsibility, and transmission
18 metrics. The package also ensures that potential HILs are vetted projects with realistic
19 potential to obtain commercial operation.

20 **Q. Please briefly explain the contents of the Participation Package.**

21 **A.** The Participation Package includes the following:

- 22
 - A completed Member Project Request ("MPR") Form;

- 1 • Demonstration that the HIL Customer has acquired 90 percent Site Control over the
- 2 site planned for the HIL Project;
- 3 • A HIL Evaluation Fee;
- 4 • A Professional Engineer (licensed in the State where the High Impact Project is located)
- 5 stamped drawing that demonstrates the expected load of the HIL Project and land (in
- 6 acres) required for such project;
- 7 • An executed MCHIL that conforms with the minimum requirements set forth in the
- 8 HILA; and,
- 9 • An executed HILA.

10 **Q. Why is Tri-State requiring 90 percent site control and licensed engineer sign-off?**

11 **A.** This requirement demonstrates due diligence on the part of the potential HIL customer to
12 have a reasonable assessment of the property needed for its HIL project, a path to building
13 the HIL, and an assessment of the electrical demand of the project.

14 **Q. How did Tri-State decide on the 90 percent metric for site control?**

15 **A.** The 90 percent site control requirement is consistent with requirements in the Large
16 Generation Interconnection Process specified in Tri-State's FERC-approved *pro forma*
17 OATT for the analogous interconnection of large generation resources.

18 **Q. Why is there an evaluation fee, and why is it non-refundable?**

19 **A.** Tri-State is requiring a non-refundable evaluation fee for several reasons. First, the
20 evaluation fee is intended to pay for the independent evaluator that will ensure that the HIL
21 evaluation process is conducted in a transparent, non-discriminatory manner. Tri-State
22 chose to make to make the fee non-refundable for two reasons: (1) to discourage
23 speculative projects from wasting Tri-State resources; and (2) to align with Tri-State's

1 understanding that Basin will be requiring a non-refundable study deposit for HILs. As a
2 not-for-profit cooperative, the entire Tri-State membership would otherwise bear the costs
3 of these evaluations, which could add up quickly if speculative projects needed to be
4 evaluated, and Tri-State believes that it is more appropriate for the cost-causers to bear the
5 fees and risks. The determination of the evaluation fee amount and additional context for
6 the evaluation fee is provided by Ryan Hubbard, in Exhibit No. RH-001.

7 **Q. Is there an opportunity to cure deficiencies if the Participation Package fails the**
8 **verification process?**

9 **A.** Within 20 business days of the receipt of the Participation Package, Tri-State will complete
10 its verification process and notify each Utility Member as to whether their package is
11 deemed complete or has deficiencies. A Utility Member will have 10 business days to cure
12 any defects identified in its Participation Package.

13 **V. EVALUATION PROCESSES**

14 **Q. What is the scope of the HIL evaluation process?**

15 **A.** No later than 150 Days after the current cycle begins, Tri-State will perform an evaluation
16 process for the Participation Packages that Tri-State has verified for accuracy and
17 completeness. Tri-State's robust evaluation process ensures that we meet our mission to
18 provide a reliable, affordable, and responsible power supply to our Utility Members. This
19 includes evaluating both resource and transmission needs in relation to load.

20 **Q. Why are evaluation processes necessary for HILs?**

21 **A.** The HIL evaluation process will demonstrate if a particular HIL would cause harm to
22 existing members by lowering reliability below existing reliability metric standards, cause
23 Tri-State to violate the environmental regulations of the states in which it operates, cause

1 upward rate pressure to existing Utility Members, or create unrealistic timelines for
2 resource acquisition(s) or transmission upgrades necessary to serve this load. Through this
3 evaluation process, Tri-State can inform Utility Members and their potential HIL projects
4 of ways to mitigate any of these issues with the intent of successfully bringing on HIL
5 customers to the benefit of the overall membership.

6 **Q. How will the evaluation process work?**

7 **A.** Tri-State will use resource plan modeling software to determine if it is feasible to add a
8 mix of resources to existing supply and load in an amount sufficient to continue to meet
9 reliability criteria, affordability metrics, and environmental regulations in the relevant state
10 based on timing, size, and location of the HIL. For a high impact load evaluation, the
11 model would be informed by: (a) the size, timing, and location of load; (b) the size, timing,
12 cost and location of available generic resources to be built or procured; and (c) the
13 applicable environmental, reliability, and transmission constraints.

14 Given these assumptions, the results of a model run would demonstrate whether it
15 is feasible to bring on the particular HIL while continuing to meet Tri-State's key metrics.
16 Third party industry standard resource and financial planning software will be used to
17 perform the evaluation. An expansion plan, base dispatch, extreme weather event dispatch,
18 and final financial modeling assessment will be performed for each load. The HIL's ability
19 to meet reliability metrics will be assessed by reviewing the base (Level 1 Reliability
20 Metrics) and extreme weather event (Level 2 Reliability Metrics) dispatches.
21 Environmental metrics will be assessed using the appropriate state and/or federal
22 environmental tools using the base dispatch data. Each load will be evaluated against the
23 most up-to-date long-term base case for affordability. If any HILs are not accepted as part

1 of the evaluation process, a revised proposal process may be initiated at the Utility Member
2 and HIL projects' mutual request.

3 **Q. What environmental regulations will be applied in Tri-State's HIL evaluations?**

4 **A.** Tri-State serves load in four states, two of which have environmental regulations that
5 impact generation decisions, including for resources that will serve a HIL project in those
6 states. For example, New Mexico has a renewable portfolio standard of 40 percent
7 renewable supply for load in New Mexico beginning in 2025, growing to a 50 percent
8 renewable supply requirement in 2030, which applies to Tri-State and its New Mexico
9 Utility Member loads. Colorado has a renewable energy standard and greenhouse gas
10 ("GHG") emission reduction requirements. The latter are more impactful and include a
11 26% reduction in GHG for Tri-State's wholesale sales of electricity in Colorado in 2025,
12 growing to an 80% reduction in 2030 as compared to a 2005 baseline. Any applicable
13 federal environmental regulations will be evaluated for applicability to all HILs. For
14 instance, if model results demonstrated a 78% GHG reduction in Colorado with the
15 addition of a HIL located in Colorado along with necessary resource additions, the HIL
16 would fail the environmental evaluation because it would no longer allow Tri-State to
17 comply with its Colorado-mandated 80% GHG reduction.

18 **Q. What are Tri-State's system responsibility goals?**

19 **A.** Tri-State has an internal target of 50% clean energy used by all Utility Members by 2025
20 and 70% clean energy used by all Utility Members by 2030 across its entire system.

21 **Q. How could adding HIL Projects without environmental review harm Tri-State?**

22 **A.** Tri-State is responsible for adhering to the applicable laws and regulations in the states it
23 operates in, including environmental regulations. Adding HIL projects without appropriate

1 review of the HIL's ability to adhere to these environmental regulations may result in
2 penalties or actions by federal or state regulators that have operational and financial
3 impacts to Tri-State and its membership.

4 **Q. Please briefly explain which reliability metrics would apply to the HILA evaluation.**

5 **A.** As explained above, Tri-State utilizes two levels of reliability metrics in all resource plan
6 modeling to ensure a reliable system. Level 1 Reliability Metrics include a planning
7 reserve margin and effective load carrying capability ratings by technology, based on
8 stochastic modeling of Tri-State's system and region to determine a reliability level that
9 does not exceed more than one day of load loss in 10 years.

10 Level 2 Reliability Metrics are a set of metrics specific to evaluating system
11 performance in simulated extreme weather event conditions for summer and winter
12 seasons. One week in each peak season for each applicable planning year is stressed for
13 load, resources, market pricing and availability, and transmission availability. The
14 modeling results of the system dispatch for those stressed weeks must demonstrate limited
15 unserved energy in regard to frequency, magnitude, and duration. All HIL projects will be
16 evaluated against these reliability metrics as set forth in the most current Tri-State resource
17 plan on file with the Colorado PUC. For example, if the Tri-State system planning reserve
18 margin is met in the modeling, the HIL project would pass Level 1 Reliability Metrics.
19 However, if Level 2 Reliability Metrics limits were exceeded, then the HIL would not pass
20 the reliability evaluation. A HIL project must pass both Level 1 and Level 2 Reliability
21 Metrics to successfully pass the reliability evaluation.

22

23

1 **Q. What do the economic metrics mean under the HILT?**

2 **A.** Economic metrics represent the affordability portion of Tri-State's mission, and include an
3 assessment of the annual revenue requirement, present value revenue requirement, and
4 corresponding rate impact to Utility Members.

5 **Q. How will the economic evaluation process work?**

6 **A.** Financial software including Hyperion and UIPlanner are used to assess the annual revenue
7 requirement, present value rate requirement, and rate impact. Tri-State will use its most
8 current long-term financial forecast ("LTFF") as a baseline for the economic evaluation.
9 For a HIL project evaluation, the resource plan modeling results would be passed through
10 the financial software for assessment of the affordability metric. The rate impact of the
11 annual revenue requirement of the resource plan allowing for the impact of the additional
12 load to meet the annual revenue requirement over the 15-year period of the HIL project
13 would be compared to the LTFF rate over this same time period. The financial modeling
14 results with the HIL project must show neutral or beneficial impacts to rates to pass the
15 economic evaluation. In other words, if a HIL project were forecast to increase Tri-State's
16 Utility Members' costs of wholesale power supply over the 15-year period of the HIL
17 project, it would fail the economic evaluation.

18 **Q. Is there a chance for Utility Members to revise proposed HIL projects that fail the**
19 **initial evaluation?**

20 **A.** Yes. On the first business day after the initial proposal period ends, a revision process will
21 be initiated for potential submission of a revised Participation Package. The revision period
22 will last for 20 days. Within 5 business days of the start of the revised proposal period, Tri-
23 State will meet with any applicable Utility Member to review results of the evaluation,

1 identify causes of failure in the initial evaluation, and discuss potential modifications that
2 would make the HIL more likely to succeed in the revised evaluation process. The Utility
3 Member will have 10 business days from the meeting to submit a revised Participation
4 Package. Tri-State will reevaluate the HIL for the defined metrics and will provide the
5 applicable Utility Member with the results of the evaluation, including an analysis of the
6 characteristics that led to acceptance or rejection of the HIL. The revised evaluation will
7 use the same methodologies and metrics as the initial evaluation.

8 **Q. What happens if two competing HILs cause both HILs to fail the evaluation process?**

9 **A.** In the event that two competing HILs in the same general location cause both HILs to fail
10 any evaluation criterion that they would otherwise pass individually, Tri-State will rank
11 which HIL is more economical, as determined by ranking their results under the economic
12 criteria. The HIL with the most beneficial economic impact will pass evaluation and
13 proceed. Alternatively, the Utility Members whose HILs are subject to the competing loads
14 ranking process may mutually agree to prorate or otherwise modify their HILs so that they
15 both pass all evaluation criteria.

16 **Q. Will there be an independent evaluator with oversight of the load evaluation process?**

17 **A.** Yes. Tri-State will engage an independent evaluator who will review whether Tri-State's
18 HIL evaluation process was conducted consistent with the terms of the HILT, including any
19 ranking that may occur under the economic criteria. The independent evaluator will use
20 best efforts to complete the review 15 business days from the later of the end of the proposal
21 period or revised proposal period, and will notify Tri-State of the results. After Tri-State
22 and the independent evaluator mutually agree that the review is complete and accurate, Tri-
23 State will promptly forward such results to all Utility Members. As explained by Ryan

1 Hubbard, in Exhibit No. RH-001, the independent evaluator is paid for through the non-
2 refundable HIL Evaluation Fee.

3 **VI. ADDITIONAL ESSENTIAL HILT AND HILA COMPONENTS**

4 **Q. Are there additional essential HILT and HILA components?**

5 **A.** Yes. First, I will support why Tri-State is proposing a greater-than-45-MW threshold for
6 qualifying as a HIL. Second, I clarify Tri-State's language regarding the aggregation of
7 loads and the potential for different thresholds in the Eastern Interconnection. Third, I
8 explain the importance of a load ramp. Fourth, I discuss the need for and importance of
9 the serve ready notice requirement. Fifth, I explain the need for and composition of the
10 minimum demand and energy components. Finally, I provide a brief summary of the
11 security requirements, the development of the 15-year minimum operation timeline for
12 HILs, and HILA termination provisions.

13 **Q. Can you explain Tri-State's process in establishing a greater-than-45-MW threshold**
14 **for qualifying as a HIL?**

15 **A.** Tri-State considered several factors in establishing the MW threshold. Tri-State conducted
16 industry research to determine thresholds utilized by other utilities for similar load
17 programs and had iterative discussions through workshops with our Utility Members. Tri-
18 State also analyzed the size of load additions and modifications requested by Utility
19 Members in recent years and explored resource limitations to determine a meaningful
20 threshold at which adverse impacts to reliability, affordability, and responsibility could be
21 mitigated without comprising a Utility Member's ability to continue to organically grow
22 its load.

1 **Q. What are the sizes of historical and emerging Tri-State delivery point requests for**
2 **new loads?**

3 **A.** In reviewing five years of Utility Member historical delivery point requests, the mean new
4 load size was approximately 7 MW, as shown in Exhibit No. LKT-003. Current loads being
5 categorized as high impact, including loads that have been initiated through the Utility
6 Member project request process and preliminary discussions of potential loads with Utility
7 Members not yet in the Utility Member project request process, are significantly larger,
8 ranging from 50 MW to 1 GW. For perspective, Tri-State is today a 2.5 GW peaking
9 system. In other words, a HIL represents a large “step change” in the size of load Tri-State
10 plans for and serves.

11 **Q. Are there additional reasons you are proposing a greater-than-45-MW threshold for**
12 **qualifying as a HIL?**

13 **A.** Yes. Historically, capacity and energy market purchases have been available in 25 MW
14 blocks, with scarcity or high pricing during certain seasons occurring once a 50 MW
15 threshold of purchases is surpassed. Other alternatives to serving large loads, such as
16 developing new resources like gas plants, are typically 40 MW per turbine and take
17 considerable time to bring online due to regulatory, permitting, procurement, and
18 construction timelines. Additionally, Tri-State has 40 Utility Member systems, and as
19 multiple potential HIL customers approach multiple Utility Members simultaneously, the
20 accumulating impact of HIL additions on our system’s resource capacity will be
21 exacerbated absent a clear process to manage the growth.

22

23

1 **Q. Are you aware of other large load programs and tariffs using different thresholds?**

2 **A.** Yes. The thresholds I am aware of are lower than Tri-State's proposed threshold and
3 include:

- 4 • A Northern Virginia Electric Cooperative program establishing a threshold of 11 MW
5 for data center loads;
- 6 • Great River Energy is developing a broader process and assessing large loads on a case-
7 by-case basis, but has an initial threshold of 20 MW;
- 8 • Nebraska Public Power District has established a load growth queue process with a
9 generation security deposit policy with a threshold of 5 MW;
- 10 • Old Dominion Electric Cooperative has a threshold of 25 MW, with a FERC-approved
11 formula rate that includes an exception for rates for new/expanding load, requiring a
12 formal agreement; and,
- 13 • Basin appears to be developing a large load program with a 25 MW threshold.

14 **Q. What is the aggregation of loads and how will Tri-State determine that pursuant to**
15 **the HILT?**

16 **A.** The aggregation of loads refers to instances where Tri-State will combine proposed load
17 additions for the purpose of determining whether they are to be processed pursuant to the
18 HILT. Tri-State intends to reasonably limit the aggregation of loads. As provided in the
19 HILT, Tri-State shall exercise reasonable discretion when choosing to consider smaller
20 loads in aggregate, with such discretion based on factors including, but not limited to,
21 premises sharing one or more of the following: common owner(s), a common parent
22 company, common local electrical infrastructure, physical layout, character of service, end
23 use, and common control.

1 **Q. Will the threshold for the Eastern Interconnection be different than the Western**
2 **Interconnection?**

3 A. Possibly. Basin—Tri-State's full requirements service provider in the Eastern
4 Interconnection—may have a relevant board policy, program, or tariff that sets a threshold
5 lower than Tri-State's HILT threshold, in which case the lower threshold will apply.

6 **Q. What is a load ramp and why is it important for Tri-State to know the load ramp and**
7 **operation date for HIL Projects?**

8 A. A load ramp is a forecast of the size and timing of load over the HILA term and is stated at
9 a monthly level. In order to accurately assess resource mix and related transmission
10 upgrades, if applicable, required to serve the load reliably, affordably, and responsibly, Tri-
11 State must know the load demand, proposed timing of interconnection, and any forecasted
12 increases in load demand along with proposed timing. Time to construct new resources
13 varies by technology type and location, and the timeline for related construction,
14 regulation, and permitting processes will also vary. There is also flexibility for the HIL
15 customer to update its load ramp every three years, subject to a limitation of changes by
16 greater than five percent and not exceeding the maximum annual energy or peak demand
17 for the HIL.

18 **Q. Please discuss how the HILA's serve ready notice will work and why it is required?**

19 A. When Tri-State reasonably determines that the resources are available to serve the HIL
20 Project and all transmission improvements and other facilities are constructed, tested, and
21 energized that Tri-State reasonably determines are required, Tri-State will provide the
22 Utility Member written notice that the HIL Project may be energized, otherwise known as
23 a Serve Ready Notice. This Serve Ready Notice is required to ensure that the reliability of

1 the Tri-State system remains intact and that Tri-State is able to comply with all NERC,
2 WECC, FERC, and organized market compliance requirements.

3 **Q. Does “normal” load growth also have a Serve Ready Notice requirement?**

4 **A.** Not exactly, but there is a process that serves a similar purpose. For “normal” load growth
5 requests, after the Utility Member project request process is completed, Tri-State has a
6 delivery point application approval process which serves as notification to the Utility
7 Member that Tri-State has reviewed the request and is ready to serve the load as described
8 within the delivery approval letter issued to the Utility Member.

9 **Q. Why does Tri-State need minimum demand and energy components?**

10 **A.** Minimum billing demand and energy components set a floor on the minimum demand and
11 energy levels that the applicable Class A Member Rates will be applied to in a given billing
12 period. Tri-State’s mission to our Utility Members includes providing an affordable power
13 supply. The load evaluation process analyzes whether a HIL reduces or holds stable Tri-
14 State’s rate requirements compared to long-term financial forecasts which use Tri-State’s
15 Class A Member Rate methodology in effect at FERC on the first day of the HIL cycle.
16 The HIL economic evaluation accounts for the concept that the HIL will be consistent with
17 the minimum billing demand and energy component thresholds. If the HIL passes the HIL
18 evaluation, becoming interconnected Class A Member load, and Tri-State builds or
19 procures the necessary power supply, takes performance-related transmission
20 interconnection actions, and constructs any necessary transmission upgrades, and the load
21 fails to materialize at the anticipated level, costs would be shifted to the remaining Class A
22 Member loads, as further described by Raymond McHugh in Exhibit No. RPM-001.

1 A minimum billing demand and energy component ensures, regardless of whether
2 the HIL materializes as forecasted, that there will be sufficient payments to cover the
3 expense of the resource and transmission builds or procurements to prevent cost shifting to
4 other Utility Members and their member-consumers. To accommodate varying types of
5 HILs, Tri-State allows the HIL customer to select from two sets of minimum demand and
6 minimum energy charges. The first option is 90% Minimum Demand and 75% Minimum
7 Energy. The second option is 75% Minimum Demand and 50% Minimum Energy. With
8 both these options, Minimum Demand and Minimum Energy are both applied to demand
9 and energy forecasts as identified in the load ramp projection provided by the HIL
10 customer. The selected level will be identified in the HILA and MCHIL, and the HIL will
11 be evaluated based on the level selected.

12 **Q. Please elaborate on the importance of setting a minimum demand level.**

13 **A.** The nature of HILs includes both an unusually high demand level compared to the normal
14 course of business for Tri-State's Utility Members' load growth and the potential to be high
15 load factor load, requiring constant firm power for the high demand level. Tri-State
16 determined that a necessary minimum demand level equivalent to the level used during the
17 evaluation process is required to avoid cost shifts.

18 Tri-State will build or procure resources with a minimum life of 15 years to bring
19 sufficient resources to the system mix to meet load additions. Once built or procured, these
20 costs are sunk and will be included in the Class A Member Rates and paid for by Tri-State
21 Utility Members. Given historical capacity sales, Tri-State anticipates limited ability to
22 sell firm system capacity of significant quantities if HILs come online through the HIL
23 process and then HIL demand fails to appear to cover costs. In recent history, capacity

1 sales to nonmembers have made up approximately 10 percent of overall demand sales.
2 Setting a minimum demand level applicable to both the evaluation and contractual
3 enforcement was determined as necessary to ensure cost recovery of significant resource
4 and transmission builds without adversely impacting the affordability of power supply to
5 other Utility Members. It is also representative of minimum take levels established by
6 other utilities for this purpose and consistent with high load factor loads on the grid.

7 **Q. Please briefly describe the minimum demand calculation and how Tri-State**
8 **determined the specific percentage.**

9 **A.** For each monthly billing period, if the monthly demand of the HIL is less than the minimum
10 percent as identified in the HILA of the monthly demand for the HIL indicated in the load
11 ramp projection, the Utility Member will be assessed a minimum monthly demand charge,
12 which is derived by taking the load ramp projected monthly billing demand for the time
13 period multiplied by the minimum percentage as identified in the HILA minus the actual
14 monthly demand and then multiplying that value—known as the supplemental demand
15 quantity—by the Class A Demand rate, for the HIL. The Utility Member will be charged
16 for the actual demand of the HIL, plus the supplemental demand quantity to ensure a
17 minimum payment equivalent to 90 percent of the load ramp projected demand at the Class
18 A Demand rate for the HIL by the Utility Member. If the HIL meets or exceeds 90 percent
19 of the load ramp projected demand in a given month, the Utility Member will only pay for
20 the actual demand of the HIL.

21 For instance, if a 90 percent minimum demand level was identified in the HILA, a
22 100 MW HIL would have a 90 MW demand floor. If that HIL's actual demand in a monthly
23 billing period was 85 MW, the Utility Member would pay charges based on Class A

1 Demand rates multiplied by a 90 MW demand. If the HIL's actual demand was 95 MW,
2 the Utility Member would pay charges based on Class A demand rates multiplied by a 95
3 MW demand.

4 **Q. Please elaborate on the importance of setting a minimum energy level.**

5 **A.** HILs are also characterized by requiring a high level of buildout resulting in anticipated
6 energy sales in the evaluation process that would be difficult if not impossible to replace if
7 they did not materialize as compared to "normal" Utility Member load growth. Tri-State
8 determined that to mitigate financial risk to the membership it is necessary to identify a
9 minimum energy level in the HILA and then for consistency use that same minimum energy
10 level in the evaluation process. This consistency between contractual and evaluation floor
11 for energy is required to avoid cost shifting as high impact loads are of significant size with
12 expectations of around-the-clock firm service, and there is a limit to available markets to
13 sell unanticipated excess energy at prices comparable to Class A Member Rates.

14 Current term market activity is on average 10 percent of total sales. While there
15 would likely be additional organized market activity, only a portion of peak period activity
16 during peak seasons produce financial sales equivalent to Class A Member Rates. Setting
17 a minimum percentage level for energy to be used in evaluation and then carried through
18 to contractual enforcement is necessary to ensure cost recovery of significant resource and
19 transmission expenses without adversely impacting the affordability of power supply to
20 other Utility Members. For purposes of the HILA, a minimum energy threshold of 50 or
21 75 percent of energy forecasted in the load project submitted with the member project
22 request are allowed as floor options at the discretion of the HIL. These values are
23 representative of low and high load factor systems and give flexibility to potential HILs.

1 **Q. Please briefly describe the minimum energy calculation and how Tri-State**
2 **determined the specific percentage.**

3 Similar to the treatment of minimum demand, for each Billing Period, if the monthly energy
4 of the HIL is less than the minimum energy percent level, as identified in the HILA, of the
5 monthly energy for the HIL indicated in the load ramp projection, the Utility Member will
6 be assessed a minimum monthly energy charge, which is derived by taking the load ramp
7 projected monthly energy for the time period multiplied by the minimum energy percent,
8 minus the actual monthly energy, and then multiplying that value—known as the
9 supplemental energy quantity—by the Class A Energy rate. The Utility Member will be
10 charged for the actual energy of the HIL, plus the supplemental energy quantity to ensure
11 a minimum payment equivalent to the minimum energy percent level as identified in the
12 HILA of the load ramp projected energy. If the HIL meets or exceeds the minimum energy
13 percent level as identified in the HILA of the load ramp projected energy in a given month,
14 the Utility Member will instead pay for the actual energy of the HIL.

15 **Q. Are you aware of any other high impact load programs with similar requirements?**

16 **A.** Yes. AEP in Ohio charges data centers a minimum of 85% of the contract capacity and
17 mobile data centers a minimum of 85% of the contract capacity. Duke Energy is including
18 minimum take-or-pay clauses in their agreements to serve large data centers.

19 **Q. What security requirements are included in the HILA?**

20 **A.** HIL customers are required to post minimum security to ensure that the minimum demand
21 and energy charges are met. Security requirements, timing, and step down are further
22 described in the testimony of Danielle Bradberry, Exhibit No. DB-001.

1 **Q. Please explain Tri-State's development of the HILA's 15-year minimum operation**
2 **timeline for HILs.**

3 **A.** Tri-State based the minimum 15-year term of operation for HIL on its research into the
4 approaches that other utilities have taken regarding minimum terms for HILs, and
5 evaluated those against Tri-State's resource planning and acquisition processes to
6 determine a minimum term that would enable Tri-State to bring these loads on in a reliable,
7 affordable, and responsible manner without shifting costs to existing Utility Members.

8 **Q. How does the 15-year timeline relate to Tri-State's resource acquisition timelines?**

9 **A.** In the resource acquisition process, Tri-State typically procures resources through 15-to-
10 25-year PPAs or through construction of owned resources (the typical life of an owned
11 resource varies by technology from 15 to 40 years). Due to the size of a HIL resulting in
12 the need for significant resource acquisition(s), it was determined that a minimum term of
13 15 years—which aligns with the minimum term of any long-term resource procurement for
14 planning purposes—would minimize cost shifts to existing Utility Members and their
15 member-consumers while still providing potential customers with flexibility.

16 **Q. Does the 15-year timeline contain an option for extension?**

17 **A.** Yes. A Utility Member, with not less than four years advance written notice to Tri-State
18 prior to expiration of the initial contract term, can request an extension of the term of the
19 HILA for an additional 10 years. If the parties mutually agree, the term of the HILA will
20 be extended for the term agreed upon by the parties. However, the term of the HILA cannot
21 extend beyond the term of the Utility Member's Wholesale Electric Service Contract with
22 Tri-State.
23

1 **Q. Does the HILA provide for early termination?**

2 **A.** Yes. Section 10 of the HILA describes events eligible for early termination, including Tri-
3 State's option to terminate the HILA early, with 10 days written notice to the Utility
4 Member, if any of the following conditions occur:

- 5 • The HIL project fails to commence operations with a load that is at least 90 percent of
6 the monthly minimum demand level by 180 days following expected operation;
- 7 • The HIL project ceases operations for 180 or more consecutive days;
- 8 • A HIL customer fails to establish security within 10 days of notice of security being
9 due or notice of the requirement to maintain/replenish security;
- 10 • A breach or default of HIL customer under the MCHIL;
- 11 • The HIL exceeds the maximum annual energy or peak demand or the monthly energy
12 and demand as stated in the load ramp projection and does not correct the reason for
13 the exceedance within 30 days to the reasonable satisfaction of Tri-State; or
- 14 • Termination of the MCHIL.

15 Tri-State also has the option to terminate the HILA early, prior to commercial
16 operations, as part of the acquisition and planning process if resource or transmission
17 expenses exceed those used in evaluation by 10 percent, per Section 10(B) of the HILA.

18 **Q. Does the HILA allow for the Utility Member and HIL customer to terminate early?**

19 **A.** The HILA can be terminated by the Utility Member prior to or upon receipt of the Security
20 Due Notice – Approval provided notice is within 10 days of Security Due Notice –
21 Approval.

22

23

1 **Q. Does Tri-State have an obligation to take on excess load of the HIL?**

2 **A.** No. Tri-State does not have an obligation to take on excess load of the HIL. Tri-State has
3 early termination rights in the event of excess load because Tri-State is not planning for,
4 nor acquiring, resources that would be needed to serve excess load of the HIL.

5 **Q. Does this conclude your testimony?**

6 **A.** Yes.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read
and know the contents of the foregoing testimony and any exhibits attached thereto;
and they were prepared by me or under my direct supervision; and that the answers contained
therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 25, 2025

/s/ 

Exhibit No. LKT-002

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Federal Hydro	583	583	583	583	583	583	583	583	583	583
Contract Purchases	278	278	278	278	278	278	278	278	278	278
Renewables (Current)	224	220	207	198	198	191	191	175	175	175
Renewables (Planned)	2	1	53	89	89	90	90	87	88	88
Demand Response	134	141	144	147	149	151	152	153	154	155
Coal Generation	1289	1289	890	803	803	431	431	431	431	431
Gas & Oil Generation (Current)	717	717	717	717	717	772	772	772	772	772
Gas & Oil Generation (Planned)	0	0	0	274	274	274	274	274	274	274
Storage (Planned)	0	49	284	339	429	429	429	410	410	410
<i>Total Resources</i>	<i>3227</i>	<i>3277</i>	<i>3156</i>	<i>3426</i>	<i>3518</i>	<i>3199</i>	<i>3200</i>	<i>3164</i>	<i>3165</i>	<i>3166</i>
Member Load and Losses	2075	2105	2141	2115	2163	2228	2264	2310	2332	2317
Planning & Operating Reserves	356	363	553	545	559	579	590	604	611	606
Contract Sales (Firm)	209	210	60	60	60	60	60	60	35	35
Contract Sales (Unit Contingent)	392	327	113	113	91	102	102	102	100	100
<i>Total Obligations</i>	<i>3032</i>	<i>3004</i>	<i>2867</i>	<i>2833</i>	<i>2873</i>	<i>2969</i>	<i>3017</i>	<i>3076</i>	<i>3079</i>	<i>3059</i>
Planning Reserve Margin	22%	22%	31%	31%	31%	31%	31%	31%	31%	31%
Excess Resources	149	226	271	575	626	211	164	69	76	97

PUBLIC VERSION – PRIVILEGED MATERIAL REDACTED

Exhibit No. LKT-003

PUBLIC VERSION – PRIVILEGED MATERIAL REDACTED

[REDACTED]

Exhibit No. MH-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
MATTHEW HAAG
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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LIST OF EXHIBITS

Exhibits

Exhibit No. MH-002

Member Project Request Form

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
MATTHEW HAAG
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Matthew Haag. I am the Member and Regional System Planning Manager at Tri-State Generation and Transmission Association, Inc. (“Tri-State”). My business address is 1100 West 116th Avenue, Westminster, Colorado 80234.

Q. Please briefly describe your educational background and employment history.

A. I received an Associates of Engineering Degree from Mesa State College and a Bachelor’s of Science in Electrical Engineering from Colorado State University. I joined Tri-State in May 2011 as a senior electrical engineer in Power System Planning. In 2013, I became the Member and Regional System Planning Manager. Prior to joining Tri-State I was employed as an electrical engineer for over 20 years and worked for two municipal utilities, the City of Loveland Water and Power, and City of Fort Collins utilities.

1 **Q. Please describe your duties and responsibilities as Member and Regional System**
2 **Planning Manager at Tri-State.**

3 **A.** My primary function is to manage the member system planning staff in providing Tri-
4 State's Utility Members with transmission and delivery point-related planning functions.
5 Planning functions generally include: new or modified delivery points, feasibility and
6 system impact studies, reliability studies, assessment of Utility Member system
7 construction work plans and long-range plans, distributed energy resource studies, and
8 technical support and analysis for operating issues or conditions that occur on the Utility
9 Member system's sub-transmission or distribution system. I am responsible for presenting
10 proposed new or modified delivery points and related transmission additions to Tri-State
11 staff for review and approval. I am also responsible for adding Utility Member system-
12 related projects into Tri-State's capital budget and for providing planning support to Tri-
13 State engineering staff during the construction of projects.

14 **Q. What is the purpose of your testimony in this proceeding?**

15 **A.** The purpose of my testimony is to explain Tri-State's current member system planning
16 process, including Member Project Requests ("MPR"), the feasibility study process, and
17 how High Impact Loads ("HILs") factor into and affect the member system planning
18 process.

19 **Q. Have you provided testimony in prior proceedings before the Federal Energy**
20 **Regulatory Commission ("FERC" or "Commission")?**

21 **A.** No.
22
23

1 **Q. Are you sponsoring any exhibits in connection with your testimony?**

2 **A.** Yes. I am sponsoring the following exhibit, which is attached to and made a part of my
3 testimony:

- 4 • **Exhibit No. MH-002:** Member Project Request Form.

5 **II. EXISTING MEMBER PLANNING PROCESS AND FEASIBILITY STUDIES**

6 **Q.** **Please briefly describe Tri-State's current member system planning process.**

7 **A.** Tri-State's planning process for Utility Member systems involves coordination with the
8 Utility Member that is requesting new or modified delivery point facilities for load-serving,
9 reliability, or system operation purposes. When the Utility Member identifies the need for
10 system improvements, the Utility Member contacts the Tri-State member system planning
11 team for an initial meeting to provide an overview of the request. If there are modifications
12 or changes to the delivery point facilities as a result of the request, the Utility Member then
13 submits an MPR form, which provides information regarding the scope of its request.

14 Tri-State then utilizes this information to perform a feasibility study, which
15 evaluates the project, with potential alternatives, as applicable. The results of the study are
16 then issued in a report to the Utility Member. Upon review of the feasibility study by the
17 Utility Member, it may elect to proceed with its preferred alternative among options
18 identified in the study, suspend the study, or cancel the project request. In the event the
19 Utility Member elects to proceed with the proposed project, it submits a formal Delivery
20 Point Application ("DPA") to Tri-State with the specific project selected from the
21 feasibility study. The DPA is then used to prepare a submission by Tri-State's power
22 marketing function to the applicable Transmission Provider's Open Access Transmission
23 Tariff ("OATT") process. Projects located within the Southwest Power Pool, Inc. ("SPP")

1 footprint would also need to complete a DPA that complies with SPP OATT Attachment
2 AQ and submit that DPA to SPP.

3 **Q. What is an MPR?**

4 **A.** An MPR is a request to Tri-State's member services group for a new addition or
5 modification of facilities associated with a delivery point that is submitted by the Utility
6 Member. An MPR generally involves the addition of a specific load or loads, an
7 explanation of near-term or long-term area load growth resulting in capacity constraints,
8 the need for improvement to reliability for a specific delivery point or group of related
9 delivery points, or improvement of area service through consolidation of existing facilities.
10 A completed MPR will include the following information: Utility Member name, project
11 name, location, project characteristics, purpose and need, delivery point load type, project
12 description, and the initial and 10-year load forecast with applicable load transfers from
13 existing delivery points. The MPR Form is included as Exhibit No. MH-002.

14 **Q. What does Tri-State do with MPR Forms?**

15 **A.** Tri-State utilizes the information from the MPR Form to perform a feasibility study for the
16 requested Utility Member project. Assuming the results of the feasibility study are
17 agreeable to the Utility Member, a formal DPA would be submitted by the Utility Member
18 for the specific project, which would follow the applicable transmission provider's OATT.¹
19 In the event the study is not favorable to the Utility Member and the Utility Member
20 chooses not to proceed, Tri-State would conclude the MPR process and retain the MPR
21 document and any related studies for possible future reference. In general, the majority of

¹ See the testimony of Ryan Hubbard, Exhibit No. RH-001 for further details of the transmission planning processes that Tri-State navigates for its Utility Members under all applicable OATTs in the Mountain West.

MPRs submitted to Tri-State do not continue to a formal DPA. This is primarily due to the estimated costs and the associated funding required, or the benefits of the project are not deemed sufficient by the Utility Member to initiate a formal DPA.

Q. Please briefly explain a feasibility study.

A. A feasibility study is a no-cost service that Tri-State provides its Utility Members. The feasibility study involves incorporating information provided in an MPR Form into a study scope for performing a power flow analysis. The study scope identifies possible alternatives within an area to achieve the requested project's stated purpose and need. Each alternative identified is then studied using a power flow analysis, which evaluates the impact of the proposed project request on the reliability of the transmission system using NERC TPL-001 Transmission Standards and Tri-State planning criteria. A high-level planning cost estimate and estimated time to construct is also provided for each alternative. The study results and related costs for the alternatives considered are then documented in the feasibility study report which is then provided to the Utility Member for evaluation and comment. In short, a feasibility study provides an initial evaluation of impacts to the system and planning level estimate of costs for the various alternatives evaluated that can be compared to determine the most efficient and cost-effective project which results in a more comprehensive system planning evaluation.

Q. What can a feasibility study reveal?

A. The purpose of the feasibility study is to evaluate the impacts of the requested project on the area transmission systems and the delivery point facilities. Interconnections to available area transmission systems are evaluated to determine the system performance and the related costs to construct. From the study and comparison of alternatives, the most

1 efficient and cost-effective alternative is identified, with the Utility Member able to choose
2 among the various alternatives. The identified alternatives may include upgrades to
3 existing facilities, transmission elements or addition of new elements, such as: lines,
4 breakers, transformers, reactive devices, etc. Depending upon the results of the feasibility
5 study, the Utility Member may determine that the cost, time to construct, or expected
6 benefits of the project will not be realized, and modify its request accordingly in
7 coordination with Tri-State member system planning. This allows the Utility Member to
8 evaluate a project, the possible alternatives, and the cost allocation consequences of the
9 alternatives prior to entering the applicable OATT interconnection process.

10 **Q. Why would a customer do multiple feasibility studies?**

11 **A.** A Utility Member customer may request multiple feasibility studies tied to substantially
12 the same project to evaluate the optimal locations of the project, available transmission or
13 delivery facilities, capabilities of the area system, and costs to construct facilities at a
14 specific location. Customers may request feasibility studies for the same project in
15 different Utility Member service areas.

16 **Q. Has Tri-State received large load requests in recent years? If so, how many?**

17 **A.** Yes. To-date, Tri-State has received 10 MPRs from Utility Members for loads that have
18 been identified as HIL projects.

19 **Q. Please generally describe the applications for HIL projects under Tri-State's existing**
20 **processes.**

21 **A.** These projects, as submitted in an MPR Form and identified as HILs, are described as data
22 center facilities with an initial load request ranging from 45 to 650 MW in the first year
23 and increasing to 300 to 1 GW over a 10-year period. The projects' requested in-service-

1 dates range from 2026 to 2029. All submitted MPR Forms have indicated that the delivery
2 point facilities would be constructed by the Utility Member customer, with Tri-State
3 providing the transmission interconnection facilities.

4 **Q. Do the HIL requests pose reliability impacts to Tri-State's system?**

5 **A.** Yes. The HILs studied to date indicate that upgrades to existing transmission facilities, as
6 well as significant new transmission facilities, would be needed to meet reliability
7 standards and criteria. The studies currently performed for individual MPRs do not
8 evaluate the impacts of multiple projects being added in the same time frame. Rather,
9 additional studies of load clustering would need to be performed for multiple loads utilizing
10 the previous studies and would include the addition of identified Designated Network
11 Resources, as applicable. However, Tri-State has developed the proposed HILT to establish
12 a defined process for studying and evaluating multiple HIL requests at the same time to
13 minimize potential reliability impacts, which will ensure that Tri-State can continue its
14 mission of reliable, affordable, and responsible supply of electricity to its Utility Members.

15 **Q. Does Tri-State intend to use the existing Utility Member planning process, including**
16 **feasibility studies, for HILs?**

17 **A.** Yes, Tri-State will continue to use the existing processes, including feasibility studies, as
18 described in my testimony. Please see the testimony of Lisa Tiffin, Exhibit LKT-001, for
19 additional information.

20 **Q. Does this conclude your testimony?**

21 **A.** Yes.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read
and know the contents of the foregoing testimony and any exhibits attached thereto;
and they were prepared by me or under my direct supervision; and that the answers contained
therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 25, 2025

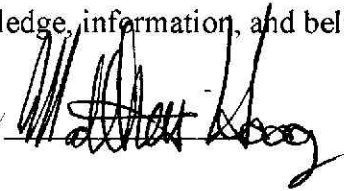
/s/ 

Exhibit No. MH-002



TRI-STATE Member Project Request

Application For Performing Planning Studies for New or Modified Delivery Points

MEMBER NAME: _____

PROJECT NAME: _____

IN-SERVICE DATE REQUESTED: _____

Is the proposed project in the current construction work plan?

Yes: ☐ No: ☐ Date of CWP: _____

LOCATION:

County: _____

Latitude: _____ Longitude: _____

LOAD CENTER OR PROJECT CHARACTERISTICS:

	<u>Existing</u>	<u>Proposed</u>
Delivery Voltage (kV)	_____	_____
Transformer Capacity (MVA)	_____	_____
Voltage Regulation	<input type="checkbox"/> LTC	<input type="checkbox"/> Regulators <input type="checkbox"/> None

For Tri-State Use Only

Member Project Request Code:

Date Issued:

Project Delivery Point Type: ☐ New ☐ Modified ☐ Retired

Tri-State Planning Engineer:

Initial Load /10 Year Forecast (MW): _____ x MW / x MW

Tri-State Power Markets

Designated Resource:

Tri-State OATT Admin.

ATC Availability:

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM**PURPOSE & NEED:**

Provide the reason for a new or modified DP, typical examples include:

- New large Customer
- Area load growth
- Reliability
- New Customer with planned transfers from other area DP's
- Change in delivery voltage (High or Low side of the delivery point)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

DELIVERY POINT LOAD:

Provide the following information if known for new, existing, and/or transferred load:

- **Type:** Agricultural, rural, urban, residential, commercial, industrial, mixed, etc.
- **Characteristics:** If applicable, provide data for large motors or processes that may result in service issues such as power factor, low voltage, etc.
- **Diverse/Exclusive:** Provide data for percent of existing and new load at the DP that is for a sole customer.

PROJECT DESCRIPTION:

Provide project information known: (Attach Electrical One Line, area maps, diagrams, etc.)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

LOAD PROJECTION FOR NEW / MODIFIED DELIVERY POINT

Ten Year Forecast Summer or Winter	Year	Total Member Coincident Peak-MCP (kW)	Estimated Monthly Load Factor (%)	Amount of Transferred Load From Existing Delivery Point(s) (kW)
Reference Note	(a)	(b)	(c)	(d)
0 Previous Year				
1 In-Service				
2 Second Year				
3 Third Year				
4 Fourth Year				
5 Fifth Year				
6 Sixth Year				
7 Seventh Year				
8 Eighth Year				
9 Ninth Year				
10 Tenth Year				

Table 1 – Load Projection of New/Modified Delivery Point

- (a) Provide the load forecast the year before (if applicable) and the years after with the in-service year being the year of construction completion and commercial operation.
- (b) Provide the Summer or Winter load forecast based on the higher peak season. Include new load, estimated load growth, and amount of load transferred to this new/modified DP in the applicable years projected.
- (c) Provide the estimated monthly load factor for the total load forecast
 $\text{Load Factor} = \text{Energy Consumed (kWh)} / \text{Maximum Demand (kW)} * 720 \text{ (hours)}$
- (d) Provide the estimated total load transferred from other delivery points for Summer or Winter based on the higher peak season. Loads to be transferred are to be defined in Table 2.

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

**LOAD TRANSFERRED TO THE NEW / MODIFIED DELIVERY POINT
FROM EXISTING DELIVERY POINT(S)**

Name of the Existing Delivery Point(s) Summer or Winter	Existing Member Coincident Peak Load (kW)	Member Coincident Peak Load To Be Transferred (kW)	Year Transfer Occurs
Reference Note	(a)	(b)	(c)

Table 2 – Load Projection of Transferred Load to New/Modified Delivery Point

- (a) Provide the latest Summer or Winter Member Coincident Peak load at the existing DP based on the higher peak season. Forecasted load growth to be transferred should be included on Table 1 in the years subsequent to the initial transfer.
- (b) Provide the estimated peak load to be transferred to the New or Modified DP for Summer or Winter.
- (c) The year that the transfer from the existing DP to the New/Modified DP are projected to occur.

DATE ISSUED: _____**MEMBER SYSTEM CONTACT:** _____**PHONE:** _____ **EMAIL:** _____

If you have any questions, or need assistance in completing this delivery point form, please contact the Tri-State System Planning Department as referenced below.

TSGT PLANNING ENGINEER: _____**PHONE:** _____ **EMAIL:** _____

Exhibit No. RH-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
RYAN HUBBARD
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
RYAN HUBBARD
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Ryan Hubbard. I am the Senior Manager of Transmission Business Strategy at Tri-State Generation and Transmission Association, Inc. (“Tri-State”). My business address is 1100 West 116th Avenue, Westminster, Colorado 80234.

Q. Please briefly describe your educational background and employment history.

A. I have over 18 years of experience in the electric utility industry, including over 14 years at Tri-State. At Tri-State, I have held engineering and/or management roles in our Transmission Planning and Transmission Business Strategy groups. Prior to joining Tri-State, I worked as an electrical engineer for a consulting firm performing substation design and transmission planning for utilities across the United States. I have undergraduate and master’s degrees in engineering from the Colorado School of Mines. I am a registered Professional Engineer in the state of Colorado.

1 **Q. Please describe your duties and responsibilities as Senior Manager of Transmission**
2 **Business Strategy at Tri-State.**

3 **A.** In my present position, I am responsible for managing and overseeing Tri-State's
4 transmission contracts, rates, policy, and the Open Access Transmission Tariff ("OATT").

5 **Q. What is the purpose of your testimony in this proceeding?**

6 **A.** The purpose of my testimony is to support Tri-State's High-Impact Load Tariff ("HILT")
7 filing before the Federal Energy Regulatory Commission ("FERC" or "Commission").
8 Specifically, I will provide an overview of the transmission planning processes in the
9 Mountain West that Tri-State navigates for its Utility Members under all applicable OATTs,
10 explain how Tri-State will assess transmission risks and implement evaluation fees as part
11 of its proposed HILT program, and discuss how the costs of transmission upgrades
12 associated with High Impact Load ("HIL") interconnections will be allocated, including
13 Tri-State's proposed use of Facilities Construction Agreements ("FCAs").

14 **Q. Have you provided testimony in prior proceedings before FERC?**

15 **A.** Yes. I submitted pre-filed testimony on behalf of Tri-State in Docket Nos. ER20-686-000,
16 ER20-2593-000, ER21-410-000, ER25-445-000, and ER25-452-000.

17 **Q. Are you sponsoring any exhibits in connection with your testimony?**

18 **A.** No.

19 **II. EXISTING OATT TRANSMISSION PLANNING PROCESSES**

20 **Q. Please briefly describe complexities around transmission planning in the Mountain**
21 **West region of the United States.**

22 **A.** Tri-State operates in the Mountain West region where Regional Transmission
23 Organizations and Independent System Operators barely exist, with the exception of the

1 California Independent System Operator, Inc., which is electrically remote from the
2 Mountain West region. As a result, there are multiple transmission providers (and
3 associated OATTs) governing generator interconnection, transmission service, and
4 transmission planning in the Mountain West region.

5 While Tri-State has an OATT and is a transmission provider, Tri-State's
6 transmission system is heavily integrated with multiple other transmission providers,
7 including Basin Electric Power Cooperative, Black Hills Energy, Colorado Springs
8 Utilities, Deseret Power Cooperative, El Paso Electric, PacifiCorp, Platte River Power
9 Authority, Public Service Company of New Mexico, Western Area Power Administration,
10 and Xcel Energy.

11 Further, as explained below, Tri-State Merchant is a transmission customer of many
12 of the neighboring transmission providers, in addition to Tri-State Transmission, in the
13 Mountain West region. Finally, each transmission provider has separate transmission
14 planning processes and independent transmission rates. As Tri-State's Utility Members'
15 loads grow, Tri-State must evaluate which transmission provider is best suited to serve the
16 new or modified delivery point and proceed under the applicable OATT processes to serve
17 the load.

18 **Q. Is Tri-State a Balancing Authority ("BA")?**

19 **A.** No. Tri-State's transmission system, resources, and load are located within six different
20 balancing areas managed by separate BAs.

21

22

1 **Q. Please explain the relationship between Tri-State Merchant and Tri-State**
2 **Transmission.**

3 **A.** Tri-State Transmission is the transmission provider function of Tri-State, which owns,
4 operates, and maintains transmission facilities across a 200,000 square mile area and
5 administers Tri-State's OATT. Tri-State Merchant is the transmission customer and power
6 marketing function of Tri-State, which owns and operates generation resources on behalf
7 of Tri-State's Utility Members, as well as buys and sells energy and capacity to serve Tri-
8 State's Utility Members. Tri-State Merchant is a transmission customer of multiple
9 transmission providers across the Mountain West region.

10 **Q. Please explain Tri-State's transmission planning processes and how it must interact**
11 **with multiple OATTs on behalf of its Utility Members.**

12 **A.** Tri-State has two system planning groups: transmission planning and member system
13 planning. The transmission planning group performs all planning functions related to the
14 Tri-State OATT (*i.e.*, generator interconnection, transmission service, transmission
15 planning, affected systems studies, etc.) and North American Electric Reliability
16 Corporation reliability compliance.

17 The member system planning group is separate from the transmission planning
18 group. The member system planning group supports Tri-State's Utility Members through
19 evaluation of new or modified delivery points, reliability studies, assessment of Utility
20 Member construction work plans and long-range plans, distributed energy resource studies,
21 and technical support and analysis for operating issues or conditions that occur on a Utility
22 Member's sub-transmission or distribution systems, as explained by Matthew Haag in
23 Exhibit No. MH-001.

1 When a Utility Member identifies the need for a new or modified delivery point,
2 the member system planning group works with the Utility Member to understand the need
3 and performs the necessary studies to evaluate alternatives to meet the Utility Member's
4 needs. This could result in a new or modified delivery point on Tri-State's transmission
5 system, as well as any other transmission provider's transmission system in the area. Said
6 differently, Tri-State's member system planning group performs preliminary analyses to
7 determine which area transmission provider's OATT provides the least cost interconnection
8 alternative for Tri-State's Utility Member.

9 **Q. What trends are you seeing in United States regarding load growth?**

10 **A.** The growth of cloud storage and artificial intelligence is driving increased interest in the
11 development of large loads in the Mountain West region and across the country. This has
12 resulted in an increased number of HIL requests to our Utility Members, which must then
13 be evaluated by Tri-State's member system planning group in a just and reasonable and not
14 unduly discriminatory or preferential manner.

15 **Q. How does Tri-State's proposed HILT provide greater flexibility to accommodate the**
16 **integration of HILs?**

17 **A.** Historically, requests from Utility Members for new or modified delivery points have been
18 relatively predictable in size and frequency. Specifically, most requests for new or
19 modified delivery points are due to native load growth. Native load growth is built into
20 Tri-State's resource planning efforts, allowing resources to be procured to serve load
21 growth at new or modified delivery points in a timely manner. Conversely, HILs are not
22 naturally factored into resource planning efforts due to their size and uncertainty.
23 Additionally, unlike native load growth, which is confined to a specific geographic area,

1 HIL customers are commonly exploring multiple sites (*i.e.*, cities, states, regions, etc.) for
2 development, searching for the optimal combination of economics, location, and
3 deliverability. As a result, HILs are more speculative in nature, acting more like generator
4 interconnection requests searching for the optimum site, rather than native load growth.

5 It is my understanding that the Commission has expended considerable resources
6 trying to solve interconnection challenges arising from the speculative nature of generator
7 interconnection requests, such as clogged generator interconnection queues across the
8 country which have driven the need for “first-ready, first-served” tariff modifications (*i.e.*,
9 FERC Order No. 2023). Prior to Order No. 2023, Tri-State experienced significant
10 generator interconnection queue backlogs due to their speculative nature. Tri-State was an
11 early adopter of a “first-ready, first-served” interconnection process that was approved by
12 the Commission in 2021.¹ The transition to a “first-ready, first-served” process has helped
13 mitigate the challenges associated with studying speculative generation projects. In order
14 to mitigate the risks and challenges of speculative large load interconnections, Tri-State has
15 developed the proposed HILT to create a defined process for accepting and evaluating HIL
16 requests to ensure Tri-State can continue its mission of reliable, affordable, and responsible
17 supply of electricity while not shifting costs and risk to other Utility Members. Tri-State
18 proposes to do this, in part, by repurposing relevant recent Commission precedent on
19 generator interconnection queue issues. This defined process will provide more certainty
20 and predictability for Tri-State’s Utility Members (and their customers) and increase Tri-
21 State’s ability to integrate HILs in a reliable, affordable, and responsible manner.

¹ *Tri-State Generation & Transmission Ass’n, Inc.*, 174 FERC ¶ 61,021 (2021).

1 **III. COST ALLOCATION UNDER APPLICABLE OATTS**

2 **Q. How does Tri-State assign costs between network upgrades and interconnection**
3 **facilities?**

4 **A.** Direct assignment (or interconnection) facilities are sole use facilities and are the cost
5 responsibility of the customer requesting service under Tri-State's OATT. Interconnection
6 facilities are typically radial in nature, and are not considered an "eligible facility" under
7 the OATT. Conversely, network upgrades are not sole use facilities, and are considered
8 eligible facilities under the OATT. As a result, network upgrade costs ultimately are rolled
9 into Tri-State's transmission rate and paid by all of Tri-State's transmission customers on
10 a load ratio share basis in accordance with Tri-State's OATT.

11 **Q. How are costs assigned to customers under Tri-State's OATT?**

12 **A.** Network upgrades and interconnection facilities are initially funded by the customer
13 (transmission or generator interconnection) requesting service under the OATT. Costs
14 associated with network upgrades are refunded back to the customer by Tri-State
15 Transmission once the new service begins under the OATT (*e.g.*, network service, point-
16 to-point service).

17 In contrast, costs associated with interconnection facilities are not refunded to the
18 customer. The result is that they are not recovered under Tri-State's OATT rates. Further,
19 the facilities service agreement will oblige the customer to pay for ongoing maintenance
20 and replacement costs associated with the interconnection facilities to ensure costs are not
21 inappropriately shifted to other customers under the OATT.

22

23

1 **Q. Are there other OATTs where Tri-State takes significant transmission service?**

2 **A.** Yes, with Southwest Power Pool, Inc. (“SPP”) being the most significant. Currently,
3 however, only a small portion of Tri-State’s transmission system is located within SPP;
4 specifically, the portion of Tri-State’s transmission system under the functional control of
5 SPP is located in the Eastern Interconnection in western Nebraska. However, that portion
6 of Tri-State’s transmission system that is currently located within the Western Area Power
7 Administration, Colorado – Missouri region balancing area is planned to be placed under
8 the functional control of SPP beginning in April 2026. At that time, roughly two-thirds of
9 Tri-State’s transmission system will be under the functional control of SPP. Additionally,
10 the transmission systems of many neighboring transmission providers of whom Tri-State
11 is a network customer will also start to operate under the SPP OATT. Outside of SPP, Tri-
12 State will continue to be a transmission customer of Xcel Energy, Public Service Company
13 of New Mexico, Black Hills Energy, and PacifiCorp.

14 **Q. Can you explain the various cost allocation methodologies in SPP?**

15 **A.** Yes. Cost recovery in SPP will vary depending on the type of facility/upgrade and is
16 detailed in Attachment J of SPP’s OATT. Direct Assignment Facilities are facilities or
17 portions of facilities that are constructed by any transmission owner(s) within SPP for the
18 sole use/benefit of a particular transmission customer, a particular group of customers, or
19 a particular generation interconnection customer requesting service under the SPP OATT.
20 Costs associated with Direct Assignment Facilities are fully allocated to the transmission
21 customer or generation interconnection customer that solely uses/benefits from them.

22 In contrast, the costs of network upgrades are allocated depending on the type of
23 upgrade. Base Plan Upgrades are upgrades included in and constructed pursuant to the

1 SPP transmission expansion plan to ensure the reliability of the transmission system.
2 Additionally, Base Plan Upgrades include: (i) those service upgrades required for new or
3 changed designated resources to the extent allowed in the SPP OATT; (ii) network upgrades
4 required pursuant to the study results under Attachment AQ (Delivery Point Assessment
5 Process) of the SPP OATT; (iii) Integrated Transmission Plan Upgrades that are approved
6 for construction by the SPP Board of Directors; (iv) high priority upgrades, excluding
7 balanced portfolios, that are approved for construction by the SPP Board of Directors; and
8 (v) network upgrades due to the retirement of a resource in accordance with Attachment
9 AB (Generator Retirement Process) to the SPP OATT. Network upgrades that are
10 determined to be Base Plan Upgrades use the Highway/Byway cost allocation methodology
11 if the upgrade cost is greater than \$100,000. The Highway/Byway methodology allocates
12 transmission costs based on the voltage level of the specific transmission facility.

13 For example, for “Electric Highways” (extra high voltage transmission facilities
14 operated at 300 kV or above), 100 percent of the costs will be allocated to customers across
15 their corresponding region’s system load (the SPP West balancing area for the Western
16 Interconnection and the SPP East balancing area for the Eastern Interconnection), based on
17 their use of the region’s transmission system (*i.e.*, load ratio share). This is known as the
18 Schedule 11 Region-wide charge. For “Electric Byways” (lower voltage transmission
19 facilities operated above 100 kV and below 300 kV), one-third of the costs will be allocated
20 to customers across the entire corresponding region’s system (*i.e.*, included in the Region-
21 wide charge) and two-thirds of the costs will be allocated to customers across the
22 corresponding zone in which the project is located, on a load ratio share basis. This is
23 known as the Schedule 11 Zonal charge. Finally, for facilities below 100 kV, 100 percent

1 of the costs will be allocated to customers across the corresponding zone in which the
2 project is located, on a load ratio share basis. The Highway/Byway allocation methodology
3 was approved by FERC in its order issued on June 17, 2010, where FERC found it to be “a
4 just and reasonable proposal for cost allocation in the SPP region.”²

5 For facilities that are ineligible to be cost allocated pursuant to the Highway/Byway
6 cost allocation, costs are borne by the requesting customer. For example, if a customer
7 were to request a new delivery point under Attachment AQ of the SPP OATT which
8 required a new substation to be constructed, the new substation would be at the cost of the
9 customer to connect the load (*i.e.*, create the new delivery point), but any broader network
10 upgrades required to serve the load reliably would be eligible for Base Plan Upgrade cost
11 allocation. Another example is a sponsored upgrade, which are network upgrades
12 requested by a Transmission Customer or other entity, which are not identified in SPP’s
13 planning processes, and are voluntarily paid for by the requesting entity.

14 **Q. Does SPP limit the ability of upgrades to be designated as Base Plan Upgrades?**

15 **A.** For service upgrades associated with new or changed designated network resources, yes.
16 For service upgrades to be identified as a Base Plan Upgrade, certain criteria must be met:
17 (i) the service upgrade must cost more than \$100,000; (ii) the transmission customer’s
18 commitment to the designated resource has a duration of at least five years; (iii) in the first
19 year the designated resource is planned to be used by the transmission customer, the
20 accredited capacity of the transmission customer’s existing designated resources plus the
21 lesser of (a) the planned maximum net dependable capacity applicable to the transmission

² *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252 at P 62 (2010).

1 customer or (b) the requested capacity, shall not exceed the transmission customer's
2 projected system peak responsibility determined pursuant to SPP criteria multiplied by the
3 higher of (1) 125 percent or (2) the sum of 110 percent and the current planning reserve
4 margin percentage set forth in the SPP planning criteria; and (iv) if the designated resource
5 is a wind generation plant, then the sum of: (a) the requested capacity and (b) the
6 transmission capacity reserved for the transmission customer's existing designated
7 resources that are wind generation plants shall not exceed 20 percent of the transmission
8 customer's projected system peak responsibility as determined pursuant to SPP Criteria in
9 the first year the designated resource is planned to be used by the transmission customer.

10 For new or changed designated resources which require upgrades that are eligible
11 for cost allocation as a Base Plan Upgrade, SPP applies a safe harbor limit of \$180,000 per
12 MW. Said differently, if the upgrade costs associated with a new or changed designated
13 resource exceed \$180,000 per MW, the excess is direct assigned to the customer.
14 Importantly, SPP's OATT does allow transmission customers to seek a waiver from this
15 limit based on specific factors specified in the SPP OATT.

16 **Q. How are costs directly assigned to customers within SPP?**

17 **A.** As described above, there are a few avenues where directly assigned costs can and will
18 occur. First, costs of load connection facilities associated with a new or modified delivery
19 point under Attachment AQ of the SPP OATT would be paid by the transmission customer
20 to connect the new, or modify an existing, delivery point. Second, if service upgrades
21 associated with new or changed designated network resources were not eligible to be a
22 Base Plan Upgrade, or in the case of a Base Plan Upgrade exceeding the safe harbor limit,
23 then the costs are directly assigned to the transmission customer. Finally, new generator

1 interconnection projects could result in direct assignment costs to establish the
2 interconnection and associated interconnection service type.

3 **Q. Are there other applicable OATTs?**

4 **A.** Yes. Currently, Tri-State is a transmission customer of multiple transmission providers,
5 including, but not limited to, PacifiCorp, Platte River Power Authority, Public Service
6 Company of New Mexico, Western Area Power Administration, and Xcel Energy. The
7 other transmission providers in the Western Interconnection of whom Tri-State is a
8 customer follow similar approaches to Tri-State from the perspective of cost allocation of
9 interconnection facilities and network upgrades.

10 **IV. ALLOCATION OF UPGRADE COSTS TO HIGH IMPACT LOADS**

11 **Q. Please explain the HILT's proposed allocation of upgrade costs to HILs?**

12 **A.** To mitigate the cost and risk to Tri-State's Utility Members not associated with the HIL
13 request, Tri-State proposes to allocate the cost of interconnection facilities and Tri-State
14 Merchant's directly assigned upgrades directly to the Utility Member, who may pass those
15 costs directly to its HIL customer.

16 **Q. Does the proposed allocation of upgrade costs lead to just and reasonable outcomes?**

17 **A.** Yes. Unlike native load growth, which slowly grows over time and typically remains part
18 of the system for decades, HILs have increased uncertainty and associated risk due to the
19 size and type of load. While this is mitigated, to an extent, through the minimum 15-year
20 term under the HILT, interconnection facilities and upgrades are transmission assets which
21 are depreciated over many decades (up to 60+ years). As a result, if a HIL were to
22 disconnect at the 15-year mark, there would be stranded transmission assets – which would
23 create additional costs and burdens to Tri-State's Utility Members. Thus, directly assigning

1 upgrade costs to the Utility Member minimizes the potential for cost shifts and properly
2 allocates costs – consistent with cost causation principles. Further, the assignment of costs
3 helps to ensure that only “ready” projects are submitted and evaluated under the proposed
4 HILT.

5 **Q. Could you please walk through an example of how this would work under the SPP**
6 **OATT?**

7 **A.** Yes. In this example, a Utility Member has a new HIL request which has passed the HILT
8 evaluation and requires Tri-State to establish a new delivery point on the SPP transmission
9 system and acquire additional resources to serve the HIL. Tri-State would submit a new
10 delivery point request under Attachment AQ of the SPP OATT, which would trigger load
11 connection studies by the host transmission owner and network transmission studies by
12 SPP. The costs associated with the load connection facilities (*i.e.*, those facilities needed
13 to establish the delivery point), as identified by the host transmission owner, would be
14 directly assigned to Tri-State Merchant and would be passed on to the Utility Member.

15 If upgrades are required to the broader SPP transmission system, SPP would issue
16 a Notice to Construct (“NTC”) to the transmission owner, in accordance with the SPP
17 OATT. The receipt of a NTC allows the transmission owner to construct the assigned
18 upgrades and recover costs in accordance with SPP’s Highway/Byway cost allocation
19 methodology (*i.e.*, these costs would not be directly assigned). In parallel, Tri-State would
20 submit the network resources that were selected through the resource planning process into
21 SPP’s aggregate transmission service study process. If the additional network resources
22 trigger service upgrades which meet the eligibility criteria described earlier, the upgrades
23 would be eligible to be designated as Base Plan Upgrades and follow the Highway/Byway

1 cost allocation methodology (up to a safe harbor limit of \$180,000/MW). Any costs that
2 exceed the safe harbor limit would be directly assigned to Tri-State Merchant and passed
3 on to the Utility Member unless a tariff waiver is granted. However, if the eligibility criteria
4 were not met, network service upgrade costs would also be directly assigned to Tri-State
5 and passed on to the Utility Member.

6 **Q. Why does Tri-State need to evaluate the feasibility of making timely transmission**
7 **upgrades?**

8 **A.** As mentioned previously, customers with HILs are commonly exploring multiple sites for
9 development, searching for the optimal combination of location, economics and
10 deliverability (*i.e.*, timing). Further, Tri-State's transmission system is heavily integrated
11 with multiple transmission systems in the Mountain West region. As a result, Tri-State
12 needs to evaluate the feasibility of serving the request based upon the size, location, and
13 requested in-service date of the HIL. This process includes performing preliminary
14 evaluations and/or studies to determine which OATT the delivery point request should be
15 submitted to in order to minimize upgrade costs and improve the odds of incorporating the
16 load in a timely manner. However, if the size, location, and/or requested in-service date of
17 the HIL have inherent flaws (*e.g.*, inadequate transmission to accommodate the size of the
18 load within the time requested) which prevent meeting the desired in-service date, the
19 feasibility study allows Tri-State to work with the Utility Member and HIL customer to
20 refine the request prior to entering into the applicable OATT study process. Matthew Haag
21 provides additional information on feasibility studies in Exhibit No. MH-001.

22

23

1 **V. HIGH IMPACT LOAD EVALUATION FEES**

2 **Q. Please explain how the proposed HIL evaluation fee is determined.**

3 **A.** Tri-State proposes to use a HIL evaluation fee that aligns with Tri-State's currently
4 effective OATT requirements for generator interconnection requests, which is tied to the
5 size of the project (in MW). The HIL evaluation fee is proposed to be: \$35,000 plus \$1,000
6 per MW for HIL requests less than 80 MW; \$150,000 for HIL requests between 80 MW
7 and 200 MW; and \$250,000 for HIL requests larger than 200 MW.

8 **Q. How were the different size blocks determined?**

9 **A.** For consistency with Tri-State's OATT, Tri-State is proposing to use the same MW deposit
10 thresholds as used for interconnection customers when submitting generator
11 interconnection requests under Tri-State's Large Generator Interconnection Procedures
12 ("LGIP").

13 **Q. Why is it appropriate to use the LGIP study deposit as a proxy here?**

14 **A.** The thresholds and fees in Tri-State's LGIP are consistent with those recently adopted
15 under FERC Order No. 2023 for large generator interconnection requests, which FERC
16 found to be just and reasonable. The fees under Tri-State's LGIP are used for costs
17 associated with the cluster study process, which involves studying and evaluating the
18 interconnection of one or more proposed generator interconnection requests. Similarly,
19 one or more HIL requests will be evaluated under the HILT which will incur costs as a part
20 of the evaluation by Tri-State and the transmission provider under the applicable OATT.
21 The larger fee required for larger HIL requests appropriately reflects the additional analysis
22 and costs which occur with larger projects.

23

1 **Q. How does Tri-State propose to use the evaluation fee funds once received?**

2 **A.** Tri-State proposes to use the evaluation fee to first fund the HIL analysis performed by
3 Tri-State staff and the independent evaluator. Any remaining funds will be put towards
4 applicable OATT study costs.

5 **VI. FACILITIES CONSTRUCTION AGREEMENT**

6 **Q. Please briefly describe what a Facilities Construction Agreement is.**

7 **A.** An FCA is an agreement between Tri-State and the Utility Member that requires the Utility
8 Member to be responsible for costs of all interconnection facilities and upgrades directly
9 assigned to Tri-State that are necessary to serve the HIL, and to provide appropriate
10 security for such interconnection facilities and upgrades prior to execution of the applicable
11 OATT study agreement, unless the parties mutually agree otherwise.

12 **Q. Why does Tri-State need an FCA for the HIL program?**

13 **A.** The FCA ensures the Utility Member accepts cost responsibility for all interconnection
14 facilities and upgrades directly assigned to Tri-State that are necessary to serve the HIL,
15 and provides security for such facilities and upgrades. This mitigates the risk to remaining
16 Utility Members to ensure costs are not shifting to Utility Members not involved with HILs.

17 **Q. Why does Tri-State need security prior to execution of the applicable OATT study**
18 **agreement?**

19 **A.** SPP's aggregate transmission service study process (Attachment Z1 of the SPP OATT)
20 requires the study agreement to specify Study Completion Conditions, which includes the
21 maximum amount of directly assigned upgrade costs and third-party upgrade costs that the
22 eligible customer (i.e., Tri-State) is willing to accept, and the maximum amount of letter of
23 credit requirements acceptable. Additionally, there is a commitment to take transmission

1 service by executing the study agreement if the Study Completion Conditions are met. The
2 execution of the FCA and receipt of appropriate security by execution of the applicable
3 OATT study agreement will ensure Tri-State has sufficient security on hand to proceed
4 through the SPP's OATT study procedures based on the commitments in the study
5 agreement. If a non-SPP OATT requires security later in the OATT study procedures, then
6 Tri-State would mutually agree to delay execution of the FCA and receipt of the appropriate
7 security until the appropriate time based upon the applicable OATT.

8 **Q. Does this conclude your testimony?**

9 **A.** Yes.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read
and know the contents of the foregoing testimony and any exhibits attached thereto;
and they were prepared by me or under my direct supervision; and that the answers contained
therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 25, 2025

/s/



Exhibit No. RPM-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
RAYMOND P. MCHUGH
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Tri-State Generation and Transmission Association, Inc.)	
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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
RAYMOND P. MCHUGH
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Raymond P. McHugh. I am Senior Manager Rates for Tri-State Generation and Transmission Association, Inc. (“Tri-State” or “Company”) located at 1100 West 116th Avenue, Westminster, Colorado 80234.

Q. Please briefly describe your educational background and employment history.

A. I received a Bachelor’s degree in Business Administration, with an emphasis in Accounting, from the University of Colorado, Boulder. I began my career in the utility industry as Controller for Colorado Natural Gas, Inc. in 1998. Starting in 2008, I worked for SourceGas LLC in both the Accounting and Regulatory departments where I worked on numerous state rate cases and regulatory filings. In 2016, SourceGas LLC was acquired by Black Hills Energy, Inc. I continued my work in rates and regulatory there, working on gas and electric utilities in eight states and eighteen jurisdictions, including FERC’s jurisdiction, through April 2023 before joining Tri-State later that month. While Colorado Natural Gas, Inc. and SourceGas LLC were both natural gas distribution utilities, Black

Hills Energy, Inc. also has electric generation, transmission and distribution facilities, which are state and FERC regulated.

Q. Please describe your duties and responsibilities as Senior Manager Rates at Tri-State.

A. I am responsible for Tri-State's rate activities related to the 40 electric distribution cooperative and public power district members ("Utility Members") who take service under a full-requirements Wholesale Electric Service Contract ("WESC") utilizing Tri-State's A-Rate, which is currently the formula Rate Schedule A-41 (the "A-41 Rate"). This includes rate design efforts, rate filings at the Federal Energy Regulatory Commission ("FERC" or "Commission"), and Utility Member formula rate administration.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to describe the High-Impact Load Tariff's ("HILT") relationship to Tri-State's existing, Commission-accepted A-41 Rate.¹

Q. Have you provided testimony in prior proceedings before the Commission?

A. Yes. I submitted pre-filed testimony on behalf of Tri-State in Docket No. ER24-2171-000.

Q. Are you sponsoring any exhibits in connection with your testimony?

A. Yes. I am sponsoring the following exhibit, which is attached to and made a part of my testimony:

- **Exhibit No. RPM-002:** Potential Rate Impacts Example.

¹ On July 30, 2024, the Commission accepted Tri-State's proposal to transition from a stated rate to a formula rate, suspended the A-41 Rate for a nominal period, subject to refund, and established hearing and settlement judge procedures. *Tri-State Generation & Transmission Ass'n, Inc.*, 188 FERC ¶ 61,087 (2024). Settlement Judge procedures remain ongoing in Docket No. ER24-2171-000.

1 **II. HIGH IMPACT LOAD TARIFF'S IMPACT ON RATES**

2 **Q. Please describe the HILT's relationship to the A-41 Rate.**

3 **A.** High Impact Load ("HIL") is still Utility Member load, despite its size, and like all Utility
4 Member load it will be serviced through the WESC. The HILT is designed to work within
5 the framework of the A-41 Rate with additional protections to reduce risk, minimize cost
6 shifts, and maximize benefits to all loads. The service provided through the HILT, though,
7 will be no different than service provided to other Class A Member loads. HIL is therefore
8 appropriately charged the Class A Member Rate, which is currently the A-41 Rate.

9 **Q. Does HIL cause cost shifts?**

10 **A.** While a HIL has the potential to cause cost shifts to other loads, the HILT is designed to
11 protect other loads from cost shifts. At the same time, HIL has the potential to reduce costs
12 for all loads, including the HIL itself, through more efficient use of Tri-State's generation
13 and transmission resources, thereby spreading fixed costs over a greater volume of demand
14 and energy which could lead to lower overall rates.

15 The HILT's load evaluation process is designed to ensure that there are no cost
16 shifts to existing load from a new HIL. Should a new HIL not perform up to the
17 requirements of the High Impact Load Agreement ("HILA"), costs could be shifted to the
18 remaining load, as is shown in Exhibit No. RPM-002, absent a mechanism to mitigate those
19 cost shifts. A HIL could cause Tri-State to incur additional costs for new assets or new
20 power purchase agreements necessary to supply such a significant increase in load that had
21 not otherwise been planned for Tri-State's system. However, the risk of paying for these
22 large new assets and new power purchase agreements would shift to all other loads of all
23 Utility Members if a HIL did not take service, did not take service at the level contracted

1 for, or terminated service early. This is especially true if these new assets and power
2 purchase agreements could not be utilized to fulfill other load requirements of the Company
3 or sold to third parties. As those costs shifts could be significant, as discussed in my
4 testimony and Exhibit No. RPM-002, as well as the testimony of others accompanying this
5 filing, the protection of other Utility Members, and other load, from that risk of cost shifts
6 is a key purpose of the HILT framework.

7 Further, as the other witnesses testify, the HILT prevents cost shifts to other loads
8 and Utility Members by requiring: (a) security, which provides both up-front certainty and
9 long-term certainty of payment for the costs incurred to bring on the load, as explained in
10 the testimony of Danielle Bradberry, Exhibit No. DB-001; (b) minimum demand and
11 energy requirements, which ensure the minimum revenue requirements are met; (c) a 15-
12 year term, which ensures the load will remain at least long enough to recover a majority of
13 the costs to serve that load; and (d) assignment of interconnection costs to the Utility
14 Member from which the HIL takes service.

15 **Q. Does the HILT have rate benefits for Utility Members?**

16 **A.** As briefly touched upon above, yes, there is potential for rate benefits. The new load being
17 added through the HILT has the potential to provide rate benefits to all Utility Members
18 and all load, including the HIL. This could be in the form of lower overall rates for all
19 Utility Members and loads, including the new HIL, as fixed costs can be spread across
20 higher volumes of demand and energy. As described in the testimony of Lisa Tiffin, Exhibit
21 No. LKT-001, because the HILT requires a minimum demand component of 90 percent and
22 a minimum energy component of 75 percent of expected load or a minimum demand
23 component of 75 percent and a minimum energy component of 50 percent, it ensures that,

1 at a minimum, the amounts paid by the HIL are sufficient to cover the additional costs of
2 serving the HIL. It is possible that the HIL provides more than the minimum, and thereby
3 provides additional benefits to themselves and the rest of the system. An example of this
4 is provided in Exhibit No. RPM-002.

5 **Q. Why is the A-41 Rate appropriate here?**

6 **A.** As discussed above, the new load being brought on under the HILT is still Utility Member
7 load being served under the WESC. The Commission has accepted the A-41 Rate for
8 Utility Member load served under the WESC. A HIL will be a member of a Tri-State Utility
9 Member and served through the WESC – just like any other member of the Utility Member.
10 Because the Class A Member rate is designed to recover the costs of providing service to
11 Utility Members, this additional load naturally fits into the Class A Member Rate. Because
12 the new HIL poses heightened risks, the security requirement and minimum load
13 requirements, in addition to usage of the Class A Member Rate, ensure that other Class A
14 Member Rate load is not affected if the HIL does not perform as planned. While there is a
15 potential that the new HIL could provide rate benefits, it is not guaranteed. However,
16 should the new HIL provide benefits to the Class A Member Rate, the HIL will share in
17 that benefit along with all other Class A Member Rate load – just as all Utility Member
18 load does currently.

19 **Q. Does this conclude your testimony?**

20 **A.** Yes.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read
and know the contents of the foregoing testimony and any exhibits attached thereto;
and they were prepared by me or under my direct supervision; and that the answers contained
therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 26, 2025

/s/ 

PUBLIC VERSION – PRIVILEGED MATERIAL REDACTED

Exhibit No. RPM-002

PUBLIC VERSION – PRIVILEGED MATERIAL REDACTED

[REDACTED]

Exhibit No. SWW-001

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
STEVEN W. WISHART
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

August 28, 2025

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

**Tri-State Generation and Transmission
Association, Inc.**

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Docket No. ER25-____-000

PREPARED DIRECT TESTIMONY OF
STEVEN W. WISHART
ON BEHALF OF
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

I. INTRODUCTION

Q. Please state your name, title, and business address.

A. My name is Steven W. Wishart. I am an Assistant Vice President at Concentric Energy Advisors, Inc. (“Concentric”). My business address is 293 Boston Post Road West, Suite 500, Marlborough, Massachusetts 01752.

Q. Please briefly describe your educational background and employment history.

A. I hold a Bachelor’s of Science in Finance and a Master of Science in Resource Economics from the University of Arizona and have completed all the coursework for a Ph.D. in Applied Economics from the University of Minnesota. I have worked in the energy industry for more than 20 years. Before joining Concentric in the fall of 2023, I worked at Xcel Energy for nearly two decades. At Xcel Energy, I served as Director of Pricing and Regulatory Analytics for the Colorado jurisdiction. In that role, I performed rate design, cost allocation, long-term rate forecasting, and numerous other analyses in support of

1 regulatory filings. I also served as Director of Resource Planning and Bidding for the
2 Midwest jurisdiction. In that role, I oversaw the long-range planning for the electric
3 generation portfolio and conducted competitive resource acquisition processes. A
4 summary of my professional and educational background is included in Exhibit No. SWW-
5 002.

6 **Q. Please describe your duties and responsibilities as Assistant Vice President at**
7 **Concentric.**

8 **A.** In my role, I provide professional consulting services to electric, natural gas, and water
9 utilities and other customers. I work on a range of issues including rate design, cost
10 allocation, affordability, decarbonization, and corporate transactions.

11 **Q. What is the purpose of your Prepared Direct Testimony in this proceeding?**

12 **A.** The purpose of my testimony is to provide additional context on the rapid growth of data
13 center load across the country and within Tri-State's service area and discuss the benefits
14 and risks of serving large loads. I will also assess Tri-State Generation and Transmission
15 Association, Inc.'s ("Tri-State") High Impact Load Agreement ("HILA") and High Impact
16 Load Tariff ("HILT") in the context of similar strategies adopted by other utilities
17 nationwide.

18 **Q. Have you provided testimony in prior proceedings before the Federal Energy**
19 **Regulatory Commission ("FERC" or "Commission")?**

20 **A.** No.

1 **Q. Are you sponsoring any exhibits in connection with your testimony?**

2 **A.** Yes. I am sponsoring the following exhibit, which is attached to and made a part of my
3 testimony:

4 • **Exhibit No. SWW-002:** Educational and Professional Background of Steven
5 W. Wishart.

6 **II. DATA CENTER LANDSCAPE**

7 **Q. Please describe the current status of data center development in the U.S.**

8 **A.** Data center loads are experiencing unprecedented growth, primarily driven by the
9 increasing demands of Artificial Intelligence (“AI”), cloud computing, and data storage
10 services. Large technology companies such as Microsoft, Google, Amazon, and Meta are
11 expanding their data center infrastructures to accommodate these needs. The CBRE
12 Group, a commercial real estate investment firm, has found that data centers in primary
13 markets¹ increased by 34% in 2024 to 6,922.6 megawatts (“MW”), far surpassing the 26%
14 increase in 2023.² Primary markets had a record 6,350 MW of data centers under
15 construction at the end of 2024, more than double the 3,077.8 MW at the end of 2023.³
16 Moreover, the vacancy rate of data centers fell to 1.9% at the end of 2024, indicating a
17 nation-wide scarcity of large-scale data center availability.⁴

¹ CBRE defines Primary Data Center Markets as Atlanta, Chicago, Dallas-Ft. Worth, Hillsboro, New York Tri-State, Northern Virginia, Phoenix, and Silicon Valley.

² CBRE, *North America Datacenter Trends H2 2024* (Feb. 26, 2025)
<https://www.cbre.com/insights/reports/north-america-data-center-trends-h2-2024> (last accessed Aug. 25, 2025).

³ *Id.*

⁴ *Id.*

1 **Q. What are the key characteristics of data center load?**

2 **A.** Data center load has a constant and predictable load profile. Demand tends to be 24/7 with
3 little variation between peak and off-peak periods. Energy and Environmental Economics
4 estimates that the average data center has a load factor of 86%.⁵ The high load factor of
5 data centers indicate an efficient use of capacity. Data centers have high redundancy and
6 reliability needs. Data center load may grow quickly due to expanding IT requirements or
7 modular capacity expansion. Moreover, data centers are often built much faster than other
8 large industrial loads. The large technology companies use standardized repeatable designs
9 to build the facilities as fast as possible. Also, unlike large industrial facilities, data centers
10 do not depend on complex supply chains or raw materials which simplifies construction,
11 permitting, and staffing timelines.

12 **Q. How has data center growth impacted U.S. electricity demand?**

13 **A.** Data centers use significant amounts of energy, mainly because of the vast scale of their
14 operations. They must continuously power and cool countless servers and networking
15 devices that process enormous volumes of data. This energy demand is intensified by their
16 around-the-clock operation, the requirements of high-performance computing, and the
17 substantial cooling systems needed to dissipate the heat these technologies produce.

18 Federal government agencies and industry experts all predict significant data center
19 growth to continue. For example, the United States Department of Energy (“DOE”) and
20 Lawrence Berkely National Laboratory (“LBNL”) found in its December 2024 Report on
21 Data Center Usage that data center growth has tripled over the past decade and is expected

⁵ ENERGY & ENV’T ECON., INC, *Load Growth Is Here to Stay but Are Data Centers?* 31 (July 2024).

1 to double or triple by 2028.⁶ Today, data center usage represents 4.4% of total U.S.
2 electricity consumption, approximately 176 terawatt hours (“TWh”).⁷ The DOE and
3 LBNL expect usage to increase by 6.7% to 12.0% by 2028, equating to 325 to 580 TWh.⁸

4 S&P Global has also forecast significant growth in data center electricity demand
5 in the United States over the coming years. According to its October 2024 report, data
6 centers are expected to require an additional 150 to 250 TWh of power annually between
7 2024 and 2030, a surge comparable to adding the electricity consumption of New York
8 City within six years.⁹ To meet this demand, approximately 50 gigawatts (“GW”) of new
9 generation capacity will be required, necessitating approximately \$60 billion in generation
10 investments and \$15 billion in transmission infrastructure through 2030.¹⁰

11 **Q. To what extent are the forecasted large loads, such as data centers, likely to**
12 **materialize?**

13 **A.** While utilities are inundated with interconnection requests for large loads, particularly data
14 centers, the majority of these proposed projects are unlikely to be built. As a result, many
15 of the load forecasts are highly speculative.

16 A common industry practice is for large-load developers to submit multiple
17 interconnection requests across regions to maximize optionality. This practice is often
18 referred to as "site shopping." Utilities have reported receiving five to ten times more load

⁶ LAWRENCE BERKLEY NAT’L LABORATORY AND DEP’T OF ENERGY, *2024 United States Data Center Energy Usage Report 12* (December 2024).

⁷ *Id.* 6.

⁸ *Id.* 52.

⁹ S&P GLOBAL, *Data Centers: Rapid Growth Creates Opportunities and Issues* (October 2024).

¹⁰ *Id.*

1 requests than are ultimately built. There is no uniform method for distinguishing
2 speculative proposals from those with firm commercial backing. This practice inflates
3 near-term and long-term demand projections, which can lead to unnecessary infrastructure
4 development and associated costs that are typically passed on to ratepayers. Moreover, a
5 recent analysis by London Economics¹¹ found that U.S. data center load growth projections
6 cannot be met by global chip supply. For example, if the Independent System Operators'
7 ("ISO") and Regional Transmission Organizations' ("RTO") forecasted 57 GW of
8 additional data center load by 2030 were to materialize, it would require nearly 90% of the
9 world's AI chip production - an outcome the study deemed "unrealistic."

10 However, given the scale and substantial capital backing of the data center
11 development, even if only a small percentage of the proposed facilities are ultimately built,
12 they would still represent a significant incremental load on the electric grid.

13 **Q. Where is the major data center growth happening in the U.S.?**

14 **A.** The largest growth of data centers has occurred in Northern Virginia, Atlanta, Chicago,
15 Phoenix, Dallas-Ft. Worth, Hillsboro, Silicon Valley, and the New York Tri-State area.
16 Northern Virginia is the largest data center environment in the world, constituting 13% of
17 all reported data center operations worldwide, and 25% of capacity in the U.S..¹²

¹¹ LONDON ECON. INT'L LLC, UNCERTAINTY AND UPWARD BIAS ARE INHERENT IN DATA CENTER ELECTRICITY DEMAND PROJECTIONS, <https://www.selc.org/wp-content/uploads/2025/07/LEI-Data-Center-Final-Report-07072025-2.pdf> (last accessed on Aug. 25, 2025).

¹² UNIV. OF VIRGINIA, *JLARC Report: Data Centers in Virginia*, December 9, 2024.

1 **Q. Who are the largest owners of data centers in the U.S.?**

2 **A.** Amazon, Google, Microsoft, and Meta are some of the largest owners of data centers in
3 the U.S.

4 **Q. What is the typical range of individual data center sizes, measured in MW?**

5 **A.** While no official categorization exists, IBM has defined four different sizes of data centers:
6 micro data centers, small data centers, average data centers, and hyperscale data centers.¹³
7 Micro data centers are used by smaller companies and have a total size of under 150 kW.
8 Small data centers tend to have a size of 1-5 MW, while average data centers typically have
9 a size of around 100 MW. Hyperscale data centers are mainly used for cloud computing
10 and AI by companies such as Amazon, Google, Microsoft or Meta. The size of these data
11 centers is over 100 MW, and they normally exceed over 10,000 square feet in size. There
12 are some hyperscale data center campuses which greatly exceed this, such as Microsoft's
13 planned 800+ MW data center in Pennsylvania, which will be powered by the Three Mile
14 Island Nuclear Plant.¹⁴ While many data center campuses over 1 GW have been
15 announced, it is unclear if and when these will be built.

16 **Q. What are the main drivers for data center location selection?**

17 **A.** Data center growth has thrived in these markets with favorable business environments,
18 available resources, and strong infrastructure. Multiple factors have contributed to

¹³ IBM, *What is a hyperscale data center?* (Mar. 21, 2024), <https://www.ibm.com/think/topics/hyperscale-datacenter#:~:text=Hyperscale%20data%20centers%3A%20The%20IDC,Energy%20draw%3A%20Over%20100MW> (last accessed on Aug. 25, 2025).

¹⁴ Sebastian Moss, *Three Mile Island nuclear power plant to return as Microsoft signs 20-year, 835 MW AI data center PPA*, DATA CENTRE DYNAMICS LTD. (Sept. 20, 2024), <https://www.datacenterdynamics.com/en/news/three-mile-island-nuclear-power-plant-to-return-as-microsoft-signs-20-year-835mw-ai-data-center-ppa/> (last accessed Aug. 25, 2025).

1 Northern Virginia's growing prominence, including favorable state tax incentives, highly
2 educated workforce, strong fiber network, reliable cheap electricity, land availability, and
3 proximity to large customers.

4 **Q. Are governments offering incentives to companies to site their data centers in states?**

5 **A.** Since the early 2000s, states like Virginia, North Carolina and Texas have been offering
6 incentives to attract data center development. The incentives include sales tax exemptions
7 on equipment and electricity, tax credits, and property tax reductions. In the 2020s, more
8 than 30 states developed or refined such incentives. More recently, several states that
9 previously offered incentives have begun reconsidering or restricting them, rolling back
10 tax breaks and preferential electricity rates for data centers. For example, South Carolina
11 voted to limit the tax and electricity rate incentives it had previously extended to data
12 centers. These changes reflect growing concerns about the return on investment for the
13 state. For example, Georgia's state audit has revealed that the economic activities
14 generated from \$50 million in tax breaks is only expected to generate \$15 million in new
15 tax collection in 2025.¹⁵ Other concerns include increased energy use and environmental
16 impact.

17 **Q. Are there government incentives in any of Tri-State's service territory?**

18 **A.** In Tri-State's footprint, state incentives and tax abatements vary widely and are developing
19 quickly:

¹⁵ Bennett Hardee et al., *Tax Incentive Evaluation: Georgia High-Tech Data Center Equipment Exemption* 33 (Dec. 2022) <https://www.audits.ga.gov/ReportSearch/download/29072> (last accessed Aug. 25, 2025).

- 1 • Colorado Senate Bill 25-280, titled “Data Center Development & Grid
2 Modernization Act” was introduced on April 4, 2025. It was designed to offer
3 substantial benefits for data centers that meet certain capital investment
4 requirements, job creation requirements, and sustainability requirements. Benefits
5 include 100% sales and use tax exemptions for 20 years, income tax credit equal to
6 10% of data centers’ grid investments, and utility rate incentives as negotiated
7 between the data center operators and the utility. Colorado Senate Bill 25-280 did
8 not advance out of the Senate Appropriations Committee and therefore did not pass.
9 In state legislatures, bills that fail often come back in future sessions. It is likely
10 that a revised version of data center incentives bill will return in a future session in
11 Colorado, especially if supporters address the environmental and fiscal concerns
12 raised this year.
- 13 • Wyoming already provides significant sales/use tax exemptions and offers the
14 Managed Data Center Cost Reduction Grant (rebating electricity and broadband
15 costs). The state also has some of the nation’s lowest industrial power rates. This
16 mix has attracted hyperscale operators like Microsoft and Meta.
- 17 • New Mexico currently offers no statewide data center–specific incentives, making
18 it less competitive than other states with incentives.
- 19 • Nebraska, since 2012, has authorized sales/use and property tax exemptions and
20 allows public utilities to negotiate discounted tariffs, which helped generate over
21 200 MW of new data center load in the Lincoln–Omaha corridor between 2022 and
22 2024.

1 Because developers will evaluate the incentives offered in neighboring states of
2 Tri-State's service territory, it is important that Tri-State develops a well-structured tariff
3 for large load customers, while ensuring that existing members are not negatively
4 impacted.

5 **Q. Beyond data centers, what other types of large loads are impacting U.S. electricity**
6 **demand?**

7 **A.** Beyond data centers, a spectrum of large loads is rapidly transforming U.S. electricity
8 demand and posing new reliability challenges. These include large-scale hydrogen
9 production facilities, electric vehicle and battery giga-factories, expanded oil and natural
10 gas refining complexes, crypto-mining operations, and industrial sites tied to domestic
11 onshoring and electrification efforts. Many of these loads are projected to exceed hundreds
12 of MWs per site.

13 These large loads are typically backed by long-term corporate or government
14 investment, tied to established supply chains, and often benefit from public incentives and
15 policy support. Once announced, these projects tend to move forward with a relatively
16 high degree of certainty.

17 **III. BENEFITS AND RISKS ASSOCIATED WITH SERVING LARGE LOAD**
18 **CUSTOMERS**

19 **Q. What potential benefits can a utility experience by adding new data centers or other**
20 **large load customers to its system?**

21 **A.** Adding new data centers, or similarly sized, high-impact loads, can deliver a range of
22 advantages to both the utility and its broader customer base:

23 Improved Asset Utilization and Load Factor

1 As noted above, data centers typically exhibit load factors around 85 percent,
2 meaning their consumption is nearly constant. That consistency lets the utility operate
3 generation, transmission, and distribution assets closer to their design capacity, making for
4 more efficient use of the utility's resources. In effect, the utility can spread its fixed costs
5 (capital depreciation, maintenance, staffing) over a higher number of megawatt-hours,
6 driving down the average cost per kilowatt-hour for all customers.

7 Revenue Stabilization and Cross-Subsidy Mitigation

8 Because large load customers contribute to significant fixed-charge revenue
9 (demand charges and minimum monthly bills), they help cover sunk costs more rapidly
10 than a portfolio of small, variable-load customers. When a data center signs a long-term
11 contract with defined minimum demand obligations, the utility gains a predictable revenue
12 stream that is insulated from normal economic or seasonal fluctuations. That stability can
13 dampen annual revenue volatility, which has the benefit of reducing upward pressure on
14 residential and commercial rates.

15 Broader Economic Development Benefits

16 Data centers are not only significant employers during design, construction, and
17 deployment phases, but also generate lasting operations and maintenance jobs in IT
18 management, facilities engineering, and security. Depending on local regulations and
19 incentives, the facility itself then generates local tax revenue. Beyond the on-site positions,
20 ancillary industries, engineering consulting, construction, logistics, and local vendors,
21 often cluster near data center campuses. Those multiplier effects can generate incremental
22 local tax revenue and spur capital investment in roads, fiber networks, and workforce
23 training initiatives. Data centers create jobs during construction and ongoing operations,

1 including IT management, facilities engineering, and security. They may also contribute to
2 local tax revenues and attract some ancillary activity in construction, logistics, and related
3 services, though the scale of these effects varies by jurisdiction.

4 Support for Renewable Integration

5 Because data center loads are steady and, in some cases, schedulable (e.g., non-
6 time-sensitive batch processing or AI-training workloads), they can absorb periods of
7 surplus renewable generation. Utilities with high levels of wind or solar can encourage
8 data centers to time-shift certain computing tasks to daylight hours or windy periods,
9 flattening the net load curve and reducing renewable curtailment.

10 Credit Enhancement and Financial Flexibility

11 Large data center projects often bring sophisticated corporate sponsorship
12 (hyperscale operators, major cloud providers, or specialized colocation firms). Their
13 financial strength can improve the utility's credit metrics, so long as contracts are backed
14 by substantial security (letters of credit, cash escrows, or parental guarantees). By
15 negotiating long-term agreements, the utility can amortize infrastructure investments over
16 a longer horizon, reducing the annual revenue requirement with the potential for enhancing
17 bond ratings.

18 In summary, when negotiated and managed carefully through long-term contracts,
19 minimum demand provisions, and appropriate security deposits, the addition of data
20 centers can enhance asset utilization, stabilize revenues, spawn local economic benefits,
21 and encourage grid modernization and renewable integration.

1 **Q. What risks can arise for a utility when integrating new data centers or other large**
2 **load customers into its system?**

3 **A.** Despite their upside, data centers and similar large load customers also bring material
4 economic, reliability, and operational risks. Key concerns include:

5 Stranded or Under-Utilized Infrastructure

6 A data center project can require hundreds of millions of dollars in new
7 transmission facilities and generation capacity, which often must be planned and
8 constructed with long lead times in advance of anticipated in-service dates. If a data center
9 reduces its load forecast during commissioning, fails to come online, or terminates service
10 early before a utility has recovered the costs of its investments, the utility is left with
11 oversized, under-utilized assets. Those sunk costs, if not fully recovered through security
12 deposits or minimum charges, can result in stranded investments, forcing the utility to
13 spread cost recovery over its remaining customer base or incur a long-term revenue
14 shortfall, contrary to the principles of cost causation.

15 Load Forecast Uncertainty and Ramp-Up Variability

16 Even with rigorous load-factor guarantees, data center growth often occurs in
17 stages: initial build-out of infrastructure, incremental installation of IT racks, and finally
18 the steady state of full rack density. If the ramp-up schedule slips, the utility must
19 continually reevaluate its resource plan, potentially delaying or accelerating generation
20 commitments to avoid overbuilding or underbuilding. That mismatch between load
21 realization and resource procurement can lead to capacity shortfalls or unnecessary spot
22 purchases at premium prices, both of which translate to higher costs for all customers.

23 Interconnection Queue Congestion and Extended Interconnection Timelines

1 The rapid growth of data centers affects both generation and load interconnection
2 processes. At the ISO level, rising demand forecasts drive additional generation projects
3 into already congested interconnection queues, while clustered data center siting requires
4 more complex transmission studies and higher upgrade costs. At the utility level, load
5 interconnection requests of 100 to 300 MW or more strain processes that were not designed
6 for such scale, necessitating major substation and transmission investments and extending
7 timelines for approval. Together, these dynamics create a two-sided bottleneck in which
8 new supply cannot be developed without certainty of demand, and new load cannot be
9 served until generation and network upgrades are in place.

10 Cost-Shifting and Rate Shock for Incumbent Customers

11 If a utility agrees to rate discounts that fall below its embedded cost, there is the
12 risk that forecasted incremental revenues fall short of necessary revenue requirements.
13 That shortfall can lead to deferred cost balances that ultimately get rolled into base rates.
14 As a result, existing residential and commercial customers could face rate shock in
15 subsequent rate cases. The stakes are higher in not-for-profit cooperatives like Tri-State,
16 where impacts directly influence cost-based rates. For investor-owned utilities, revenue
17 shortfalls could potentially be absorbed by shareholders, which would shield customers
18 from rate impacts. However, in a cooperative structure, members would be directly
19 impacted either through higher rates or reduced margin.

20 Power Quality and Reliability Concerns

21 Data centers have near-zero tolerance for voltage sag, frequency excursion, or
22 extended outage. To satisfy these operational needs, or reliability requirements, the utility
23 may need to install redundant feeders, dynamic voltage regulation, and rapid rebuild

1 capabilities, driving up the cost of service above standard distribution rates. Moreover,
2 large data centers can introduce harmonic distortion and flicker onto the grid (due to 480
3 V Uninterruptible Power Supply (“UPS”) systems and extensive rectifier banks).
4 Mitigating those power quality issues may necessitate additional capacitor banks, harmonic
5 filters, or dedicated substations, each of which adds capital and operating costs.

6 An illustrative example of the reliability risks posed by large data centers comes
7 from a January 2025 North American Electric Reliability Corporation (“NERC”) incident
8 review¹⁶ detailing the sudden loss of approximately 1,500 MW of load. On July 10, 2024,
9 a fault on a 230 kV transmission line in the Eastern Interconnection led to a series of brief
10 voltage dips. In response, several large data centers in Northern Virginia automatically
11 disconnected from the grid and transferred to on-site backup power. This simultaneous and
12 uncoordinated drop in load triggered unexpected frequency and voltage fluctuations on the
13 system, requiring immediate operator action to stabilize conditions. As highlighted by
14 NERC, this event underscores the growing operational and planning challenges associated
15 with fast-acting, voltage-sensitive loads like data centers, whose behavior during
16 disturbances can introduce significant uncertainty and risk to grid reliability.

17 Environmental Impacts

18 Serving large data center loads can create challenges for utilities in meeting
19 environmental regulations, including Renewable Portfolio Standards (“RPS”) and broader
20 decarbonization goals. If data center demand grows more rapidly than new renewable
21 resources can be procured or developed, the utility may be forced to rely more heavily on

¹⁶ NORTH AMER. ELEC. RELIABILITY CORP., INCIDENT REVIEW: CONSIDERING SIMULTANEOUS VOLTAGE-SENSITIVE LOAD REDUCTIONS (Jan. 8, 2025), https://www.nerc.com/pa/rrm/ea/Documents/Incident_Review_Large_Load_Loss.pdf (last accessed Aug. 25, 2025).

1 existing fossil fuel resources to maintain reliability. This is particularly problematic when
2 data centers require firm, around-the-clock service, which intermittent renewable
3 generation alone cannot reliably provide. In such cases, significant investments in energy
4 storage or other firm, zero-emission resources are necessary. However, these technologies
5 may not be available at scale or cost-effective in the near term. As a result, rapid growth
6 in data center load could outpace the utility's ability to add clean energy resources, making
7 compliance with RPS targets and decarbonization timelines more difficult.

8 Regulatory and Contractual Complexity

9 To manage the risks posed by data centers, utilities often require them to meet strict
10 security standards, maintain, minimum demand and energy obligations, and commit to
11 long-term contracts. Drafting, negotiating, and overseeing those agreements requires
12 specialized legal, accounting, and engineering expertise that many smaller co-ops or
13 utilities may not have in-house.

14 In short, while data center development can offer compelling benefits, such as
15 improved asset utilization, stable long-term revenues, economic development, and
16 potential support for renewable integration, it also introduces risks to utilities, including
17 stranded costs, reliability concerns, power quality issues, and environmental impacts.
18 Successful integration depends on rigorous feasibility studies, robust contract provisions,
19 and continuous monitoring of actual load performance against forecasts. When these
20 protections are embedded in a well-designed tariff, they can help shift the risk-reward
21 balance toward a net benefit for both the utility and its broader customer base.

1 **Q. What capacity shortage and resource adequacy risks can result from rapid data**
2 **center load growth?**

3 **A.** Rapid data center load growth presents significant challenges for utilities in maintaining
4 reserve margin and ensuring resource adequacy. Because of the high electricity demand,
5 often hundreds of MW per site, these load additions can outpace a utility's ability to secure
6 new generation or upgrade transmission, leading to potential capacity shortfall.

7 Rapid load growth is already causing resource adequacy concerns in all U.S.
8 regions. NERC's 2025 Summer Reliability Assessment¹⁷ identified higher peak demand
9 forecasts driven by sustained load growth as reliability concerns that strain resource
10 adequacy and transmission systems. The largest increases in peak demand are projected in
11 the Western United States, where rapid data center development is a major contributor.
12 This trend reflects a structural shift in demand, from gradual native load increase to sudden,
13 high impact load ("HIL") additions. Absent significant investment in new capacity and
14 transmission infrastructure, this shift will exacerbate capacity shortfalls and increase the
15 risk of reliability challenges in the coming years.

16 **IV. LARGE LOAD CONTRACT PROVISIONS**

17 **Q. What is the purpose of this section of your testimony?**

18 **A.** Many utilities across the U.S. have recognized the unique operational and planning
19 challenges associated with serving large and high load factor loads such as data centers. In
20 response, a growing number of utilities have either implemented or proposed specific large

¹⁷ NORTH AMER. ELEC. RELIABILITY CORP., 2025 SUMMER RELIABILITY ASSESSMENT: MAY 2025,
https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2025.pdf (last accessed Aug.
25, 2025).

1 load service contracts designed to manage and facilitate this growth. These contracts or
2 tariffs vary in design, but they share a common objective which is to ensure that large loads
3 are integrated into the system in a manner that is operationally feasible, financially
4 sustainable, and equitable for all customers.

5 In this section of my testimony, I summarize large load or data center-specific
6 contractual requirements from eleven proposals or tariffs that I have reviewed. The
7 purpose is to demonstrate the range of approaches taken with respect to various contract
8 terms. I do not attempt to provide a comprehensive discussion of each.

9 **Q. Which utilities' large load contracts have you reviewed?**

10 **A.** I have reviewed the large load contracts or proposals of the following utilities: AEP Ohio,
11 Dominion Energy Virginia, Indiana Michigan Power, Evergy Kansas and Missouri,
12 Consumers Energy Michigan, Florida Power & Light ("FPL"), Wisconsin Electric Power,
13 Santee Cooper, Kentucky Power, Arizona Public Service, and Ameren Missouri. All of
14 these contracts were for retail service and were not filed at FERC.

15 **Q. What are some of the common contract terms that utilities require or have proposed**
16 **for new large load customers?**

17 **A.** First, most utilities establish minimum size and/or load factor thresholds that trigger the
18 need for special contract provisions when serving a new customer. Under these provisions,
19 the customer must enter into a contract that specifies its expected monthly peak demand.
20 Second, utilities typically require a minimum contract term for large load customers, often
21 including a ramp period to accommodate load growth as the site is developed. Third, to
22 ensure sufficient cost recovery of investments, many utilities impose requirements such as

1 minimum monthly bills, collateral deposits, and exit fees if a customer materially reduces
2 load or cease operations. Finally, some utilities permit the reassignment of capacity to
3 other customers in order to maximize resource utilization.

4 **Q. What are the customer load size requirements and load factor requirements for the**
5 **utility proposals that you reviewed?**

6 **A.** The load size requirement generally ranged from 25 MW to 150 MW. Wisconsin Electric
7 Power's Very Large Customer Tariff proposal was an outlier with a minimum contract
8 capacity of 500 MW. Only Dominion and FPL specified a minimum load factor, with a
9 requirement of 75% and 85%, respectively.

1

Table 1: Size and Load Factor Requirements by Utility

Utility	Tariff / Rate Name	Minimum Load Size	Minimum Load Factor
AEP Ohio	Data Center Power (“DCP”) Tariff	> 25 MW, >1MW for mobile data centers (crypto)	None
Dominion Energy Virginia	GS-5 Rate Class	≥ 25 MW on contiguous sites	≥ 75% LF over 3-month period.
Indiana Michigan Power	Modifications to Tariff Industrial Power	≥ 70 MW single site ≥ 150 MW aggregated	None
Evergy KS & MO	Large Load Power Service	> 100 MW peak	None
Consumers Energy (MI)	Amendments to General Primary Demand Rate	≥ 100 MW at one site or aggregated	None
FPL	Large Load Contract Service Rate Schedule	≥ 50 MW	≥ 85 % LF
Wisconsin Electric Power	Very Large Customer Tariff	≥ 500 MW	None
Santee Cooper	Experimental Large-Load Rate	≥ 50 MW	None
Kentucky Power	Industrial General Service Large Load Option	≥ 150 MW	None
Arizona Public Service	Extra High Load Factor Tariff	Required for all existing and new data centers	None
Ameren (MO)	Large Primary Service M11	≥ 100 MW	None
OVERALL		Range: 25 MW to 500 MW Average: 114 MW	Range: 75% to 85 %

2

3 **Q. What are the minimum contract term and load ramp provisions for the utility**
4 **proposals that you reviewed?**

5 **A.** Most utilities require multi-year commitments that include a defined ramp period during
6 which the customer may gradually reach full load. Contract terms typically range from 8
7 to 20 years, with ramp periods of 3 to 5 years.

Table 2: Minimum Contract Term and Load Ramp Provisions by Utility

Utility	Minimum Total Contract Term	Load Ramp Period & Provision
AEP Ohio	Load ramp period + 8 years	Up to 4 years
Dominion Energy VA	Load ramp period + 10 years	Option of 4-year ramp at +20 %/yr or immediate 100 % at energization
Indiana Michigan Power	At least 12 years total	Ramp period not to exceed 5 years
Eversys KS/MO	15 years total	Not specified. Customer provides a forecasted load ramp schedule
Consumers Energy MI	Load ramp period + 15 years	Ramp up to 5 years (negotiated)
FPL	20 years total	Negotiated
Wisconsin Electric Power	At least 10 years and for the depreciable life of bespoke generation assets	No stated ramp period, customer provides 10-year peak demand forecast
Santee Cooper	15 years total	3 years at the Company's discretion
Kentucky Power	At least 20 years	No stated ramp period
Arizona Public Service	Negotiated	None specified
Ameren MO	12 years + ramp period, minimum 15 years total	Up to 5 years
OVERALL	Range: 8 to 20 years Average: 14 years	Range: 3 to 5 years Average: 4 years

Q. What are the security and exit-fee provisions for the utility proposals that you have reviewed?

A. Most proposals combine credit and security requirements, commonly in the form of parent-company guarantees, letters of credit ("LOC"), or cash collateral, with exit-fees equal to a fixed number of months of minimum charges. Three of the utilities I reviewed required security equal to 24 months of minimum charges, but some required security equal to minimum charges over the full term of the contract. AEP Ohio's Schedule DCP is the most detailed, requiring collateral equal to 50% of all minimum charges (subject to credit ratings/liquidity) and an exit-fee of 36 months' charges after Year 5. Dominion VA and

FPL likewise specify multi-year exit-fees and parent-guarantee or LOC requirements, while other jurisdictions rely on contribution in aid of construction payments.

Table 3: Security and Exit-Fee Requirements by Utility

Utility	Collateral / Security Requirement	Exit-Fee Provision
AEP Ohio	If credit < A-/A3 or liquidity < 10× requirement, customer must post collateral/guarantee equal to 50 % of minimum charges over term of contract	After Year 5, customers may terminate by paying an exit fee equal to 36 months of minimum charges
Dominion Energy VA	\$1.5 M per MW. 70% reduction in security for credit rating ≥ BBB-	Early termination fee or reduced capacity fee equal to remaining minimum-bill obligations for term of contract
Indiana Michigan Power	24 months × maximum monthly non-fuel bill. Fully exempt if credit rating ≥ A-/A3 and liquidity ≥ 10× collateral requirement, 50% exemption (up to \$250M) with unaudited liquidity ≥ 10× collateral	Capacity reductions >20% or full termination (after year 5) allowed with 42-month notice. Exit fee equal to value of remaining minimum charges up to 5 years
Eversource KS & MO	2 years of minimum bills, recalculated annually, 50% discount if rated A-/A3 with ≥10× liquidity, 40% discount for unrated firms with ≥10× liquidity (max discount \$125–150M)	36-month notice required. Exit fee equal to sum of remaining minimum-bill obligations or 36 months of LLPS charges, whichever is greater
Consumers Energy MI	Financial security may be required based on the Company's risk assessment of the customer up to the projected cost of providing service over the term of the contract	Minimum billing for the remainder of the contract
FPL	5 years of minimum Incremental Generation Charges if ≥ BBB, else 10 years of Minimum Incremental Generation Charges. Irrevocable letter of credit, parental guaranty or other FPL-approved form of credit support	Two-year notice requirement. Exit fee equals the NPV of remaining Incremental Generation Charges for the remainder of contract term
Wisconsin Electric Power	Payment Cancellation Agreement that requires payment equal to the cost of long-lead equipment	Undepreciated book value of dedicated assets and pass through charges for the remainder of contract term
Santee Cooper	Collateral equal to full 15 years of minimum bill amount (recalculated annually) + cash deposit equal to 12 months of minimum bills	Remaining minimum monthly charges through the end of contract
Kentucky Power	Collateral equal to 24× previous max monthly non-fuel bill; reevaluated annually; form based on creditworthiness	If permanently closing after Year 5, customer must pay five years of minimum billing charges
Arizona Public Service	Negotiated	Negotiated

Ameren MO	50% of the minimum bills over the term of the contract. Security is waived if A- or A3 rating and liquidity equal to 10 the standard security	24-month notice requirement. Early termination fee equal to the less of five years or remaining term of contract, plus remaining ramp period if applicable
OVERALL	Range: 2 years of minimum bills up to minimum bills over the entire contract Average: 7 years of minimum bills	Range: 3 years of minimum bills up to the remainder of the contract Average: 5 years of minimum bills

Q. What are the minimum bill requirements for the utility proposals that you have reviewed?

A. Most of the proposals that I reviewed included minimum bill requirements based on a percentage of contract demand that ranged from 60% to 100%. Wisconsin Electric Power's structure is different in that it directly assigns the cost of resources dedicated to serving the large load customers.

Table 4: Minimum Bill Requirements by Utility

Utility	Minimum Bill Requirements
AEP Ohio	Formula based on size: 60% of contract demand for 25 MW up to 85% for demand over 115 MW
Dominion Energy VA	60% of contract demand for generation charges and 85% for distribution and transmission charges
Indiana Michigan Power	80% of contract demand or maximum demand over previous 11 months
Eversource KS & MO	80% of contract demand and 12-month ratch for grid-access charge
Consumers Energy MI	80% of contract demand
FPL	70% of contract demand or maximum demand over previous 11 months
Wisconsin Electric Power	Direct assignment of dedicated distribution and transmission facilities and bespoke generation resources
Santee Cooper	Months 1-60 100%, months 61-120 95%, months 121-180 90% of contract demand
Kentucky Power	90% of contract demand or maximum demand over previous 11 months
Arizona Public Service	Negotiated
Ameren MO	70% of contract demand
OVERALL	Range: 60% to 100% of contract demand Average: 80%

1 **V. TRI-STATE’S HIGH IMPACT LOAD PROPOSAL**

2 **Q. Could you provide a brief overview of Tri-State’s HIL proposal and its key**
3 **components?**

4 **A.** While Tri-State’s other witnesses provide additional detail, I will provide a brief overview
5 of the HIL proposal. The proposal consists of a HILT and a pro forma HILA. The HILT
6 sets forth the procedures, terms, and conditions governing the HIL Program. The HILA is
7 the contract a Tri-State Utility Member executes with Tri-State under the HILT to facilitate
8 a HIL. It specifies the Utility Member’s commitments, such as contract term, minimum-
9 take obligations, security deposits, ramp-up schedule, and exit fees, and ensures full cost
10 recovery. In turn, the Utility Member will execute a retail-level contract with the HIL
11 customer, referred to as a Member-Customer HIL Agreement (“MCHIL”), which contains
12 obligations substantively similar to those set forth in the HILA.

13 **Q. What is “HIL” and “HIL Cycle” as defined in the HILT?**

14 **A.** A HIL is defined as any load addition that exceeds 45 MW at the time of a Member Project
15 Request or is forecasted to exceed 45 MW within four years from the time of the request.
16 In most cases, a HIL refers to a single Tri-State delivery point. Aggregation of loads is
17 limited and permitted only at Tri-State’s discretion.

18 A HIL Cycle is a project evaluation and contracting process where Tri-State will
19 provide detailed feedback on a specific HIL Project submitted by Utility Members. The
20 HIL Cycle will be conducted every two years. Once a HIL Cycle has begun, Tri-State will
21 begin evaluating all HIL Projects participating in that Cycle based on four evaluation
22 criteria.

1 **Q. Could you provide a high-level description of the proposed HIL study and evaluation**
2 **process?**

3 **A.** HILT proposes a four-step study and evaluation process. At a high level, the process
4 includes:

- 5 • Step 1: Perform Feasibility Study Assessment. Once a Utility Member submits a
6 Member Project Request, Tri-State and the Utility Member will work
7 collaboratively through the Feasibility Study Assessment to identify optimal
8 locations to interconnect the HIL.
- 9 • Step 2: Submit Participation Package. Once the feasibility study is complete and
10 the Utility Member decides to move forward, the Utility Member will provide Tri-
11 State with a Participation Package to participate in the HIL Cycle Planning Process.
12 Utility Member must demonstrate the HIL Project has 90% of Site Control and pay
13 a non-refundable HIL Evaluation Fee as part of the Participation Package. Utility
14 Member will execute a HILA as part of the Participation Package.
- 15 • Step 3: Evaluate HIL Project based on four evaluation criteria.
- 16 • Step 4: HIL Projects that fail the initial evaluation will have an additional
17 opportunity to revise their proposals for a subsequent revised proposal evaluation.

18 **Q. Please describe these four evaluation criteria.**

19 **A.** The four evaluation criteria applied to HIL Projects are reliability, economics,
20 environmental, and transmission feasibility. I will explain each in more detail.

1 Reliability: The project must not negatively impact the reliable operation of the Tri-
2 State system, as measured by Tri-State's planning metrics and applicable regulatory
3 requirements.

4 Economics: The project must reduce or hold stable Tri-State's rate requirements
5 compared to the forecasted baseline rate requirements included in the Class A Rate
6 effective at the start of the current HIL cycle.

7 Environmental: The project must not hinder Tri-State's ability to meet its
8 environmental goals or comply with greenhouse gas reduction targets, renewable
9 mandates, or other environmental obligations.

10 Transmission Feasibility: The transmission upgrades needed to serve the project
11 must be achievable in time to meet the proposed operation date.

12 Additionally, an Independent Evaluator will review and confirm that Tri-State's
13 HIL evaluation process was conducted consistently with the terms of the HILT.

14 **Q. Could you describe the transmission cost allocation policies that apply to**
15 **interconnection and the upgrades required to accommodate the HIL?**

16 **A.** All transmission-related obligations are governed by the applicable Open Access
17 Transmission Tariffs ("OATT"). Of the nine applicable OATTs, there are four that will
18 apply to the majority of Tri-State's Utility Members: Tri-State's OATT, the PSCo OATT,
19 the PNM OATT, and the SPP RTO West OATT (effective April 1, 2026).

20 Under all four OATTs, the Transmission Customer is responsible for the cost of
21 Direct Assignment Facilities and its share of the cost of any required Network Upgrades.
22 For a HIL customer, the Utility Member whose system the HIL is connected to must

1 execute a Facilities Construction Agreement with Tri-State. This agreement requires a
2 Utility Member to bear the costs of all interconnection facilities and upgrades directly
3 assigned to Tri-State that are necessary to serve the HIL. While outside the scope of the
4 wholesale rate filing, it is my understanding that the Utility Member would further execute
5 an agreement with the HIL Customer which passes along the costs assigned to the Utility
6 Member under the Facilities Construction Agreement, known as the MCHIL.

7 **Q. What are the key components of the HILA?**

8 **A.** The key components of the HILA are minimum contract term, security requirements, load
9 ramp requirements, minimum demand charge and minimum energy charge, and
10 termination amount.

11 **Q. Please describe the minimum contract term, security requirements, and load ramp**
12 **requirements.**

13 **A.** The HILA includes a minimum contract term of 15 years after the Operation Date, ensuring
14 long-term commitment and risk amortization. It also includes a security requirement of
15 \$2,700/kW initial security deposit, with flexible forms (LOC, escrow, or guaranty) which
16 is then stepped down over the final 9 years. The security deposit can be reduced through
17 a self-supply resource credit. Additionally, the HILA requires that HIL Projects commence
18 operations with an initial load of at least 80% of the Expected Project Demand. Utility
19 Members must provide a Load Ramp Projection ("LRP") at the outset and update it every
20 three years, subject to a 5% cap on both upward and downward revisions to preserve the
21 integrity of resource planning.

1 **Q. Please describe the minimum demand requirements and minimum energy**
2 **requirements.**

3 **A.** The HILA establishes the Minimum Monthly Demand amount equal to 90% or 75% (at
4 Utility Member's option) of the monthly demand specified in the LRP. Any shortfall in
5 demand will be subject to the Class A demand rate. Similarly, the HILA sets the Minimum
6 Monthly Energy amount equal to 75% or 50% (tied to the Minimum Monthly Demand
7 amount selected) of the monthly energy stated in the LRP. Any shortfall in energy will be
8 charged at the Class A Member energy rate.

9 **Q. What is the termination amount in the event of early termination?**

10 **A.** In the event of early termination, Tri-State will calculate the associated costs, referred to as
11 the Termination Amount, equal to Tri-State's actual and projected costs resulting from early
12 termination, including unrecovered minimum charges, resource commitments, and other
13 expenses incurred to serve the project. Tri-State may draw on the full \$2,700/kW security
14 amount to cover these costs. If the Termination Amount is less than the security, Tri-State
15 will refund the Utility Member. If the Termination Amount exceeds the security, Utility
16 Member will be responsible for paying the difference to Tri-State.

17 **Q. In your professional opinion, what are the strengths of Tri-State's HIL Proposal?**

18 **A.** It is important to recognize that Tri-State operates as a not-for-profit cooperative. This
19 organizational structure ensures that Tri-State's incentives are inherently aligned with the
20 interests of its Utility Members. The addition of large, high-load-factor customers, such as
21 data centers, has the potential to produce downward pressure on Utility Member rates by
22 increasing overall system utilization and spreading fixed costs over a larger base.

1 In reviewing Tri-State's proposal for HIL customers, I have identified several key
2 strengths that warrant consideration by the Commission.

3 First, Tri-State has made a firm and explicit commitment to avoid cost shifts to
4 existing Utility Members. This is a critical protection that ensures the financial risks
5 associated with integrating new HIL customers are borne by the entities that directly benefit
6 from the interconnection, rather than being distributed across the broader membership.

7 Second, Tri-State has established a structured and transparent process for the
8 evaluation of prospective HIL customers. This process is designed to ensure a rigorous
9 assessment of technical feasibility, cost implications, and overall system impacts before a
10 commitment is made, thereby promoting a fair and orderly approach to large load
11 integration.

12 Third, Tri-State's proposal incorporates strong risk mitigation measures. These
13 include site control requirements (90%), load ramp requirements, security requirements
14 (\$2.7 million/MW) and the imposition of minimum monthly demand and energy
15 requirements to protect against underutilization risks. These measures are prudent
16 safeguards that help ensure the stability and predictability of revenue streams, while also
17 protecting the interests of the cooperative's existing members.

18 In summary, Tri-State's proposal reflects a thoughtful balance between enabling
19 beneficial load growth and protecting Utility Members' interests.

VI. CONTEXTUALIZE TRI-STATE'S PROPOSAL WITH OTHER UTILITY PROPOSALS

Q. How does Tri-State’s proposal compare to other utilities in managing the integration of HIL customers?

A. In comparison to the other large load proposals that I have reviewed, Tri-State’s proposal includes robust financial safeguards. By requiring a 15-year contract term, Tri-State sits below FPL and Kentucky Power on total term, and matches Evergy and Santee Cooper on term.

Tri-State's HIL threshold is in the mid-range of the other proposals that I have reviewed. Dominion Virginia, FPL, and AEP Ohio set theirs at 25 MW, while Evergy and Consumers require 100 MW, Kentucky Power 150 MW, and WEP a substantial 500 MW. By capturing loads beginning at 45 MW, Tri-State casts a wider net than utilities with 100 – 500 MW minimums yet remains slightly above Dominion and FPL's 25 MW trigger, thereby striking a midpoint between more permissive and more restrictive thresholds.

Rather than specifying a discrete ramp window, the HILA requires a customer to reach 80% of its expected peak demand to be considered commercially operational. It also mandates a detailed LRP covering the full contract term, with updates every three years and adjustment limited to no more than 5% from prior projections. By comparison, AEP Ohio limits its ramp to four years within a 12-year term, Dominion Virginia uses a four-year ramp followed by a 10-year term, and FPL negotiates the ramp period within its 20-year commitment. Evergy and WEP work with new large load customers to forecast flexible load ramp periods, similar to the approach adopted by Tri-State.

1 At \$2,700/kW (\$2.7 million per MW), Tri-State's security level is one of the
2 highest. Dominion (\$1.5 million/MW) and Evergy (roughly two years of minimum bills,
3 often in the \$1,000–\$1,500/kW range) require less upfront collateral. AEP's 50% of
4 minimum bills can translate to roughly \$1,000–\$2,000/kW depending on rate. Santee's 15-
5 year deposit is similarly large, but Tri-State's stepped-down approach begins to reduce
6 collateral exposure after year 6 assuming a 15-year term. Tri-State also allows for a MW-
7 for-MW reduction in security amount based on resources that a Utility Member brings
8 forward to self-supply as discussed in the testimony of Witness Danielle Bradberry, Exhibit
9 No. DM-001. Overall, Tri-State's \$2,700/kW security amount reflects a more conservative
10 risk stance than most peers but still offers some degree of flexibility.

11 Tri-State calculates a "Termination Amount" based on the costs it has incurred and
12 will continue to incur for planning, resource procurement, and transmission arrangements
13 over the remaining term, drawing on posted security and charging any deficiency to the
14 Utility Member. This structure contrasts with AEP Ohio, Evergy, and Consumers, which
15 base collateral on 24 – 36 months of minimum bills. By requiring \$2.7 million per MW
16 up front (albeit with a nine-year step-down and the opportunity to reduce further through
17 self-supply), Tri-State imposes higher initial security than most, while its termination
18 calculation ensures cost recovery precisely aligned with system impacts, rather than a fixed
19 exit fee based on a specified number of months of minimum bills.

20 Tri-State's minimum billing takes a two-part form: each month, if actual demand
21 falls below the selected minimum demand amount, the Utility Member pays for the
22 shortfall at the Class A demand charge; similarly, if actual energy usage is under the
23 selected minimum energy amount, the Utility Member pays the deficit at the Class A energy

charge. In contrast, most peers rely on a single minimum percentage of contract demand. AEP Ohio tiers demand obligations between 60% and 85%, Evergy requires 80% of contract capacity (plus a 12-month grid-access ratchet), and Consumers and Kentucky Power require 80 – 90% of contract demand. By imposing separate minimum demand and energy requirements, Tri-State ensures both peak capacity and utilization targets are met, rather than allowing a customer to under-consume energy while maintaining peak capacity.

Table 5: Comparison Summary

Provisions	Tri-State	Utilities Reviewed
HIL Threshold	> 45 MW, or forecast to exceed 45 MW within 4 years	25 MW to 500 MW range Average \approx 114 MW
Minimum Contract Term	15 years after Operation Date	8-20 years range Average \approx 14 years
Security Amount	\$2.7 million per MW (based on peak demand + planning reserve); step-down over final 9 years	Typically 24–36 months of minimum bills or \sim \$1–2 million/MW
Termination Amount	Cost-based calculation including unrecovered MMDC/MMEC, incurred resource and transmission costs, and unwind expenses	Typically based on fixed exit fee equal to 24 to 60 months of minimum bills, but sometime up to the minimum bills for the remainder of the contract
Minimum Bills	Two-part: (1) Minimum Monthly Demand Charge (75% or 90%), and (2) Minimum Monthly Energy Charge (50% or 75%)	Typically based on 60–90% of contract demand only; no separate energy minimums at other utilities

Q. Given that Tri-State’s minimum bill requirements differ from those of other utilities, do you consider them reasonable?

A. Tri-State’s minimum bill requirements include two components: a minimum monthly demand charge and a minimum monthly energy charge. As shown in Table 4, minimum monthly demand charges for large load customers are common industry practice. However, a minimum monthly energy charge is not used by any of the utilities I have reviewed. That

1 said, I am aware that Interstate Power and Light Company (a subsidiary of Alliant Energy
2 Corporation) filed a Large Load Tariff with the Iowa Utilities Commission that includes a
3 monthly minimum energy purchase.

4 Tri-State's proposed minimum monthly energy charge is reasonable because HIL
5 customers are subject to the Class A Member Rate, which includes an energy charge.
6 Unlike many volumetric energy charges that primarily recover variable costs, the Class A
7 energy charge recovers a portion of Tri-State's fixed costs. To ensure HIL customers
8 contribute equitably to the recovery of fixed costs and to avoid shifting costs to other
9 customers, a minimum energy charge is an appropriate and necessary mechanism.

10 **Q. Given Tri-State's status as a not-for-profit cooperative, does Tri-State's approach to**
11 **risk management seem reasonable when compared to the investor-owned utilities you**
12 **compare it to?**

13 **A.** With the exception of Santee Cooper, a state-owned power and water utility, the ten
14 proposals I reviewed are all from investor-owned utilities. Tri-State's risk-management
15 framework in many respects is more conservative than those of investor-owned utilities,
16 which is appropriate given that a cooperative structure naturally aligns incentives with the
17 interests of existing Utility Members. As a not-for-profit cooperative, Tri-State explicitly
18 commits to avoid cost shifts to its broader membership meaning that all costs and risks of
19 new HIL customers stay with the entities directly benefiting from the interconnection rather
20 than being socialized across the system.

1 **Q. How does Tri-State’s proposed 2-year HIL Cycle compare to others?**

2 **A.** Most proposals do not explicitly define a resource planning approach for large loads, with
3 the exception of Evergy. Evergy’s “Path to Power” approach integrates each large load
4 customer into its next integrated resource plan (“IRP”) as soon as a service agreement is
5 signed and relies on interim market purchases until new resources come online. By
6 contrast, Tri-State’s proposal provides greater certainty by aggregating HIL commitments
7 into a defined resource planning block. Rather than facing the uncertainty of rolling, ad-
8 hoc procurement based on individual project timing, Tri-State’s framework allows
9 customers to know well in advance when capacity and network upgrades will be secured,
10 locking in both pricing and service timing. This predictability reduces the risk of interim
11 market exposure and simplifies project financing by tying generation procurement to a
12 fixed schedule. In short, while Evergy’s continuous IRP integration offers flexibility, Tri-
13 State’s model delivers a clear, stable process that aligns customer commitments,
14 procurement scheduling, and cost recovery, giving developers confidence in scheduling,
15 pricing, and reliability of their supply.

16 **Q. In your expert opinion, is a two-year timeframe reasonable for procuring new**
17 **capacity resources?**

18 **A.** Based on my experience in resource planning I believe a two-year timeframe is reasonable
19 to evaluate new HILs and conduct a solicitation for new resources. While some utility
20 resource planning processes may take longer, the limited scope of the HIL Cycle should
21 allow all necessary steps to be completed. At the same time, a two-year HIL Cycle keeps
22 projects on a near-term horizon, ensuring the accuracy of cost and demand forecasts , and

1 minimizing ratepayer risk. Overall, a two-year cycle balances the time developers and Tri-
2 State need to execute complex interconnection and resource acquisition tasks with the need
3 to maintain momentum toward bringing new capacity online.

4 **Q. How is Tri-State's resource planning process different from utilities in RTOs with**
5 **capacity markets?**

6 **A.** Among the contracts and tariffs I have reviewed, some were developed by utilities in the
7 RTOs with capacity markets (*e.g.*, PJM). There is currently no organized capacity market
8 in the Mountain West. Even with Tri-State joining SPP RTO West in 2026, there will still
9 be no open capacity market, as SPP does not operate a centralized capacity market like
10 those administered by PJM.

11 Another critical factor influencing Tri-State's resource planning is its unique
12 geographic and operational position along the seam between the Eastern and Western
13 Interconnections. Although Tri-State's service territory may appear centrally located, its
14 position on the interconnection seam imposes significant limitations on access to capacity
15 across the two grids. The only means of transferring power between the interconnections
16 is through a small number of high-voltage direct current ("DC") ties, which offer limited
17 transfer capability. Specifically, there is only 510 MW of total DC transfer capability
18 between the Eastern and Western Interconnections that can be utilized for SPP RTO West
19 operations. As a result, even if surplus capacity exists in the Eastern Interconnection, Tri-
20 State cannot rely on it to meet load growth or capacity needs in the West. This constraint
21 highlights the importance of local resource adequacy within the Western Interconnection.

1 As explained in more detail in the testimony of Witness Lisa Tiffin, Exhibit No.
2 LKT-001, Tri-State uses a traditional IRP planning process to ensure sufficient capacity to
3 meet its Utility Members' peak demand, plus a planning reserve margin. This approach
4 emphasizes long-term reliability (10-20 years), cost effectiveness, and alignment with
5 environmental regulations. To meet future load growth, Tri-State either constructs new
6 generation resources or procures capacity through long-term PPAs. Development timelines
7 for new resources, such as natural gas power plants, wind farms, utility-scale solar and
8 energy storage resources, typically range from 2 to 6 years, depending on interconnection
9 approvals, local permitting and siting, environmental reviews, and equipment availability.

10 By contrast, utilities in the RTOs with capacity markets acquire capacity through a
11 centralized, competitive capacity auction administered by the RTO. These auctions are
12 typically held annually for delivery periods 1-3 years in the future. In recent years, capacity
13 market prices in these markets have become increasingly volatile due to factors including
14 rapid growth of large data center demand, the retirement of existing generation, and
15 frequent changes in market rules. Forecasting capacity market price has become
16 challenging due to uncertainties around future load growth, resource retirements, and
17 political and regulatory interventions. While capacity markets may offer lower prices in
18 the short-term under favorable conditions, in my view, the traditional resource planning
19 process can provide ratepayers with lower and more stable costs over the long term.
20 Moreover, given Tri-State's location and regulatory framework, capacity markets are
21 simply unavailable to Tri-State.

1 **VII. CONCLUSION**

2 **Q. How does Tri-State's HIL proposal address the challenges associated with serving**
3 **large load customers, as outlined in Section III?**

4 **A.** Tri-State's HIL proposal directly addresses the core challenges associated with integrating
5 data centers and other large load customers, as outlined in Section III of my testimony.
6 These challenges include economic risk, reliability concerns, forecasting uncertainty, and
7 environmental and resource adequacy impacts.

8 First, to mitigate economics risks, such as stranded costs and cost-shifting, Tri-State
9 requires long-term contracts with strong financial protections. The HILA includes a 15-
10 year minimum term, \$2,700 per kW security requirement, and a termination amount based
11 on Tri-State's actual incurred and projected costs. These provisions ensure that existing
12 Utility Members are not exposed to the financial risks associated with underperformance
13 or early departure of a large load customer.

14 Tri-State's two-part minimum billing structure, which includes both a minimum
15 demand and a minimum energy charge, prevents underutilization of infrastructure by
16 ensuring customers pay for both capacity and energy, even if they fall short of projections.
17 This structure is unique among peer utilities and helps protect Utility Members from
18 subsidizing inefficient or intermittent operations.

19 Second, to address reliability concerns and reduce forecasting uncertainty, Tri-State
20 requires that projects reach at least 80% of their expected demand at operation and maintain
21 an LRP with a 5% revision cap over the life of the contract. This ensures that resource
22 procurement and transmission upgrades are aligned with actual load behavior, reducing
23 forecasting risk and avoiding mismatches between load growth and system readiness.

1 Additionally, the proposal mandates early feasibility studies and site control, which
2 help distinguish viable projects from speculative proposals. This reduces the likelihood of
3 congestion in Tri-State's planning processes and prevents premature investment in projects
4 lacking commercial readiness.

5 Third, to address environmental and resource adequacy impacts, Tri-State's HIL
6 evaluation process incorporates explicit environmental screening and integration with
7 resource planning. Projects must demonstrate that they will not compromise Tri-State's
8 ability to meet legally mandated targets or other regulatory obligations. Moreover, the HIL
9 Cycle ensures that resource procurement is synchronized with new load, rather than relying
10 on interim or market purchases.

11 Finally, the proposal's structure, including an Independent Evaluator, scheduled
12 HIL cycles, and defined participation requirements brings transparency and discipline to
13 the evaluation process. This framework enables fair and consistent treatment of all
14 applicants while ensuring system reliability and financial stability.

15 In sum, Tri-State's HIL proposal is designed to harness the economic and
16 operational benefits of data center load growth while fully mitigating the associated risks.
17 It provides a structured, transparent, and member-focused approach that aligns with Tri-
18 State's role as a not-for-profit cooperative.

19 **Q. Please summarize your testimony.**

20 **A.** My testimony begins by describing the recent national landscape of data center
21 development and explaining why utilities need formal processes to manage large load
22 requests. It then reviews how peer utilities structure their HIL proposals, highlighting

1 common practices, and identifying areas where Tri-State's framework provides
2 enhancements.

3 After laying out Tri-State's cooperative context and the rationale for a HIL
4 mechanism, I describe the core proposal elements, such as the biennial application window,
5 consistent evaluation criteria, and built-in contract safeguards, and compare these elements
6 to other utilities' proposals.

7 Next, I assess the benefits of Tri-State's HIL framework, including the ability to
8 capture economies of scale from high-load-factor customers, enhance rate stability by
9 spreading fixed costs over larger rate base, and align new resources with environmental
10 compliance obligations through integrated resource planning.

11 Taken together, these analyses demonstrate that Tri-State's proposal is transparent
12 and predictable. It strikes a reasonable balance between protecting members and fostering
13 economic opportunity and is consistent with Tri-State's mission to provide its Utility
14 Members with a reliable, affordable, and responsible supply of electricity in accordance
15 with cooperative principles.

16 **Q. Does this conclude your testimony?**

17 **A.** Yes, it does.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tri-State Generation and Transmission
Association, Inc.

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Docket No. ER25-____-000

VERIFICATION

Pursuant to 18 C.F.R. §385.2005(b)(3), I verify under penalty of perjury that I have read

and know the contents of the foregoing testimony and any exhibits attached thereto;

and they were prepared by me or under my direct supervision; and that the answers contained

therein are true and correct to the best of my knowledge, information, and belief.

Executed: August 26, 2025

/s/ Steve Wishart

Exhibit No. SWW-002

**STEVEN W. WISHART**ASSISTANT VICE PRESIDENT

Steven Wishart has over eighteen years of experience as a leading utility economist at a large Midwest electric and natural gas utility. He is a trusted and experienced testifying expert who has appeared in over 40 regulatory proceedings on innovative cost allocation strategies, rate design, cost impacts of renewable energy and electric vehicles, and cost recovery of electric vehicle infrastructure investments. Mr. Wishart also has extensive expertise in performance-based rate making, long-range forecasting and strategy, data center issues, economic development, decarbonization, extension policy, and affordability issues.

AREAS OF EXPERTISE**Cost Allocation & Rate Design**

- Cost allocation and rate design are the foundational touchpoint between utilities and their customers. Mr. Wishart emphasizes stability in class cost allocation. While cost causation is also a foundational principle, traditional allocation methods can lead to unexpected and unwelcomed cost shifts between customer classes.
- Innovative rate design should drive customers to use the grid more efficiently and lower system costs. Mr. Wishart has successfully implemented default time of use rates for millions of electric customers and created dynamic rate options that reflect real time system conditions.
- Cost allocation and rate design are becoming increasingly important for natural gas utilities. The prospect of heating load electrification requires new approaches. Mr. Wishart works to modernize rate design and cost recovery for natural gas utilities to adapt to the changing policy landscape.

Long Term Planning & Strategy

- Mr. Wishart has nearly a decade of experience in planning generation resources and implementing decarbonization strategies in the upper Midwest. He worked to develop the Value of Solar (VOS) for Minnesota which formed the basis for community solar development in the state. Mr. Wishart also led large RFPs for renewable and dispatchable generation.
- A core tool for utility planning is the ability to perform long term rate and bill analysis. Utilities far too often fail to evaluate the granular impacts that broad strategy decisions will have on customer bills. Mr. Wishart has developed methodologies to comprehensively assess the impacts of a utility's strategic direction and quantify the impact on customers.



PROFESSIONAL HISTORY

Concentric Energy Advisors (2023-Present)

Assistant Vice President

- Supporting client needs with extensive regulatory experience and advanced quantitative analysis.
- Strategy development and expert witness testimony.

Xcel Energy, Denver (2014-2023)

Director/Manager, Pricing & Regulatory Analytics

- Provide strategic direction for Public Service of Colorado regulatory strategy and revenue collection
- Serve as Company witness in rate cases and other proceedings
- Manage electric, natural gas, and thermal tariffs
- Manage analysts involved in pricing and rate related analytics

Major Projects:

- 2023 Chair - Edison Electric Institute, Rates & Regulatory Affairs Committee
- 2023 Electric Rate Case – Innovate cost allocation and rate design with leading energy burden analysis.
- 2023 Economic Development – Supported discounted contract to attract 200MW data center to the Denver area which will be Xcel's single largest customer in Colorado.
- 2023 Clean Heat Planning – Developed long range modeling of Xcel Colorado's natural gas business highlighting the rate impacts resulting from aggressive electrification of heating load.
- 2022 DSM Strategic Issues – Sponsored Company's proposal for new DSM incentives including a new a bonus based on carbon reductions and a new mechanism to incent beneficial electrification.
- 2022 Natural Gas Rate Case – Recommended cost allocation and rate design for natural gas system. Also presented recommendation for natural gas revenue decoupling and supported updated to extension policy.
- 2022 Vicechair of Edison Electric Institute Rates and Regulatory Affairs Committee.
- 2022 Adopted testimony for 2022-2025 Renewable Energy Compliance Plan - supporting overall cost impacts of renewable energy.
- 2021 Commercial Electric Vehicle Rates – Two EV rates options based on new analysis of EV load data and system costs impacts.
- 2021 Extreme Weather Event – Testimony in support of recovery of approximately \$700 million in incremental fuel expenses associated with Presidents Day weekend weather event.
- 2021 Critical Peak Pricing (CPP) – Testimony in support of dynamic C&I rate option that targets top 40-60 peak hours of the year.



- 2021 Pipeline Safety Integrity Rider – Testimony in support of 3-year extension of integrity rider.
- 2021 Chair of Southern Gas Association Rates and Regulatory Committee.
- 2020 Electric Rate Case – Testimony and strategic leadership for case to update electric rates including development of flat billing and demand charge options for residential customers.
- 2020 Economic Development Rate - Testimony and strategic leadership for case to create discounted C&I rates for qualifying customers locating or expanding operations in Colorado.
- 2020 Transportation Electrification Plan – Testimony regarding rate impacts of electric vehicles and cost recovery of \$100 million investment in EV infrastructure and public DCFC.
- 2020 Gas Rate Case - Sponsored revisions to natural gas rates and other tariff updates.
- 2019 Residential Time of Use Rates – Lead proposal to move all Residential customers to mandatory time of use electric rates.
- 2019 Commercial Electric Vehicle Rate – Developed and sponsored new rate for public EV charging stations & fleets.
- 2018 Pipeline System Integrity Adjustment – Witness for three-year extension of \$100 million pipeline safety rider.
- 2017 DSM Strategic Issues – Evaluated and sponsored testimony regarding incentives and the financial impacts of energy conservation programs in Colorado.
- 2016 Renewable*Connect – Developed pricing strategies for new customer choice solar product and appeared as Company witness in PUC hearing.
- 2016 Revenue Decoupling Proposal – Strategic development and implementation of Public Service’s proposal to sever the link between revenue collection and volumetric sales.
- 2015 Phase II Electric Rate Case – Manage analytic team developing new rates for electric services. Witness testifying on total revenue collection and tariff changes.
- Administration of all PSCo rate riders: Fuel cost adjustment, renewable energy standard adjustment, gas cost adjustment, transmission costs adjustment, purchased capacity cost adjustment, general rate schedule adjustment, DSM adjustment, etc.

Xcel Energy, Minneapolis MN (2012-2014)

Director, Resource Planning & Bidding

- Develop and implement strategic plans for generation resources for Northern States Power operating company.
- Represent the company as an expert witness in regulatory proceedings.
- Oversee RFP processes for new generation resources.
- Develop and implement strategic plans for renewable energy and environmental compliance.
- Manage a team of resource planning analysts.

**Major Projects:**

- 2013 Wind RFP – Managed an RFP to acquire 750MW of new wind resources in advance of the expiration of the federal PTC. Nominal project value over \$1billion.
- Minnesota Value of Solar – Represented the Company as expert witness on the Value of Solar and renewable energy policy.
- 2017-2019 Natural Gas Generation – Represented Xcel Energy as witness regarding economic assessment of new natural gas generation in the NSP region.
- Minnesota Resource Plan – Completed regulatory process for the company's 2013-2025 Resource Plan, with PUC approval in February 2013
- Prairie Island Nuclear Plant Extended Power Uprate (EPU) – Represented Xcel Energy as witness in original EPU application and subsequently developed analysis and regulatory filings to cease work on the uprate project.
- Settlement of North Dakota rate case – Developed strategic plan to separate state energy portfolios, customizing power generation to state level policy goals.
- Prairie Rose Wind – Testified as subject matter expert supporting the economic evaluation of 200MW wind project.

Xcel Energy, Minneapolis/Denver (2009-2012)**Manager, Strategic Planning/Risk Analytics**

- Oversee economic evaluation of all large power supply projects for Xcel Energy's three regional operating companies.
- Develop and maintain average rate forecasting models for all Xcel Energy jurisdictions.
- Prepare analysis for senior leadership that reports on expected value and value at risk for new generation assets, power purchases, conservation programs, wholesale sales, and other projects.
- Manage a group of quantitative analysts that evaluate various supply and demand side alternatives.
- Serve as quantitative expert for resource planning and purchased power related dockets.

Major Projects:

- Colorado Clean Air Clean Jobs Act – Retire/repower 900MW of existing coal units in PSCo service territory for compliance with regional NOx legislation.
- 2010 Minnesota Resource Plan – 10 year projection of new resource acquisitions, retirements, renewable energy standard compliance, and enhanced conservation programs.
- 2009 PSCo All-Source Solicitation – Modeling/evaluation of bids totaling 20,000MW in Colorado. Including natural gas, wind, solar PV, solar thermal with storage, compressed air storage, pumped hydro, wind/battery combo, and solar augmented combined cycle.
- Manitoba Hydro CON – Economic valuation of 10yr \$1.6B purchase from MH.

**Xcel Energy, Minneapolis (2006-2009)**

Analyst/Sr. Analyst, Resource Planning

Major Projects:

- 2007 Minnesota Resource Plan
- Witness for nuclear re-licensing application
- Analysis of proposed \$2billion IGCC.

Xcel Energy, Minneapolis (2005-2006)

Demand Side Management (DSM) Technical Analyst

- Managed cost/benefit analysis of NSP's \$45 million annual conservation and load management activities, including forecasting of financial incentives, and strategic planning.

EDUCATION**University of Minnesota (2002-2005)**

PhD (all but dissertation) Applied Economics

Course Work: Emphasis - environmental and natural resource economics. Other course work - Financial economics, econometrics, dynamic programming, production economics, non-parametric frontier analysis, managerial economics, international trade, macro- and microeconomics.

University of Arizona (2000-2002)

MS. Economics

Course Work: Environmental economics, environmental law, econometrics, linear and quadratic programming, production economics, consumer economics.

University of Arizona (1992-1996)

BS Finance



SPONSOR	DATE	DOCKET NO.	SUBJECT
Colorado			
Xcel Energy	May 2023	23AL-0243E	Phase II Electric Rate Case – Class Cost Allocation & Rate Design
Xcel Energy	June 2023	23A-0330E	Economic Development Contract – Marginal Cost of Service & Marginal Revenue
Xcel Energy	March 2023	22AL-0530E	Phase I Electric Rate Case – 15 Year Rate Forecast & Energy Burden Analysis
Xcel Energy	February 2023	22F-0263EG	Customer Complaint – Terms of Interruptible Gas Service
Xcel Energy	September 2022	22AL-0187E	Revenue Decoupling – Application of Rate Impact Cap
Xcel Energy	September 2022	22A-0382ST	Steam Resource Plan – Long Term Strategy for Denver Steam System
Xcel Energy	July 2022	22A-0309EG	DSM Strategic Issues – Incentive Mechanisms for Conservation & Demand Response Programs, Value of Avoided Natural Gas Pipeline Capacity
Xcel Energy	January 2022	22AL-0046EG	Natural Gas Rate Case – Cost Allocation, Rate Design, Revenue Decoupling, Wholesale Contracts, 15 Year Rate Projections, & Extension Policy
Xcel Energy	October 2021	21AL-0494E	Electric Vehicle Rates – New & Revised EV Charging Rates
Xcel Energy	July 2021	21AL-0317E	Phase I Electric Rate Case – Rate Deferral Surcharge, Revenue Decoupling, and Bill Impact Analysis
Xcel Energy	May 2021	21A-0203ST	Storm Uri Cost Recovery for Denver Steam System
Xcel Energy	May 2021	21A-0192EG	Storm Uri Cost Recovery for Electric & Natural Gas
Xcel Energy	February 2021	21A-0071G	Natural Gas Rate Case – Pipeline Safety Rate Adjustment & 15 Year Rate Forecast
Xcel Energy	February 2021	21AL-0091E	C&I Critical Peak Pricing Optional Rate
Xcel Energy	October 2020	20AL-0432E	Phase II Electric Rate Case – Rate Design, Time of Use Rates, & Flat Bill Pricing Option
Xcel Energy	August 2020	20A-0345E	Standardized Economic Development Rate Tariff



SPONSOR	DATE	DOCKET NO.	SUBJECT
Xcel Energy	May 2020	20A-0204E	Transportation Electrification Plan – Electric Vehicle Services Tariff, Xcel Owned DCFC Charging Stations, & Statutory Rate Impact Analysis
Xcel Energy	February 2020	20AL-0049G	Natural Gas Rate Case – Class Cost Allocation, Rate Design, & Bill Impacts
Xcel Energy	December 2019	19AL-0687E	Residential Default Time of Use Rates
Xcel Energy	May 2019	19AL-0309G	Natural Gas Rate Case – Class Cost Allocation, Rate Design, & Bill Impacts
Xcel Energy	May 2019	19AL-0290E	New Electric Vehicle Rate with Critical Peak Pricing
Xcel Energy	January 2019	19AL-0063ST	Steam Rate Case – Sales Volume & Coincident Peak Analysis, Weather Normalization, Rate Design
Xcel Energy	April 2018	18A-0422G & 18A-0247G	Pipeline System Integrity Capital Rider
Xcel Energy	July 2017	17A-0462EG	DSM Strategic Issues – Incentive Mechanisms and Disincentive Offsets
Xcel Energy	July 2016	16A-0546E	Electric Revenue Decoupling – Tariff & Impact Analysis
Xcel Energy	January 2016	16A-0055E	Renewable Connect Customer Choice Program – Tariff Charges & Credits
Xcel Energy	January 2016	16A-0048E	Phase II Electric Rate Case – Rate Design & Tariff Changes
Xcel Energy	March 2015	15AL-0135G	Natural Gas Rate Case – Pipeline System Integrity Cost Recovery, Discounted Contacts, & Bill Impacts
Xcel Energy	May 2014	14A-0491G	Gas Price Volatility Mitigation Plan
Minnesota			
Xcel Energy	July 2013	E002/M-13-603	750MW Upper Midwest Wind RFP
Xcel Energy	November 2012	E002/M-12-1240	Competitive Resource Acquisition Process for Peaking Generation



SPONSOR	DATE	DOCKET NO.	SUBJECT
Xcel Energy	March 2012	IP-6843/WS-10-425	Certificate of Need – Prairie Rose Wind Farm
Xcel Energy	March 2012	E002/RP-10-825	Norther States Power 2011-2025 Electric Resource Plan
Xcel Energy	April 2009	E002/CN-08-509 & E002/CN-08-510	Prairie Island Nuclear Facility – Life Extension & Power Uprate
Xcel Energy	August 2008	E002/CN-08-185	Monticello Nuclear Facility – Power Uprate
North Dakota			
Xcel Energy	December 2024	PU-24-376	Electric Rate Case – Jurisdictional Cost Allocation
Xcel Energy	April 2013	PU-12-813	Electric Rate Case – Resource Planning & Cost Causation
Xcel Energy	October 2012	PU-12-059	Advanced Prudence Geronimo Wind
Pennsylvania			
PPL	December 2024	P-2024-3049223	DER Management Plan – Cost Benefit Analysis of DER Active Management
Virginia			
Dominion Energy	March 2025	PUR-2025-00058	Biennial Review – Data Center Overview and Support of Company Proposal
Wisconsin			
Xcel Energy	August 2009	442-CE-169	Certificate of Necessity – Bay Front Gasifier
Montana			
Northwestern Energy	July 2024	2024.05.053	Electric Rate Case – Standby Rate Proposal

FERC rendition of the electronically filed tariff records in Docket No. ER25-03316-000**Filing Data:**

CID	Filing Title	Company Filing Identifier	Type of Filing Code	Associated Filing Identifier
C003836	High Impact Load Tariff	2277	10	
	Tariff Title	Tariff ID	Payment Confirmation	Suspension Motion
	Tri-State Wholesale Electric Service Contracts	16		

Tariff Record Data:

Record Content Description	Rate Schedule No. 425
Tariff Record Title	Rate Schedule No. 425, HILT and HILA
Record Version Number	0.0.0
Option Code	A
Record Narrative Name	
Tariff Record ID	4036
Tariff Record Collation Value	488130
Tariff Record Parent Identifier	0
Proposed Date	2025-10-28
Priority Order	500
Record Change Type	NEW
Record Content Type	2
Associated Filing Identifier	

Rate Schedule FERC No. 425

High Impact Load Tariff

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**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.
HIGH IMPACT LOAD PROGRAM TARIFF ("TARIFF")**

I. APPLICABILITY, PURPOSE, AND OVERVIEW

This Tariff sets forth the procedures, terms, and conditions governing the High Impact Load Program ("Program").

- 1.1. Applicability. The Program is available to all Tri-State Generation and Transmission Association, Inc. ("Tri-State") Utility Members.
- 1.2. Purpose. To establish a fair, repeatable method for integrating High Impact Loads onto the Tri-State system without adverse impacts to reliability, affordability, or responsibility in Tri-State's provision of electric service to its Utility Members.
- 1.3. Overview. Tri-State has a robust annual load forecast process that includes Utility Member input aimed at forecasting resource needs over the term of the WESC. Tri-State includes the impacts of legislative, regulatory, and industry initiatives across its territory in the load forecasting process, to the extent known and quantifiable. Moreover, Tri-State is resource-regulated by the Colorado Public Utilities Commission. Outside of Tri-State's routine load forecasting and planning processes, which capture the addition or expansion of certain Utility Member loads, High Impact Loads will have significant impacts to resource and transmission planning processes and related reliability, affordability, and responsibility metrics. To ensure that all planning metrics can be successfully met, Tri-State is establishing a threshold at which a Utility Member-requested load addition or modification must occur under this Tariff. The Program is composed of two elements: (a) a High Impact Load Tariff ("HILT") and (b) a pro forma High Impact Load Agreement ("HILA") (Appendix A).

II. DEFINITIONS AND ACRONYMS

The following definitions and acronyms apply to the Tariff.

- 2.1 Applicable OATT shall mean the Open Access Transmission Tariff governing a transmission provider's rates and non-rate terms and conditions for transmission service, including transmission and market administration tariffs applicable to the Tri-State Delivery Point which serves the Utility Member where the High Impact Load Project will interconnect.
- 2.2 Business Day shall mean any day except (a) any Saturday or Sunday, (b) any day which is a legal holiday or any day on which banking institutions in Colorado are authorized or required by law or other governmental action to close, or (c) any other day that is a Tri-State holiday.
- 2.3 Class A Rate shall mean the rate charged by Tri-State to Utility Members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

- 2.4 Current High Impact Load Cycle shall mean the High Impact Load Cycle that Tri-State is in the process of evaluating.
- 2.5 Day shall mean all days, inclusive of weekends and holidays. For clarity, all deadlines will be counted exclusive of the start date, i.e. 30 days from August 1 shall not include August 1 in the calculation, but would be August 31. If a deadline would fall on a non-Business Day, that deadline shall instead be the following Business Day.
- 2.6 Delivery Point shall mean Tri-State's delivery point for Utility Member under the WESC that is applicable to the High Impact Load Project.
- 2.7 Expected Operation Date shall mean the date upon which the High Impact Load Project is expected to commence operations with its load expected to be at least eighty (80) percent of the Expected Project Demand.
- 2.8 Expected Project Demand shall mean the expected load/demand of the Project as identified in Exhibit A of the HILA.
- 2.9 Facilities Construction Agreement shall mean the contract between Tri-State and Utility Member to construct any required transmission upgrades to serve the High Impact Load. All construction costs under the Facilities Construction Agreement shall be paid by the Utility Member, per the terms of the Facilities Construction Agreement.
- 2.10 Facilities Construction Agreement Execution Deadline shall mean the date described in Section 6.2.
- 2.11 Feasibility Study Assessment shall mean the initial evaluation performed by Tri-State during the Proposal Planning Period. The Feasibility Study Assessment will be performed at no cost to Utility Member, and is required to enter a High Impact Load Cycle. The Feasibility Study Assessment is generally modeled on a standard system impact study, and will consider alternatives, including a single entity concept analysis and storage alternatives, where applicable. Further, the Feasibility Study Assessment will incorporate existing designated network loads in the Tri-State queue. Tri-State will use reasonable efforts to complete the Feasibility Study Assessments within 90 Days after the meeting with the Utility Member to discuss the Member Project Request.
- 2.12 FERC shall mean the Federal Energy Regulatory Commission and any successor organization thereto.
- 2.13 High Impact Load shall mean any load addition that: (1) exceeds 45 MW at the time of the Member Project Request; or (2) is forecasted to exceed 45 MW within four years from the time of the Member Project Request. High Impact Load served under this Tariff shall generally mean a single Tri-State delivery point. Aggregation of loads under this Tariff shall be limited. Tri-State shall exercise reasonable discretion when choosing to aggregate loads, with such discretion based on factors including, but not limited to, premises sharing one or more of the following: common owner(s), a common parent company, common local electrical infrastructure, physical layout, character of service, end use, and common control.

- 2.14 HILA shall mean the High Impact Load Agreement in the form of Appendix A to this Tariff between Tri-State and the Utility Member to facilitate the responsibility for serving the High Impact Load Project.
- 2.15 High Impact Load Customer shall mean the retail customer of the Utility Member related to the High Impact Load Project as specified in the MCHIL.
- 2.16 High Impact Load Cycle shall mean the two-year cycle, beginning no later than 60 Days after FERC acceptance of this Tariff for the first High Impact Load Cycle, as further described in Section 3.4, and beginning in the third quarter of a calendar year for all future High Impact Load Cycles.
- 2.17 High Impact Load Cycle Kickoff Meeting shall mean the informational meeting Tri-State will hold with all Utility Members and those High Impact Load Customers that have executed or are working towards executing a MCHIL. The High Impact Load Cycle Kickoff Meeting will occur no later than 15 Business Days after the start of a new High Impact Load Cycle.
- 2.18 High Impact Load Cycle Kickoff Notice shall mean the formal notice sent to all Utility Members 30 Days prior to the launch of a new High Impact Load Cycle. For the first High Impact Load Cycle, the effective date of this Tariff as established by FERC shall constitute the High Impact Load Cycle Kickoff Notice.
- 2.19 High Impact Load Cycle Planning & Participation Period shall mean the process described in Section IV.
- 2.20 High Impact Load Evaluation shall mean the evaluation process described in Section 5.7 of this Tariff to determine whether the High Impact Load meets the Program Evaluation Criteria.
- 2.21 High Impact Load Evaluation Fee shall mean the non-refundable fee that Utility Member must pay to Tri-State as part of the Participation Package. The High Impact Load Evaluation Fee shall be as follows: \$35,000 plus \$1,000 per MW for Member Project Requests less than 80 MW; \$150,000 for Member Project Requests between 80 MW and 200 MW; and \$250,000 for Member Project Requests larger than 200 MW. Tri-State will pool all High Impact Load Evaluation Fees during the same High Impact Load Cycle and use them for the cost of the Independent Evaluator and for OATT-required studies on a pro rata basis.
- 2.22 High Impact Load Project shall mean any High Impact Load submitted by a Utility Member to Tri-State under this Tariff.
- 2.23 Independent Evaluator shall have the meaning described in Section 5.13.
- 2.24 Member Contract with High Impact Load ("MCHIL") shall mean the commitment agreement between the Utility Member and High Impact Load Customer for the High Impact Load Project whereby the High Impact Load Customer provides assurance as to viability of the High Impact Load Customer to proceed with the High Impact Load Project, the ability for the High Impact Load Project to be served, and risk mitigation for the Utility Member, its membership, and Tri-State related to the High Impact Load Project, and which meets the terms specified in the HILA.
- 2.25 Member Project Request shall mean the Tri-State form that Utility Members use to provide information regarding High Impact Load Project proposals to Tri-State. Information required therein may include, but is not limited to, High Impact Load Project size, location, Expected

Operation Date, term of requested service, projected demand, projected monthly energy usage, technology, load profile, operational characteristics, interconnection-related information, and other details as may reasonably be required for evaluation purposes. A Utility Member may submit a Member Project Request to Tri-State at any point to initiate the Proposal Planning Process. A pro forma Member Project Request is attached hereto as Appendix B.

- 2.26 MW shall mean megawatt(s).
- 2.27 MWh shall mean megawatt-hour(s).
- 2.28 Network Customer shall have the meaning in the Applicable OATT.
- 2.29 Network Integration Transmission Service shall have the meaning in the Applicable OATT.
- 2.30 Network Resource shall have the meaning in the Applicable OATT.
- 2.31 Participation Package shall mean all items which a Utility Member must provide to Tri-State to participate in the High Impact Load Cycle Planning Process as specified in Section 5.5.2.
- 2.32 Participation Requirements shall mean the criteria specified in Sections IV and V that Utility Member must provide to participate in the High Impact Load Program, including the completed Participation Package.
- 2.33 Program Evaluation Criteria shall mean the economic, reliability, and responsibility criteria described in Section 5.10.
- 2.34 Proposal Planning Process shall mean the process that must be completed prior to entering a High Impact Load Cycle, as described in Section IV. A Utility Member may initiate the Proposal Planning Process at any time by submitting a Member Project Request for a High Impact Load Project.
- 2.35 Revised High Impact Load Evaluation Process shall mean the process described in Section 5.8 used to evaluate High Impact Load Projects that fail the initial High Impact Load Evaluation, which is available at the mutually agreed upon option of the Utility Member and High Impact Load Customer.
- 2.36 Security Requirement shall mean those final security requirements in Section 7 of the HILA.
- 2.37 Site Control shall mean the exclusive land right to develop, construct, operate, and maintain the High Impact Load Project over the term of the HILA. Site Control may be demonstrated by documentation establishing: (a) ownership of, a leasehold interest in, or a right to develop a site of sufficient size to construct and operate the High Impact Load Project; (b) an option to purchase or acquire a leasehold site of sufficient size to construct and operate the High Impact Load Project; or (c) any other documentation that clearly demonstrates the right of the High Impact Load Customer to exclusively occupy a site of sufficient size to construct and operate the High Impact Load Project.
- 2.38 Utility Member shall mean a Tri-State member-owner distribution cooperative or public power district with a WESC.
- 2.39 WESC shall mean the all-requirements wholesale electric service contract between Tri-State and Utility Member.

III. HIGH IMPACT LOAD DEVELOPMENT THROUGH THE PROGRAM

- 3.1 Program. The Program described in this Tariff applies to a Utility Member serving or seeking to serve High Impact Load Projects. Such request for service must be done pursuant to the terms, conditions, and procedures described herein. Utility Members that seek to add High Impact Loads under the Program will do so by contracting with High Impact Load Customer(s) for High Impact Load Project(s) and submitting a Member Project Request to Tri-State, along with other materials required under the Participation Requirements, including the completed Participation Package. Subject to passing the Program Evaluation Criteria and agreeing to the terms of this Tariff, the Utility Member will enter into a HILA with Tri-State to facilitate serving the High Impact Load. Tri-State will model the High Impact Load as part of its resource planning and acquisition process and transmission service will be provided pursuant to the Applicable OATT.
- 3.2 Proposal Planning Process. This Tariff requires that Tri-State's Proposal Planning Process must be completed prior to a project entering the High Impact Load Cycle (Section IV). The Proposal Planning Process will end once a Utility Member has received the final Feasibility Study Assessment it requests.
- 3.3 HILA. This Tariff requires that a Utility Member execute a HILA to proceed to the High Impact Load Cycle. A pro forma HILA is attached here to as Appendix A, and Utility Member must comply with all the terms and conditions contained therein, including the Security Requirements.
- 3.4 High Impact Load Cycles. This Tariff establishes a project evaluation and contracting process wherein Tri-State will provide detailed feedback on specific High Impact Loads submitted by Utility Members. This process, referred to herein as a High Impact Load Cycle, will be conducted every two years, with the first High Impact Load Cycle starting in the year that this Tariff is accepted and becomes effective with FERC. Notwithstanding, if FERC issues an order or sets an effective date for this Tariff after November 1, 2025, Tri-State will instead initiate the first High Impact Load Cycle on the first Business Day following January 1, 2026, or as soon thereafter as reasonably allowed by the effective date.
- 3.5 Overall Availability of Service Under the High Impact Load Program. There is no maximum amount of High Impact Load under the High Impact Load Tariff.
- 3.6 Basin. To the extent that Basin Electric Power Cooperative ("Basin") develops a large load tariff that defines a High Impact Load as less than 45 MW, provides different timelines, or security requirements, Basin's requirements will flow through to Utility Members in the Eastern Interconnection.

IV. PROPOSAL PLANNING PROCESS

- 4.1 Proposal Planning Process. A Utility Member may initiate the Proposal Planning Process at any time and at no cost by submitting to Tri-State a Member Project Request that Tri-State has verified as complete and accurate. Based on the Member Project Request, during the Proposal Planning Process, Tri-State and Utility Member will work collaboratively through the Feasibility Study Assessment to identify optimal locations to interconnect the High Impact Load. Tri-State will undertake multiple rounds of Feasibility Study Assessments, at Utility Member's request.

Tri-State will use reasonable efforts to complete the Feasibility Study Assessments within 90 Days after the meeting with the Utility Member to discuss the Member Project Request.

V. HIGH IMPACT LOAD CYCLE PLANNING PROCESS

- 5.1 Schedules for the First and Subsequent High Impact Load Cycles. To allow for timely implementation, the first High Impact Load Cycle will follow the “First High Impact Load Cycle” deadlines and time periods provided in Schedule 1 to this Tariff, notwithstanding any other provision of this Tariff to the contrary. All subsequent High Impact Load Cycles will follow the deadlines and time periods described in the body of this Tariff and summarized in Schedule 1 under “Subsequent High Impact Load Cycles.” The first High Impact Load Cycle will begin 60 Days after the effective date of the Tariff established by FERC. Subsequent High Impact Load Cycles will commence every fall, two years after the first High Impact Load Cycle, 30 Days after issuance of a High Impact Load Kickoff Notice.
- 5.2 High Impact Load Kickoff Meeting. No later than 15 Business Days after the start of the High Impact Load Cycle, Tri-State will hold an informational High Impact Load Cycle Kickoff Meeting regarding the Current High Impact Load Cycle available to all Utility Members and to all their High Impact Load Customers that have executed or are working towards executing a MCHIL. Tri-State will send notice of the High Impact Load Cycle Kickoff Meeting to all Utility Members. Utility Members will be responsible for providing notice to their High Impact Load Customers that have executed or are in the process of executing a MCHIL. During the High Impact Load Cycle Kickoff Meeting, Tri-State will outline the timing and steps of the Current High Impact Load Cycle, provide Participation Package requirements, and be available to answer any Utility Member questions.
- 5.3 HILA. Utility Member will execute a HILA as part of the Participation Package within 30 Days of the High Impact Load Cycle Kickoff Meeting. Tri-State will promptly countersign the HILA and return a fully executed HILA to Utility Member once the High Impact Load Project passes the evaluation process described below.
- 5.3.1. Tri-State plans to use the *pro forma* HILA filed with and accepted by FERC, and will not file such conforming HILAs at FERC. To the extent that a non-conforming HILA is executed, or FERC directs otherwise, Tri-State will file the HILA with FERC within 60 Days after the High Impact Load Project passes the evaluation process described below.
- 5.4 High Impact Load Evaluation Process. Once the Current High Impact Load Cycle has begun, Tri-State will promptly begin evaluating all High Impact Load Projects participating in that Cycle that meet the Tariff’s requirements pursuant to the requirements of this Section.
- 5.5 Participation Package Contents, Verification, and Deadlines
- 5.5.1. Submission Deadline. Within 30 Days of the High Impact Load Cycle Kickoff Meeting, Utility Member will submit to Tri-State a complete Participation Package.
- 5.5.2. Contents. The Participation Package will include the following: (a) a completed Member Project Request; (b) demonstration that the High Impact Load Customer has acquired 90% Site Control over the site planned for the High Impact Load Project; (c) a High Impact Load Evaluation Fee; (d) a Professional Engineer (licensed in the state where the High Impact

Project is located) stamped drawing that demonstrates the expected load of the High Impact Load Project and land (in acres) required for such project; (e) an executed MCHIL that conforms with the minimum requirements set forth in the HILA; and, (f) an executed HILA.

5.5.3. Verification. Within 20 Business Days of the receipt of the Participation Package, Tri-State will complete its verification of Participation Package for accuracy and completeness and provide Utility Member with notice if the Participation Package is deemed complete or stating any deficiencies.

5.5.3.1. For High Impact Load Projects that fail the verification process, Utility Member will have 10 Business Days to cure any defects identified in its Participation Package.

5.5.3.1.1. A Utility Member that fails to submit a cured Participation Package will be deemed to have its High Impact Load Project withdrawn from the current High Impact Load Cycle.

5.5.3.2. Within 5 Business Days of the receipt of a revised Participation Package, Tri-State will complete its verification of the revised Participation Package for accuracy and completeness and provide Utility Member with notice if the Participation Package is deemed complete or if there are any uncured deficiencies.

5.5.3.3. High Impact Load Projects that pass either stage of the verification process will proceed to the High Impact Load Evaluation.

5.5.3.4. By mutual agreement, Tri-State and Utility Member may extend any of the deadlines in Section 5.5.3 by up to 5 Business Days to cure administrative errors.

5.5.3.5. High Impact Load Projects that fail both stages of the verification process will be deemed withdrawn from the Current High Impact Load Cycle, without prejudice to the Utility Member resubmitting the High Impact Load Project during a subsequent High Impact Load Program Cycle.

5.6 MCHIL Requirements. As part of the Participation Package, Utility Member must submit a fully executed MCHIL that meets the criteria set forth in the HILA.

5.6.1. Utility Member is solely responsible for: (a) entering into the MCHIL with High Impact Load Customer(s), and (b) ensuring that its MCHIL is consistent with the terms and conditions of this Tariff and the HILA. The Utility Member must demonstrate compliance with this provision to Tri-State's reasonable satisfaction. Tri-State is not responsible for compliance with any terms or conditions of a Utility Member's agreements with third parties.

5.7 Evaluation Process for Initial Proposal Period. No later than 150 Days from the start of the Current High Impact Load Cycle, Tri-State will complete the evaluation of all valid High Impact Load Projects and will provide to Utility Members that submitted a validated Participation Package notice of the results of the evaluation of that Utility Member's High Impact Load Project, including an analysis of the characteristics that led to acceptance or rejection.

5.7.1. Tri-State may request additional information not identified in the Participation Package but reasonably necessary for the evaluation of a High Impact Load during the Initial Proposal Period. Utility Members are solely responsible for meeting the submission deadline and

ensuring the submittal of complete and accurate information, provided that Tri-State may allow for the correction of any deficiencies, where doing so will not materially impact the evaluation process, in terms of delay, additional costs, or otherwise.

- 5.8 Revised Proposal Period. If there are High Impact Load Projects that were not accepted under the evaluation process described above in Section 5.7, a Revised Proposal Process will be initiated. The Revised Proposal Process will start on the first Business Day after the Initial Proposal Period ends and will last for 20 Business Days. If no High Impact Load Project fails the evaluation during the Initial Proposal Period, or if all Utility Members participating in the Current High Impact Load Cycle who were not accepted during the Initial Proposal Period inform Tri-State in writing that they do not intend to submit a revised Participation Package, the Revised Proposal Period and evaluation under this Section will be skipped.
- 5.8.1. Within 5 Business Days of the start of the Revised Proposal Period, Tri-State will meet with the applicable Utility Member(s) to review the results for High Impact Load Project(s) that failed the evaluation and discuss modifications to those Participation Package(s) that could make the High Impact Project more likely to succeed. Discussions during these meetings do not constitute acceptance of High Impact Load Project, which can only be achieved through the evaluation process.
- 5.8.2. The Utility Member will have 10 Business Days from its meeting with Tri-State to submit a revised Participation Package to trigger reevaluation. Revisions can include material changes, including but not limited to: High Impact Load Project size, minimum demand threshold, location, and load ramp. An additional High Impact Load Evaluation Fee will not apply to a revised Participation Package. The revised High Impact Load Project will be subject to the same requirements in Section 5.10 as other High Impact Load Project submitted under Section 5.7. If no Revised High Impact Load Projects are submitted within the Revised Proposal Period, the remainder of the Revised Proposal Period will be skipped.
- 5.8.3. Tri-State may request additional information not identified in the revised Participation Package but reasonably necessary for the evaluation of a High Impact Load during the Revised Proposal Period. Utility Members are solely responsible for meeting the submission deadline and ensuring the submittal of complete and accurate information, provided that Tri-State may allow for the correction of any deficiencies, where doing so will not materially impact the evaluation process, in terms of delay, additional costs, or otherwise.
- 5.8.4. No later than the last Business Day of the Revised Proposal Period, Tri-State will complete the evaluation of all revised Participation Packages and will provide to Utility Members that submitted a revised Participation Package during the Revised Proposal Period notice of the results of the evaluation of that Utility Member's revised High Impact Load Project, including an analysis of the characteristics that led to acceptance or rejection.
- 5.9 Evaluation Methodology for High Impact Load Projects. Tri-State will evaluate High Impact Load Projects using the same commercially available resource planning software in use at Tri-State at the time of that High Impact Load Program Cycle.

5.9.1. Tri-State will use the software to assess bulk power system and market characteristics, as well as the price and non-price characteristics of submitted High Impact Load Projects, in determining whether the criteria in Section 5.10 have been satisfied.

5.10 Evaluation Criteria. Tri-State will evaluate High Impact Load Projects in terms of material compliance with the four criteria set forth below. Absent a relevant change in law or regulation, the evaluation criteria will comport, as appropriate, with the metrics and standards applied by Tri-State in its most recent resource planning process or Bring Your Own Resource Tariff cycle and will not be altered or otherwise diverge for purposes of High Impact Load Program evaluation, though the High Impact Load Evaluation may utilize more recent data inputs, as appropriate. An Independent Evaluator will review and confirm that Tri-State's High Impact Load Evaluation Process was conducted consistently with the terms of this Tariff.

5.10.1. Reliability Criteria. The evaluation will consider whether the High Impact Load Project has an adverse impact on the reliable operation of the Tri-State system as measured by reliability metrics identified in Tri-State's resource planning processes, along with any other reliability or regulatory requirements that may apply. Only High Impact Load Projects which are determined to not have an adverse impact on the reliable operation of the Tri-State system will pass evaluation.

5.10.2. Economic Criteria. The evaluation will consider whether the new generation and transmission resource(s) modeled based on the minimum demand and minimum energy amount selected in the HILA to serve the High Impact Load Project is economically priced to minimize Tri-State's overall system costs and avoid cost-shifts among Utility Members by analyzing whether the High Impact Load Project reduces or holds stable Tri-State's rate requirements compared to the forecasted baseline rate requirement included in Tri-State's Class A Rate effective at FERC on the first day of the High Impact Load Cycle. Such analysis will consider, among other things, the High Impact Load Project's transmission costs. Only High Impact Load Projects that are determined to reduce or hold stable Tri-State's rate requirements compared to the forecasted baseline rate requirement included in Tri-State's Class A Rate effective at FERC on the first day of the High Impact Load Cycle will pass the evaluation.

5.10.3. Environmental Criteria. The evaluation will consider whether the High Impact Load Project adversely impacts Tri-State's compliance with: (a) Tri-State's environmental goals and (b) mandated greenhouse gas reduction targets, renewable energy procurement obligations, or other environmental targets as established by applicable regulatory authorities. Only High Impact Load Projects that do not adversely impact Tri-State's compliance with: (a) Tri-State's environmental goals and (b) mandated greenhouse gas reduction targets, renewable energy procurement obligations, or other environmental targets as established by applicable regulatory authorities will pass the evaluation.

5.10.4. Transmission metrics. The evaluation will consider whether the timing of necessary transmission upgrades to meet the High Impact Load Project's Expected Operation Date is feasible. Only High Impact Load Projects where it is determined to be feasible

to timely make necessary transmission upgrades to meet the High Impact Load Project's Expected Operation Date will pass the evaluation.

5.10.5. Competing Loads Ranking. In the event that two or more High Impact Load Projects in the same general location would result in a failure of one or more Evaluation Criteria, but would otherwise succeed individually, Tri-State will rank those High Impact Load Projects based on their results under the Economic Criteria. Only the High Impact Load Project(s) which are most economical will proceed.

5.10.5.1. Pro-Rating. Alternatively, Utility Members whose High Impact Load Projects were subject to a competing loads ranking may mutually agree to pro rate their High Impact Load Projects by modifying their High Impact Load Projects so that they would pass all Evaluation Criteria. If the Utility Members are unable to mutually agree on how to pro rate their High Impact Load Projects within 10 Business Days, Tri-State will move forward with the most economical High Impact Load Projects as described in Section 5.10.5.

5.11 High Impact Load Projects that Fail Evaluation. A High Impact Load Project that fails evaluation under Section 5.10 or any other provision of this Tariff will not result in a financial penalty to the relevant Utility Member, and will be without prejudice to the Utility Member resubmitting the High Impact Load Project during a subsequent High Impact Load Program Cycle.

5.12 Expected Operation Date. The Utility Member must identify an Expected Operation Date in its Member Project Request that, after a High Impact Load Project is accepted, may only be changed as provided by the HILA.

5.13 Independent Evaluator. Tri-State will retain an Independent Evaluator to review whether Tri-State's High Impact Load Evaluation Process was conducted consistently with the terms of this Tariff, including any ranking that may occur under the Economic Criteria.

5.13.1. Tri-State will request that the Independent Evaluator use reasonable efforts to complete its review 15 Business Days from the later of the end of the Proposal Period or the Revised Proposal Period (if applicable). Independent Evaluator will notify Tri-State of the results of its review, subject to applicable confidentiality agreements described in Section 7.1. After Tri-State and the Independent Evaluator mutually agree that the review is complete and accurate, Tri-State will promptly forward such results to all Utility Members.

VI. HIGH IMPACT LOAD TRANSMISSION PROCESS

6.1. Transmission Service. All transmission service, requests, planning, and other related processes will take place under the Applicable OATT. Nothing in this Tariff is intended to otherwise affect rights under the Applicable OATT.

- 6.2. Facilities Construction Agreement. Utility Member must execute a Facilities Construction Agreement requiring that Utility Member be responsible for costs of all interconnection facilities and upgrades directly assigned to Tri-State necessary to serve the High Impact Load, and provide appropriate security for such interconnection facilities and upgrades prior to the execution of Applicable OATT study agreement, unless otherwise mutually agreed to. Tri-State will file at FERC the executed Facilities Construction Agreement within 15 Business Days of receipt of an executed Facilities Construction Agreement from Utility Member. If Tri-State and Utility Member cannot come to an agreement, Tri-State will instead file an unexecuted Facilities Construction Agreement with FERC.

VII. CONFIDENTIALITY AND DISPUTE RESOLUTION

- 7.1. Confidentiality Agreements. Upon request of the Utility Member or Tri-State to protect the confidential information and data of Tri-State, Utility Member, and its High Impact Load Customer, Tri-State, Independent Evaluator, and as applicable, Utility Member and its High Impact Load Customer, will execute a standard confidentiality agreement that provides for the confidential treatment of commercially sensitive information. Notwithstanding the foregoing, Tri-State may disclose any confidential information and data to applicable third parties, including regulatory or judicial authorities, in connection with any transmission service, requests, planning, and other processes that will take place under the Applicable OATT and this Tariff.
- 7.2. Dispute Resolution. Any Utility Member that disputes how a High Impact Load Cycle was conducted, or the outcome of a High Impact Load Cycle, may file a complaint with FERC. Utility Member must first avail themselves of the Dispute Resolutions procedures contained in the HILA, to the extent the dispute is related to the scope of the HILA.

Schedule 1: Schedule of Key Deadlines for High Impact Load

High Impact Load Tariff Milestones	Tariff Section	First High Impact Load Cycle	Subsequent High Impact Load Cycles (if different from First HIL Cycle)
Notice of Commencement of High Impact Load Cycle	2.18	Contemporaneous with FERC Filing	During the third quarter of every other calendar year
Commencement of High Impact Load Cycle	2.16, 3.1	60 Days Following FERC Acceptance of the Tariff	30 Days After Notice of Commencement of HIL Cycle
Proposal Planning Process (Section IV)			
Member Project Request	2.25, 4.1	Utility Member can submit at any time	Same
Feasibility Study Assessment	4.1	Utility Member can request at any time, Tri-State will use reasonable efforts to complete	Same
Initial Proposal Period (Section V)			
High Impact Load Kick-Off Meeting	5.2	Within 15 Business Days after the start of the High Impact Load Cycle	Same
Utility Member will execute a HILA	5.3	Within 30 Days of the High Impact Load Cycle Kickoff Meeting	Same
Participation Package Due	5.5	Within 30 Days of the High Impact Load Cycle Kickoff Meeting	Same
Participation Package Verification Notice	5.5.3	Within 20 Business Days of receipt of Participation Package	Same
Revised Participation Package Due	5.5.3.1	Within 10 Business Days of issuance of Participation Package Verification Notice (if necessary)	Same
Revised Participation Packaged Verification Notice	5.5.3.2	Within 5 Business Days of receipt of the revised Participation Package	Same
Evaluation Process for Initial Proposal Period; End of Initial Proposal Period	5.7	Tri-State will complete evaluation no later than 150 Days from start of Current High Impact Load Cycle, which will be end of the Initial Proposal Period (if necessary)	Same
Revised Proposal Period (Section V)			
Start of Revised Proposal Period (if applicable)	5.8	First Business Day after End of Initial Proposal Period (if necessary)	Same
Individual Utility Member Meetings to Discuss Revised High Impact Load Project Proposals	5.8.1	Within 5 Business Days of the start of Revised Proposal Period (if necessary)	Same
Deadline to Submit revised Participation Package	5.8.2	10 Business Days from Utility Member meeting with Tri-State (if necessary)	Same
End of Revised Proposal Period	5.8, 5.8.4	No later than 20 Business Days from the start of the Revised Proposal Period	Same
Transmission (Section VII)			
Transmission Service	6.1	Per the deadlines of the Applicable OATT	Same
Deadline to Execute Facilities Construction Agreement	6.2	Prior to execution of the Applicable OATT study agreement, unless otherwise mutually agreed	Same
Deadline to File Facilities Construction Agreement	6.2	14 Business Days after receipt of executed Facilities Construction Agreement from Utility Member	Same

APPENDIX A - FORM OF HIGH IMPACT LOAD AGREEMENT FOR _____

TS-__-____

This High Impact Load Agreement for _____ ("**Agreement**") is made and entered into this ____ day of _____, 20____ ("**Execution Date**"), by and between TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. ("**Tri-State**"), a Colorado cooperative corporation, and _____ ("**Utility Member**"), a _____. Tri-State and Utility Member may be referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Tri-State sells to Utility Member, and Utility Member purchases from Tri-State, wholesale electric power and energy under the terms and conditions of the WESC; and

WHEREAS, Tri-State filed Rate Schedule No. ____ (High Impact Load Tariff) with FERC in Docket No. ER____-____ ("**HIL Tariff**"), which was accepted by FERC on _____, 20____, that sets forth the terms, conditions, and procedures for a High Impact Load; and

WHEREAS, in accordance with the HIL Tariff and to facilitate the responsibilities related to the High Impact Load for Utility Member's HIL Customer, the Parties are required to execute this Agreement to provide assurance as to the viability of HIL Customer to proceed with the Project, the ability for Tri-State to serve the Project, and risk mitigation for Tri-State, Utility Member, and Tri-State's membership related to the Project.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

SECTION 1 - DEFINITIONS

The following terms, when used in this Agreement with initial capitalization, and not otherwise textually defined or defined in the HIL Tariff, will have the meanings set forth below:

"**Basin**" means Basin Electric Power Cooperative or any successor thereto.

"**Basin East WPC**" means the applicable Wholesale Power Contract for the Eastern Interconnection, between Tri-State and Basin, as it may be amended, restated, or superseded from time to time.

“Basin Security” means any maximum security, collateral, or other financial commitment that Tri-State may be required to provide to Basin related to the Project pursuant to any Basin-required tariff, policy, procedure, or process.

“Billing Period” means the billing period for Tri-State’s billing for power and energy to Utility Member under the WESC.

“Billing Start” means the earlier of the Operation Date or the Expected Operation Date.

“Business Day” shall have the meaning set forth in the HIL Tariff.

“BYOR Program Cycle” shall have the meaning set forth in Tri-State’s Bring Your Own Resource Tariff.

“Calendar Year” means the annual calendar period beginning January 1, 00:00 MPT through and including December 31, 24:00 MPT.

“Class A Demand Charges” shall mean the Class A Rate charges for demand by Tri-State to utility members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

“Class A Energy Charges” shall mean the Class A Rate charges for energy by Tri-State to its utility members for all-requirements service pursuant to the WESCs, as accepted by and in effect with FERC.

“Class A Rate” shall have the meaning set forth in the HIL Tariff.

“COPUC” means the Colorado Public Utilities Commission and any successor organization thereto.

“Day” shall have the meaning set forth in the HIL Tariff.

“Delivery Point” means Tri-State’s delivery point for Utility Member under the WESC that will serve the load from the Project and further identified in Exhibit A of this Agreement, attached hereto and incorporated herein.

“Effective Date” has the meaning set forth in Section 2(A) of this Agreement.

“Execution Date” shall have the meaning set forth in the preamble to this Agreement.

“Expected Operation Date” means the date upon which the Project is expected to commence operations with at least eighty (80) percent of the Expected Project Demand as identified in Exhibit A, with the date subject to change pursuant to Sections 3(G) and 3(H) of this Agreement.

“Expected Project Demand” means the expected load/demand of the Project at commencement of operations as identified in Exhibit A of this Agreement.

“Event of Default” has the meaning set forth in Section 8 of this Agreement.

“FERC” shall have the meaning set forth in the HIL Tariff.

“Force Majeure Event” shall have the meaning of Force Majeure Event as set forth in the WESC.

“Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Guarantor” means any person (a) having an issuer credit rating equivalent to BBB+ or higher as determined by the lowest rating from any rating agencies, one of which must be either S&P or Moody’s, and (b) having a tangible net worth of five hundred million U.S. Dollars (\$500,000,000), or other person otherwise approved by Tri-State in its sole discretion.

“Guaranty” means the payment and performance guaranty provided by Guarantor to Tri-State (as the beneficiary) in the form provided by Guarantor that is customary, commercially reasonable, and reasonably acceptable to Tri-State.

“High Impact Load” shall have the meaning set forth in the HIL Tariff.

“HIL Customer” means the retail customer of Utility Member that is identified in Exhibit A of this Agreement.

“HIL Tariff” shall have the meaning set forth in the recitals to this Agreement.

“Initial Term” has the meaning set forth in Section 2(A) of this Agreement.

“Issuer” means a U.S. commercial bank or a licensed U.S. branch of a foreign bank, with such bank having (a) an unsecured bond rating equivalent to A- or better as determined by at least two (2) rating agencies, one of which must be either S&P or Moody’s, and (b) an asset value of at least thirty billion U.S. Dollars (\$30,000,000,000), or a person otherwise approved by Tri-State in its sole discretion. An Issuer cannot be an Affiliate of Utility Member or HIL Customer.

“Letter of Credit” means an unconditional, irrevocable, standby letter of credit from an Issuer in substantially the form provided by Tri-State to Utility Member, provided, however, that such form may be modified by the Issuer as long as such modifications are customary, commercially reasonable, and reasonably acceptable to Tri-State.

“Load Ramp Projection” or **“LRP”** has the meaning set forth in Section 3(F) of this Agreement.

“Maximum Annual Energy” means maximum annual energy (in MWh) to be consumed by the Project as measured at the Project Metering Point during any Calendar Year as identified in

Exhibit A of this Agreement; provided that for any Partial Year (for the first year after Billing Start and last year of the Term), the Maximum Annual Energy shall be prorated.

“Maximum Project Peak Demand” means maximum peak load/demand of the Project, at any time, as identified in Exhibit A of this Agreement.

“MCHIL” shall have the meaning set forth in the HIL Tariff.

“MDQ” has the meaning set forth in Section 5(B) of this Agreement.

“MEQ” has the meaning set forth in Section 5(C) of this Agreement.

“MMDC” has the meaning set forth in Section 5(B) of this Agreement.

“MMEC” has the meaning set forth in Section 5(C) of this Agreement.

“Moody’s” means Moody’s Investors Services, Inc., or any successor thereto.

“MPT” means Mountain Prevailing Time.

“Operation Date” means the date upon which the Project has commenced operations, and the load of the Project is at least eighty (80) percent of the Expected Project Demand.

“Partial Year” means (a) the period between the Billing Start and the end of the Calendar Year in which the Billing Start occurred (Year 1 of operation) and (b) for the last year of the Term, the period between the beginning of the Calendar Year in which this Agreement expires or terminates and the expiration or termination date of this Agreement.

“Project” means the project of the HIL Customer as further described in Exhibit A of this Agreement.

“Project Metering Point” means the point of interconnection between Utility Member’s electric power distribution facilities and the HIL Customer’s electric power distribution facilities located at the Project where electric power and energy consumption for the Project is measured, as further described in Exhibit A of this Agreement.

“Resources RFP” has the meaning set forth in Section 4(B) of this Agreement.

“RFP Subsequent” has the meaning set forth in Section 7(B)(2) of this Agreement.

“RFP Subsequent Security Amount” has the meaning set forth in Section 7(B)(2) of this Agreement.

“S&P” means S & P Global Ratings, or any successor thereto.

“Serve Ready Notice” has the meaning set forth in Section 4(C) of this Agreement.

“Security” has the meaning set forth in Section 7(A) of this Agreement.

“Security Amount” means the initial amount in U.S. Dollars as set forth in Exhibit A of this Agreement, as stepped down after the Operation Date in accordance with Section 7(F) of this Agreement, if applicable.

“Security Due Notice” means any of the Security Due Notice – Approval, Security Due Notice – EI, Security Due Notice – Filing, and Security Due Notice – RFP Subsequent.

“Security Due Notice – Approval” means the written notice that Tri-State sends to Utility Member once the COPUC has approved Tri-State’s resource implementation plan by a written decision.

“Security Due Notice – EI” means the written notice that Tri-State sends to Utility Member upon the earlier of the following: (a) Tri-State receives confirmation from Basin of its ability and timing for serving the new Eastern Interconnection load for the Project, (b) when Tri-State is required to enter an agreement with Basin related to the Project or (c) when Tri-State is required to provide Basin Security related to the Project.

“Security Due Notice - Filing” means the written notice that Tri-State sends to Utility Member once Tri-State has submitted its resource implementation plan filing related to the Project to the COPUC.

“Security Due Notice – RFP Subsequent” means the written notice that Tri-State sends to Utility Member once Tri-State has submitted its resource implementation plan filing for the RFP Subsequent related to the Project to the COPUC.

“Self-Supply Resource Credit” means the capacity credit (as a percentage) that Tri-State applies to generation resources based upon the nameplate capacity of the resource multiplied by the effective load carrying capacity of the applicable technology of the generation resource as utilized by the current BYOR Program Cycle.

“Self-Supply Tariff” has the meaning set forth in Section 3(E) of this Agreement.

“Term” has the meaning set forth in Section 2(C) of this Agreement.

“Termination Amount” has the meaning set forth in Section 10(A)(4) of this Agreement.

“TPP/MCP” shall mean the Tri-State Peak Period/Member Coincident Peak, a calculation of Utility Member’s peak demand during Tri-State’s peak period, or any other similar demand cost allocation calculation, performed in accordance with the then-applicable Class A Rate effective with FERC or any successor tariff thereto. TPP/MCP is expressed in MW or KW.

“Transmission Entity” mean a transmission provider, transmission owner, or regional transmission organization, including Tri-State, in its role as transmission provider or transmission owner.

“Transmission Improvements” upgrades or changes to the transmission system(s) (including upgrades and direct assigned facilities) of a Transmission Entity(ies) because of the Project.

“Utility Member Meter Equipment” has the meaning set forth in Section 6(A) of this Agreement.

“WESC” means the Wholesale Electric Service Contract, between Tri-State and Utility Member, dated _____, 20____, as it may be amended, restated, or superseded from time to time.

SECTION 2 – EFFECTIVE DATE; TERM; AND EXTENSION

- A. Effective Date and Term. This Agreement is dated as of the Execution Date and effective upon the Execution Date, unless Tri-State, in its sole discretion, determines this Agreement should be filed with FERC for acceptance, then the effective date established by FERC upon acceptance of this Agreement for filing will be the effective date of this Agreement (“**Effective Date**”). Commencing with the Effective Date, this Agreement will remain in effect until the termination date set forth in Exhibit A of this Agreement, subject to extension as provided in Section 2(C) of this Agreement or early termination as provided in this Agreement (the “**Initial Term**”), which will be for a minimum of fifteen (15) years after the Operation Date, and the Initial Term may not extend beyond the term of the WESC. Upon expiration of the Initial Term, subject to extension as provided in Section 2(C) of this Agreement, the Project will deenergize and not operate, unless the Utility Member resubmits the Project pursuant to the HIL Tariff in a High Impact Load Cycle and the Project is subject to a new effective HILA prior to expiration of this Agreement.
- B. FERC Action. Tri-State will promptly provide written notice to Utility Member (i) if Tri-State determines this Agreement should be filed with FERC and (ii) the Effective Date of this Agreement once this Agreement is accepted by FERC, if so filed. If this Agreement is filed with FERC, in the event that FERC issues an order that rejects this Agreement or requires a modification or condition of this Agreement that is unacceptable to either Party, such Party will provide notice to the other Party so that the Parties may undertake good faith negotiations to modify the Agreement in a manner that will satisfy the concerns identified by FERC. If the Parties cannot agree on how to modify this Agreement after thirty (30) Days of good faith negotiations, either Party may provide written notice to the other Party to terminate this Agreement.
- C. Extension. Utility Member may, upon not less than four (4) years advance written notice to Tri-State prior to expiration of Initial Term, request an extension of the Initial Term up to an additional ten (10) years or such longer time as agreed upon by the Parties. If the Parties mutually agree, the term of this Agreement will be extended for the term agreed to by the Parties, not to exceed an additional (10) years (“**Renewal Term**”); provided that in no event may the term of this Agreement extend beyond the term of the WESC. The Initial Term, together with any Renewal Term agreed upon by the Parties, will mean the **Term**.
- D. WESC Termination. Notwithstanding any other provision of this Agreement, this Agreement will terminate concurrently with the termination of the WESC; provided that, to the extent the WESC is terminated prior to the fifth (5th) anniversary of the Operation Date, the provisions of Sections 10(A)(3) and (4) of this Agreement, including Tri-State’s right to draw the full amount of the Security and Utility Member’s obligation to pay the difference between the Security drawn and the Termination Amount, will apply. Utility Member will continue to be responsible for any costs that it is responsible for as set forth in the Facilities Construction Agreement.

- E. Survival. Applicable provisions of this Agreement will continue in effect after termination or expiration, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: billings related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this Agreement, and the limitations of liability specified in this Agreement. All remedies in this Agreement and rights for Tri-State to use the Security and payment of the Termination Amount will survive termination or expiration of this Agreement.

SECTION 3 – UTILITY MEMBER’S OBLIGATIONS

- A. MCHIL. Utility Member will maintain in effect and perform its obligations under the MCHIL with HIL Customer for the Project. Utility Member will provide to Tri-State a copy of the executed MCHIL with HIL Customer for the Project, consistent with timing requirements of Section 5.5 of the HIL Tariff. The MCHIL will include the following requirements:

1. Require the HIL Customer to select an option for minimum monthly demand percentage and minimum monthly energy percentage consistent with the percentage selected by Utility Member in Section 5(A) of this Agreement;
2. Require the HIL Customer to provide Tri-State the Security in accordance with Section 7 of this Agreement and by the times and in the Security Amounts specified in Section 7 of this Agreement and require the HIL Customer to maintain the Security in accordance with Section 7 of this Agreement, including replenishing the Security Amount in accordance with Section 7;
3. Expressly authorize Tri-State to draw upon the Security as provided in this Agreement and for such rights to survive termination of the MCHIL;
4. Require the HIL Customer to satisfy the minimum load and energy requirements set forth in Section 5 of this Agreement or pay Utility Member for such failure consistent with Section 5 of this Agreement;
5. A term of the MCHIL co-terminus with the term of this Agreement;
6. Not permit the Project to operate or energize earlier than three (3) months prior to the Expected Operation Date, subject to change consistent with Sections 3(G) and 3(H) of this Agreement;
7. Not permit the Project to operate or energize prior to Tri-State providing to Utility Member the Serve Ready Notice;
8. Not permit the Project to exceed the Maximum Annual Energy nor the Maximum Project Peak Demand;

9. Not permit the Project to exceed the monthly energy nor the demand for the Project as stated in the LRP for that applicable month; and
 10. Not permit the Project to operate during any time the Utility Member Metering Equipment is not installed and operating as required by Section 6 of this Agreement.
- B. Amendments to MCHIL. Utility Member will provide Tri-State a copy of any proposed amendment to the MCHIL between Utility Member and HIL Customer for the Project prior to its execution to ensure the contract terms conform with the terms and conditions of this Agreement. If Utility Member anticipates entering into a new amendment to the MCHIL referenced in the prior sentence or new agreement or any amendment or modification to an existing contract related to the Project, Utility Member will provide Tri-State with a copy of such at least thirty (30) Days prior to its execution so that Tri-State may review and approve it.
- C. MCHIL Breach or Termination. Utility Member will provide Tri-State written notice if HIL Customer breaches or defaults under the MCHIL within five (5) Business Days of such event occurring. Utility Member will provide Tri-State written notice if Utility Member breaches or defaults under the MCHIL within five (5) Business Days of such event occurring. Utility Member will provide Tri-State written notice if the MCHIL is terminated within five (5) Business Days of such event occurring.
- D. Operation Date. Utility Member will prohibit the Project from operating or energizing earlier than ninety (90) Days prior to the Expected Operation Date, with such operation and energization subject to Utility Member's receipt of the Serve Ready Notice and to permitted change of the Expected Operation Date consistent with Sections 3(G) and 3(H) of this Agreement. Utility Member will provide Tri-State written notice at least thirty (30) Days prior to the anticipated Operation Date. Utility Member will provide Tri-State written notice within two (2) Business Days after the Operation Date and such notice shall specify the Operation Date.
- E. Self-Supply and Distributed Resource. As permitted by and subject to the terms of the WESC and/or any other of Tri-State's Board policies and/or tariffs effective at FERC, if applicable (a "**Self-Supply Tariff**"), Utility Member may be permitted to pursue generation resource(s) in connection with the Project. If applicable, the specifics of such generation resource(s) are described in Exhibit B of this Agreement, attached hereto and incorporated herein. If no specifics are described in Exhibit B of this Agreement, as of the Execution Date, the Utility Member is deemed to not be pursuing any such resource(s) in connection with the Project. The Parties may amend Exhibit B after the Execution Date to update, add, or remove any generation resource(s) Utility Member is pursuing in connection with the Project.
- F. Load Ramp. Within ten (10) Business Days after the Effective Date, Utility Member will provide Tri-State the monthly projections of energy and demand for the Project for the Term in the form of Exhibit D, attached hereto and incorporated herein (or such other form as provided by Tri-State from time to time). On the third anniversary of the Effective Date and every third year thereafter, the Utility Member will provide Tri-State with the updated monthly projections of energy and demand for the Project for the remainder of the Term in the form of Exhibit D (or such other form as provided by Tri-State from time to time) (the latest version of such projection, the "**Load Ramp Projection**"); provided that each three (3) year updated version of the monthly projections of

energy and demand may not decrease or increase the monthly projections of energy and demand by greater than five percent (5%) from the prior version; and provided, further, that in no event may the demand projection exceed the Maximum Project Peak Demand nor the aggregate monthly energy projection for a Calendar Year exceed the Maximum Annual Energy. For any Partial Year, the Maximum Annual Energy will be prorated proportional to the length of the Partial Year.

- G. Delay of Expected Operation Date. Utility Member may, upon written notice to Tri-State, delay the Expected Operation Date by up to six (6) months. Utility Member may exercise this delay in the Expected Operation Date only one time and Utility Member must provide the notice to Tri-State prior to the Security Due Notice – Filing or Security Due Notice – EI, as applicable; provided any delay may not extend the Initial Term beyond the term of the WESC. Utility Member's notice will specify the revised Expected Operation Date (not to exceed six (6) months from the original Expected Operation Date) and such notice will also specify the reason for the delay.
- H. Early Operation Date. Utility Member may, upon written notice to Tri-State, move earlier the Expected Operation Date by up to ninety (90) Days. Utility Member may exercise this early Expected Operation Date only one time and all other applicable requirements of this Agreement and the HIL Tariff continue to apply, including receipt of Serve Ready Notice. Utility Member's notice will specify the revised Expected Operation Date.

SECTION 4 – TRI-STATE'S OBLIGATIONS

- A. Transmission. Tri-State will use commercially reasonable efforts to perform the applicable transmission studies or cause the applicable Transmission Entities to perform the applicable transmission studies to serve the load of the Project up to the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date. Tri-State will use commercially reasonable efforts to cause the Transmission Improvements and other facilities to be constructed, tested, and energized as required to serve the load of the Project up to the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date.
- B. Resources. Consistent with the WESC, Tri-State uses Good Utility Practice to supply the load of Utility Member. In connection therewith and Tri-State using Good Utility Practice to supply the load of all its utility members, Tri-State will use commercially reasonable efforts to construct, procure and/or acquire the generation and/or storage resources that Tri-State reasonably determines are required to serve the load of Tri-State's utility members, include the load of the Project up to the maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period commencing upon the Expected Operation Date. Tri-State's process may include initiating and pursuing a resource acquisition process for a resource acquisition period as required by applicable law, including, if needed, issuing a request for proposal for new resources ("**Resource RFP**"), performing modeling of bids that advanced to modeling from the Resource RFP, and filing a resource implementation plan with the COPUC. Tri-State will promptly provide Utility Member the Security Due Notice - Filing after the resource implementation plan is filed with the COPUC. Tri-State will promptly provide Utility Member the Security Due Notice – Approval after

the resource implementation plan is approved by the COPUC by a written decision. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, Tri-State's process may include notifying Basin and complying with any Basin-required tariff, policy, procedure, or process. In lieu of the Security Due Notice - Filing or Security Due Notice – Approval, Tri-State will promptly provide Utility Member Security Due Notice – EI once an event in such definition is satisfied. Utility Member will, and require the HIL Customer to, cooperate with Tri-State and Basin and provide any information or documentation required or requested by Basin and execution of any documents Basin may require in connection with any Basin-required tariff, policy, procedure, or process.

- C. Serve Ready Notice. When (i) Tri-State reasonably determines that the resources are available to serve the load of the Project maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period and (ii) all Transmission Improvements and other facilities are constructed, tested, and energized that Tri-State reasonably determines are required to serve the maximum demand of the Project as specified in the LRP during the 10 year period after the Expected Operation Date, Tri-State will provide Utility Member written notice that the Project may be energized ("**Serve Ready Notice**").

SECTION 5 – MINIMUM AND MAXIMUM ENERGY AND LOAD AND BILLING

- A. Selection of Minimums. Utility Member must select one of the following options for minimum monthly demand and minimum monthly energy that will be applicable and binding for the Term (if Utility Member fails to selection an option, Option 1 applies):
1. Option 1 ☐: (a) minimum monthly demand of ninety (90) percent and (b) minimum monthly energy of seventy-five (75) percent; or
 2. Option 2 ☐: (b) minimum monthly demand of seventy-five (75) percent and (b) minimum monthly energy of fifty (50) percent.
- B. Minimum Monthly Demand. Commencing with the Billing Start, at the end of each Billing Period, if the monthly demand of the Project is less than the selected minimum monthly demand percent, as selected in Section 5(A), of the monthly demand for the Project as stated in the LRP (the "**MMD**"), Utility Member will be assessed a minimum monthly demand charge ("**MMDC**") for the Project, which is the product derived by the supplemental demand quantity ("**SDQ**") multiplied by the Class A Demand Charges, for the Project, as calculated below, on Tri-State's invoice to the Utility Member for electric service pursuant to the WESC. SDQ (kW) is a result and occurs when the monthly demand quantity ("**MDQ**") is less than the MMD and is assessed by calculating the difference between MMD and MDQ. MDQ is calculated below as the HIL Demand in kW at monthly TPP/MCP of Billing Period pursuant to the WESC.

The following formulas will apply in the calculation of the MMDC:

MDQ = HIL Demand (kW) at the TPP/MCP, where **HIL Demand** means the coincident peak billing demand of the Project as measured by the metering equipment at the Project Metering Point at the maximum kilowatt demand established by the Project for any period of 30 consecutive minutes during the TPP/MCP of the Billing Period.

$MMD (kW) = \text{Project demand for the month of the Billing Period as stated in the LRP (kW)} \times [0.9 \text{ or } .75 \text{ based upon the selected percentage specified in Section 5(A)}].$

If $MDQ > MMD$, then $MMDC = \$0$.

If $MDQ < MMD$, then $MMD - MDQ = SDQ$, and

$MMDC = SDQ \times \text{Class A Demand Charges}$.

- C. Minimum Monthly Energy. Commencing with the Billing Start, at the end of each Billing Period, if the monthly energy usage of the Project is less than the selected minimum monthly energy percent, as selected in Section 5(A), of the monthly energy for the Project as stated in the LRP (“**MME**”), Utility Member will be assessed a minimum monthly energy charge (“**MMEC**”) for the Project, as calculated below, on Tri-State’s invoice to the Utility Member for electric service pursuant to the WESC, which is the product of the supplemental energy quantity (“**SEQ**”) in kWh multiplied by the Class A Energy Charges. SEQ (kWh) is a result and occurs when the monthly energy quantity (“**MEQ**”) is less than the MME and assessed by calculating the difference between MME and MEQ. SEQ is a result and occurs when the monthly energy quantity (“**MEQ**”) is less than the MME and is assessed by calculating the difference between the MME and MEQ. MEQ is calculated below as the HIL Energy (kWh) assessed during Billing Period pursuant to the WESC.

The following formulas will apply in the calculation of the MMEC:

$MEQ = \text{HIL Energy (kWh) during Billing Period, where HIL Energy means the energy (in kWh) consumed by the Project as measured by the metering equipment at the Project Metering Point during the Billing Period.}$

$MME (kWh) = \text{Project energy for the month of the Billing Period as stated in the LRP (kWh)} \times [0.75 \text{ or } .5 \text{ based upon the selected percentage specified in Section 5(A)}].$

If $MEQ > MME$, then $MMEC = \$0$.

If $MEQ < MME$, then $MME - MEQ = SEQ (kWh)$, and

$MMEC = SEQ \times \text{Class A Energy Charges}$.

- D. Payments of Charges. Utility Member will pay any MMDC or MMEC assessed pursuant to this Section 5 of this Agreement in accordance with the WESC.
- E. Class A Rate. Tri-State and Utility Member acknowledge the load for the Project will be billed at Tri-State’s Class A Rate and/or other applicable Tri-State rate schedule in effect.
- F. Relationship with WESC. This Agreement sets forth the provisions related to facilitating the Parties in serving the Project and mitigation of the Project risk for Tri-State, Utility Member and Tri-State’s membership and is in no way intended to affect the delivery of power and energy or the billing under the terms of the WESC, except as specifically set forth in this Agreement. The terms regarding the actual sales of energy, including, but not limited to, title and risk of loss, are outside the scope of this Agreement.

- G. Excess Energy and Load. Tri-State is under no obligation to provide power and energy for the Project under this Agreement in excess of the Maximum Annual Energy and Maximum Project Peak Demand. In addition, Tri-State is under no obligation to provide power and energy for the Project under this Agreement more than the monthly energy and demand for the Project as stated in the LRP for that applicable month. In the event the Project exceeds the Maximum Project Peak Demand or the monthly energy and demand for the Project as stated in the LRP for that applicable month, Utility Member will, upon written notice (or oral notice in the event of an emergency) from Tri-State to Utility Member, immediately take action to curtail electric service to the Project below the Maximum Project Peak Demand and the monthly energy and demand for the Project as stated in the LRP for that applicable month, as applicable, which may include use of circuit breakers or switches to disconnect the Project from the Utility Member's system, if necessary.
- H. Example. An example of the MMDC and MMEC are shown in Exhibit C of this Agreement, attached hereto and incorporated herein.

SECTION 6 – METERING AND LICENSE

- A. Metering. Except as otherwise provided in Exhibit A of this Agreement, Utility Member will own, operate, and maintain metering, recording, and telecommunications devices at the Project Metering Point at no expense to Tri-State and of a type and accuracy reasonably acceptable to Tri-State ("**Utility Member Meter Equipment**"). Except as otherwise provided in Exhibit A of this Agreement, Tri-State may determine, at its sole discretion, to install metering, recording, and telecommunications devices at the Project Metering Point ("**Tri-State Meter Equipment**") to accommodate this Agreement at Tri-State's expense. Tri-State reserves the right to witness, perform testing, or request testing of Utility Member Meter Equipment, at Tri-State's expense. Utility Member reserves the right to witness, at Utility Member's expense, testing of the Tri-State Meter Equipment.
- B. License
1. Utility Member hereby grants to Tri-State, its employees, agents, and contractors, a non-exclusive license (each, a "Property License") to construct, install, locate, re-locate, connect, inspect, test, operate, maintain, repair, and replace the Tri-State Meter Equipment at the Project Metering Point ("**Equipment Property**"), together with the right to enter the Equipment Property for the purposes stated, provided reasonable advance arrangements are made with Utility Member.
 2. Utility Member hereby grants to Tri-State, its employees, agents, and contractors, a non-exclusive license (each, "**Access License**", and together with the Property License, a "**License**") of ingress and egress between the Equipment Property and the nearest public access or road ("**Access Property**", and together with the Equipment Property, the "**Property**").

3. The Property may be either: (i) owned in fee simple by Utility Member, or (ii) property for which Utility Member holds a lease, easement or permit.
 4. It is the Parties' intent that each License be coupled with Tri-State's interest in the Tri-State Meter Equipment constructed or installed on or attached to the Property and, therefore, such License will be non-revocable to the maximum extent permitted by applicable law.
 5. Tri-State hereby assumes any and all risks and obligations associated with the License and Tri-State's activities on the Property, and will repair, at the expense of Tri-State, any damage to the Property or improvements resulting from Tri-State's use of the License, or will reimburse Utility Member for such repairs; provided that the foregoing will not apply with respect to any claim, damage, or loss caused by or resulting from Utility Member's negligence.
 6. Utility Member hereby represents and warrants that it has the full power and authority to grant to Tri-State each License granted hereunder. Utility Member covenants and agrees to indemnify, hold harmless and defend Tri-State, its other members, directors, officers, employees, agents, and contractors, from and against any and all claims, demands, losses, damages, expenses, liabilities, or judgments (including reasonable attorneys' fees and costs) based on a third-party claim, suit, action, or proceeding (collectively, "**Claim**") challenging the validity of a License herein granted or the authority of Utility Member to grant such License. In the event of such Claim, Utility Member will bear the sole obligation and cost of confirming or obtaining such authority or rights as needed to grant the License hereunder.
- C. Except as otherwise provided in Exhibit A of this Agreement, metering and recording devices at the Project Metering Point will:
1. Be capable of measuring and registering demand and energy delivered; and
 2. Be capable of measuring and recording five (5) minute integrated demand for each five (5) minute time interval; and
 3. Have sufficient recording capability or memory to store at least forty-five (45) Days of five (5) minute integrated demand data; and
 4. Be capable of transmitting real-time energy measurement data ("**EMD**") to Tri-State in a format agreeable to both Parties and to a data collection point agreeable to Tri-State.
- D. Except as otherwise provided in Exhibit A of this Agreement, Utility Member, at its expense, will provide acceptable communications for daily remote interrogation of the 5 minute integrated

interval data and the real-time EMD by Tri-State of metering and recording devices at the Project Metering Point.

- E. Utility Member Meter Equipment will be installed and tested prior to the Project being energized.
- F. Additional metering and telecommunication equipment may be set forth in Exhibit A of this Agreement or exceptions to the requirements in this Section 6 may be set forth in Exhibit A of this Agreement.

SECTION 7 – SECURITY REQUIREMENTS

A. Security Timing.

1. Filing Security. As security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice - Filing, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's receipt of the Security Due Notice - Filing and maintain in favor of Tri-State (a) one or more Letter(s) of Credit from an Issuer, (b) a cash escrow account, at HIL Customer's expense, established with an Issuer in favor of Tri-State pursuant to an escrow agreement acceptable to Tri-State and to which any interest on the amounts held in escrow will be taxable to, and accrue for the benefit of, HIL Customer, (c) a Guaranty from a Guarantor, or (d) any combination of the foregoing (a) through (c) ("**Security**") in the amount of twenty-five (25) percent of the Security Amount; provided that (i) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (ii) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (ii) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that HIL Customer may qualify as a Guarantor if it satisfies such definition.
2. Approval Security. As security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice - Approval, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's receipt of the Security Due Notice - Approval and maintain in favor of Tri-State the Security for the full Security Amount (i.e. the remaining seventy-five (75) percent of the Security Amount); provided that (a) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (b) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (c) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that, HIL Customer may qualify as a Guarantor if it satisfies such definition.
3. Eastern Interconnection Security. As applicable as security for Tri-State, within ten (10) Days after Utility Member's receipt of the Security Due Notice – EI, Utility Member will require the HIL Customer to post within the same ten (10) Days after Utility Member's

receipt of the Security Due Notice – El and maintain in favor of Tri-State the Security for the full Security Amount (i.e. one hundred (100) percent of the Security Amount); provided that (a) a Guaranty provided by a Guarantor shall not exceed two percent (2%) of the tangible net worth of such Guarantor, (b) a Guaranty provided by a Guarantor shall not exceed one hundred fifty million U.S. Dollars (\$150,000,000) and (c) the total aggregate amount of guaranteed obligations of any such Guaranty and any other guaranties of payment or performance related to or provided by HIL Customer and Guarantor or any of their affiliates to Tri-State shall not exceed an aggregate of one hundred fifty million U.S. Dollars (\$150,000,000); and provided further that, HIL Customer may qualify as a Guarantor if it satisfies such definition.

- B. Security Amount and Duration. Subject to subsections (1) and (2) below, the Security Amount will be calculated as described below, with the per MW calculation based upon (a) the Maximum Project Peak Demand plus (b) Tri-State's planning reserve margin in effect at the time the final Participation Package is received by Tri-State. Security Amount will be \$2,700,000 per MW, stepped down pursuant to Section 7(F) of this Agreement. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, if the amount of the Basin Security is greater, the Security Amount will be the amount of the Basin Security and will step down in accordance with Basin-required tariff, policy, procedure, or process, if applicable. Subject to the prior sentence, the Security will remain in place for the entire Initial Term (except to the extent drawn upon or stepped down as provided herein).

1. Self-Supply Resource Credits. As referenced in Section 3(E), Utility Member may be permitted to pursue generation resource(s) in connection with the Project. The per MW calculation for the Maximum Project Peak Demand plus Tri-State's planning reserve margin described in Section 7(B) above will be reduced by the Self-Supply Resource Credit for the generation resource(s) listed in Exhibit B. Exhibit C includes an example calculation.

- i. The Self-Supply Resource Credit will be based upon the portion of nameplate capacity of the generation resource(s) listed in Exhibit B that is expected to be operational during applicable Resource RFP acquisition period.

- ii. In the event (a) the generation resource(s) listed in Exhibit B does not achieve commercial operation by the time specified in Exhibit B or permanently ceases operation during the Term or (b) any agreement with Tri-State related to the generation resource is terminated ("**Resource Change Event**"), Utility Member shall have the option of addressing the shortfall through a combination of either or both, with such selection by the Utility Member provided to Tri-State in writing within fifteen (15) Days after the Resource Change Event:

- i. The Self-Supply Resource Credit will no longer be applicable. In such event, within fifteen (15) Days after Utility Member's receipt of written notice from Tri-State, Utility Member will require the HIL Customer to increase the Security Amount without such Self-Supply Resource Credit reduction within the same fifteen (15) Days after Utility Member's receipt of written notice from Tri-State. If the increased Security Amount is not received as required above, Tri-State may terminate this Agreement pursuant to Section 10(A).

- ii. In the alternative, Utility Member may choose to reduce the Project's load, including the corresponding Maximum Annual Energy, Maximum Project Peak Demand, Expected Project Demand and LRP, by the amount of Self-Supply Resource Credit that that it is not self-supplying, on a MW-for-MW basis. The Parties shall promptly amend Exhibits A and B with these changes.
- 2. Resource RFP Acquisition Period Adjustment. As referenced in Section 4(B), Tri-State's resource acquisition process includes acquiring resources for a specific period specified in the resource acquisition process and applicable law. Subject to (i) below, the per MW calculation for the Maximum Project Peak Demand plus Tri-State's planning reserve margin described in Section 7(B) above will be based upon the maximum demand of the Project as specified in the LRP during the Resource RFP acquisition period. Tri-State will promptly notify Utility Member of the Resource RFP acquisition period once it is determined as part of Tri-State's Resource RFP acquisition process. The resulting calculation of the Security Amount will be based upon the Resource RFP acquisition period and the Project's maximum demand during such period as specified in the LRP plus Tri-State's planning reserve margin ("**Initial Resource Acquisition Peak**"). Exhibit C includes an example calculation.
 - i. In subsequent Resource RFPs ("**RFP Subsequent**"), Tri-State will use commercially reasonable efforts to acquire additional resources based upon the maximum demand of the Project as specified in the LRP (minus the Initial Resource Acquisition Peak) during such Subsequent RFP acquisition period(s) and Security will be required for such. Tri-State will promptly provide Utility Member the Security Due Notice – RFP Subsequent after the resource implementation plan is filed with the COPUC for such RFP Subsequent with such notice specifying the Security Amount due based upon the Resource RFP acquisition period and the Project's maximum demand during such period as specified in the LRP (minus the Initial Resource Acquisition Peak) plus Tri-State's planning reserve margin ("**RFP Subsequent Security Amount**"). Within fifteen (15) Days after Utility Member's receipt of the Security Due Notice - RFP Subsequent, Utility Member will require the HIL Customer to post within the same fifteen (15) Days after Utility Member's receipt of the Security Due Notice - RFP Subsequent and maintain in favor of Tri-State the Security for the RFP Subsequent Security Amount.
- C. Letter of Credit Expiration. To the extent the Security consists of Letter(s) of Credit expiring before the end of the Initial Term, Utility Member will require the HIL Customer to cause the Letter(s) of Credit renewal or extension for additional consecutive terms of three hundred sixty (360) Days or more (or, if shorter, the remainder of the Initial Term) no later than thirty (30) Days prior to each expiration date of such Letter(s) of Credit and written proof of such renewal will be provided to Tri-State as soon as practicable thereafter, but in no event later than fifteen (15) Days prior to the expiration of the same. If the Letter of Credit(s) is not renewed or extended as required herein, Tri-State will have the right to demand payment under the Guaranty (if applicable and provided) or draw immediately upon the entire amount of the expiring Letter of Credit and to place the amounts so drawn in an account controlled by Tri-State until and unless HIL Customer provides a substitute Letter of Credit(s) meeting the requirements of this Section 7.

- D. Guarantor Financial Information. To the extent the Security consists of a Guaranty or the HIL Customer qualifies as a Guarantor, Utility Member will require the HIL Customer to cause the Guarantor (or the HIL Customer if it qualifies as a Guarantor) to provide financial information reasonably requested by Tri-State at least sixty (60) Days prior to providing the Guaranty, and annually thereafter to verify the Guarantor (or the HIL Customer if it qualifies as a Guarantor) meets the requirements of a Guarantor. Upon the request, Tri-State will execute a confidentiality agreement with the Guarantor to protect the confidentiality of Guarantor's financial information.
- E. Downgrades. Upon the occurrence of a downgrade event (including the annual review of the financial information described in Section 7(D) of this Agreement, such that the person providing the Security in the form of a Letter of Credit or Guaranty (or the HIL Customer if it qualifies as a Guarantor for purposes of the Security) no longer meets the requirements of an Issuer or Guarantor, as applicable, Utility Member will require the HIL Customer, within ten (10) Business Days after Tri-State provides Utility Member written notice of such downgrade event, to provide replacement security satisfying the requirements of this Section 7. If such replacement security is not provided within ten (10) Business Days of Tri-State's written notice to the Utility Member, Tri-State will have the right to draw immediately upon the entire amount of the Letter of Credit or demand payment under the Guaranty, as applicable, and to place the amounts so drawn in an account controlled by Tri-State until and unless HIL Customer provides a substitute security meeting the requirements of this Section 7. If HIL Customer qualifies as a Guarantor for purposes of the Security and fails to provide security satisfying the requirements of this Section 7 within ten (10) Business Days of Tri-State's written notice to the Utility Member, Tri-State may terminate this Agreement pursuant to Section 10(A). Utility Member may permit the HIL Customer to change the form of Security at any time and from time-to-time upon Utility Member's thirty (30) Days' prior written notice to Tri-State; provided that the Security must satisfy the requirements of this Section 7 at all times.
- F. Security Stepdown. Subject to Section 7(B) of this Agreement related to Basin Security, commencing with the ninth (9) anniversary prior to expiration of the Initial Term, the Security Amount will decrease by one ninth on each anniversary prior to expiration of the Initial Term and thereafter and as set forth in the Security Amount stepdown schedule set forth in Exhibit A of this Agreement. Promptly after each stepdown, Tri-State will authorize the release of any excess Security Amount to HIL Customer, including counter signing amendments to Letter(s) of Credit, a Guaranty, or escrow agreement, as applicable, to reduce the amount of such.
- G. Security Replenish. In the event Tri-State demands payment under or draws upon the Security, Utility Member will require the HIL Customer to replenish the Security to the Security Amount within ten (10) Business Days after such draw or demand.
- H. Draw on Security. Tri-State may demand payment under or draw on the amount of all Security upon any of the following: (i) a Utility Member Event of Default, (ii) the early termination or expiration of this Agreement pursuant to Section 10(A) of this Agreement, (iii) as provided pursuant to Section 2(D) of this Agreement, and (iv) a Utility Member's failure to pay any MMDC or MMEC assessed pursuant to Section 5 of this Agreement. Tri-State may draw or demand payment of all or any part of the appropriate amounts due to it from any form of Security to the extent available pursuant to this Section 7 of this Agreement and from all such forms, and in any

sequence Tri-State may select; provided that any failure to draw upon the Security for any damages or other amounts due to Tri-State will not prejudice Tri-State's rights to recover such damages or amounts in any other manner to the extent provided in this Agreement. Tri-State will notify Utility Member promptly following any draw on the Security by Tri-State, including the amount thereof and the basis therefor.

- I. Release of Security. Within thirty (30) Days following the expiration or termination of this Agreement and the satisfaction of all of Utility Member's obligations hereunder, Tri-State will release any remaining balance of the Security to HIL Customer.

SECTION 8 – DEFAULTS AND REMEDIES

- A. Tri-State Events of Default. Any of the following will constitute a Tri-State Event of Default upon its occurrence, and no cure period will apply, unless otherwise stated:

1. Tri-State dissolves or liquidates;
2. Tri-State makes a general assignment for the benefit of its creditors or is unable to pay its debts when due, becomes insolvent, or a receiver, custodian, administrator, or trustee is appointed to manage its affairs or business;
3. Tri-State's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any state, or Tri-State voluntarily taking advantage of any such law by answer or otherwise;
4. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Tri-State if Tri-State has not caused such case to be dismissed within sixty (60) Days after receipt of written notice from Utility Member; and/or
5. Tri-State breaches, or fails to perform or comply with, any term of this Agreement if Tri-State has not cured the breach within thirty (30) Days after receipt of written notice from Utility Member.

- B. Utility Member Events of Default. Any of the following will constitute a Utility Member Event of Default upon its occurrence and no cure period will apply, unless otherwise stated:

1. Utility Member dissolves or liquidates;

2. Utility Member makes a general assignment for the benefit of its creditors or is unable to pay its debts when due, becomes insolvent, or a receiver, custodian, administrator, or trustee is appointed to manage its affairs or business;
 3. Utility Member's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any state, or Utility Member voluntarily taking advantage of any such law by answer or otherwise;
 4. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Utility Member if Utility Member has not caused such case to be dismissed within sixty (60) Days after receipt of written notice from Tri-State;
 5. Utility Member breaches or defaults under the MCHIL; and/or
 6. Utility Member breaches, or fails to perform or comply with, any term of this Agreement, the Facilities Construction Agreement, the HIL Tariff, or the WESC, if Utility Member has not cured the breach within thirty (30) Days after receipt of written notice from Tri-State.
- C. Termination. If an Event of Default will have occurred and be continuing beyond the cure periods set out in this Section, if any, the non-defaulting Party may terminate this Agreement on written notice to the other Party. Upon termination of this Agreement, the Project will deenergize and not operate.
- D. Damages. If this Agreement is terminated for an Event of Default, the non-defaulting Party may pursue any remedies or damages available to it at law or in equity, including Tri-State's rights pursuant to Sections 10(A)(3) and (4).

SECTION 9 – LIMITATIONS OF LIABILITY

IN NO EVENT SHALL TRI-STATE OR UTILITY MEMBER BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

SECTION 10 – EARLY TERMINATION

A. Early Termination – HIL Customer.

1. HIL Customer Actions. Notwithstanding the other provisions of this Agreement, Tri-State may terminate this Agreement early at any time upon ten (10) Days written notice to Utility Member if:
 - a) The Project fails to commence operations with a load at least ninety (90) percent of the minimum monthly demand, based upon the percentage as selected in Section 5(A), by the date that is one hundred eighty (180) Days following the Expected Operation Date, unless caused by a delay of Tri-State to provide the Serve Ready Notice by the Expected Operation Date;
 - b) The Project ceases operations following the Operation Date for one hundred eighty (180) or more consecutive Days;
 - c) HIL Customer fails to establish within ten (10) Days of any Security Due Notice and, once established, maintain and/or replenish the Security in accordance with and in the Security Amounts specified in Section 7 of this Agreement;
 - d) HIL Customer breaches or defaults under the MCHIL;
 - e) The Project exceeds either the Maximum Annual Energy or Maximum Project Peak Demand and the reason the Project exceeded such is not corrected to Tri-State's reasonable satisfaction within thirty (30) Days after receipt of written notice from Tri-State of any exceedance; and/or
 - f) The Project exceeds either the monthly energy and demand for the Project as stated in the LRP and the reason the Project exceeded such is not corrected to Tri-State's reasonable satisfaction within thirty (30) Days after receipt of written notice from Tri-State of any exceedance.
2. MCHIL Termination. Notwithstanding the other provisions of this Agreement, this Agreement will automatically terminate early upon Tri-State's receipt of written notice from the Utility Member that the MCHIL has terminated.
3. Security Draw. Upon termination of this Agreement pursuant to this Section 10(A) or termination due to an Event of Default of Utility Member, Tri-State will have the right to demand payment under or draw on the full amount of all Security to offset any damages or costs incurred or expected to be incurred by Tri-State related to the Project and/or the early termination of this Agreement. Upon termination of this Agreement pursuant to this Section 10(A) or termination due to an Event of Default of Utility Member, the Utility Member will require the Project to deenergize and not operate. If requested by Tri-State in writing, the Utility Member will immediately open the breaker related to the Project.
4. Termination Amount. Tri-State will determine, in good faith, and in a commercially reasonable manner, the costs related to the early termination of this Agreement ("**Termination Amount**"), including, but not limited to, (i) the costs (both internal staff

costs and out-of-pocket costs) that Tri-State incurred after executing this Agreement and performing its responsibilities under this Agreement, (ii) the MMDC and MMEC for the remainder of the Term (as calculated pursuant to Section 5) with the MDQ and MEQ for the Project being zero, less any expected cost savings, and (iii) additional costs Tri-State has incurred or will continue to incur related to capacity and energy (to the extent not recovered in (ii) above), along with obtaining associated transmission service and ancillary services, acquired to serve the Project for the remainder of the Term, and (iv) other costs Tri-State will be required to incur to unwind actions taken in furtherance of, in reliance upon, or related to this Agreement. Tri-State will use commercially reasonable efforts to minimize the Termination Amount. Tri-State will refund to the Utility Member any Security drawn by Tri-State in excess of the Termination Amount. Tri-State will promptly provide to Utility Member in writing, after termination of this Agreement, in reasonable detail, the calculation of the Termination Amount. Utility Member will within sixty (60) Days of receipt of Tri-State's calculation of the Termination Amount pay Tri-State the difference between the Security drawn by Tri-State and the Termination Amount calculated by Tri-State to the extent the Security drawn is less than the Termination Amount.

B. Early Termination – Other Factors.

1. Other Factors.

- a) Notwithstanding the other provisions of this Agreement, Tri-State may terminate this Agreement early at any time upon ten (10) Days written notice to Utility Member if:
 - i. the average price of the resources selected after the modeling of the bids that advanced to modeling from the Resource RFP as described in Section 4(B) of this Agreement exceeds by 10% the “generic” resource price used by Tri-State as part of the evaluation criteria when evaluating the Project pursuant to the HIL Tariff; and/or
 - ii. the price for Transmission Improvements not paid for by the Utility Member pursuant to the HIL Tariff or Facilities Construction Agreement as reflected in the Transmission Entity's study exceeds by 10% the assumptions of the price for Transmission Improvements used by Tri-State as part of evaluation criteria when evaluating the Project pursuant to the HIL Tariff.
- b) Utility Member may terminate this Agreement upon written notice to Tri-State prior to or upon receipt of Security Due Notice – Approval; provided such written notice is received by Tri-State no later than ten (10) Days after Tri-State provides the Security Due Notice – Approval. However, if the load of the Project is located in the Eastern Interconnection and served pursuant to the Basin East WPC, any termination is subject to Basin-required tariff, policy, procedure, or process.

2. Release of Security. Upon termination of this Agreement pursuant to this Section 10(B), Tri-State will promptly release the remaining Security to HIL Customer. Upon termination of this Agreement pursuant to this Section 10(B), Utility Member will not permit the Project to commence operation. Utility Member may resubmit the Project pursuant to the HIL Tariff in a future High Impact Load Cycle.

SECTION 11 - ASSIGNMENT

Except as provided below, neither Party will assign any of its rights, titles, or interests or delegate any of its performances under this Agreement, without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. A Party will have the right at any time and from time to time to mortgage, create, or provide for a security interest in or convey in trust its respective rights, titles, and interests in this Agreement to a lender, mortgagee, or trustee under deeds of trust, mortgages, or indentures, or to secured parties under security agreements, as security for its present or future bonds or other obligations or securities, and to any successors or assigns thereof, without need for the prior consent of the other Party, and without such lender, mortgagee, trustee, or secured party assuming or becoming in any respect obligated to perform any of the obligations of the Party. Any lender, mortgagee, trustee, or secured party under a present or future deed of trust, mortgage, indenture, or security agreement of any Party and any successor thereof by action of law or otherwise, and any purchaser, transferee, or assignee of any thereof may, without need for the prior consent of the other Party, succeed to and acquire all the rights, titles, and interests of such Party in this Agreement, and may foreclose upon said rights, titles, and interests of such Party. Any purported assignment in violation of this Section is void.

SECTION 12 - NOTICES

Any notice, consent or other communication required to be made in writing under this Agreement will be delivered (i) in person; (ii) by certified mail (postage prepaid, return receipt requested); (iii) by nationally recognized overnight courier (charges prepaid and with signature required upon receipt); or (iv) by electronic mail (provided the sender initiates electronic tracking that confirms that the electronic mail was read by the recipient or followed up by a telephone call between sender and recipient), in each case properly addressed to the persons specified below. Any Party may, from time to time, change its contact information by sending a notice in accordance with this Section. All notices, consents, or other communications required or permitted under this Agreement that are addressed as provided in this Section are deemed given upon delivery if delivered in person, by overnight courier or certified mail or upon confirmation of receipt in the case of electronic mail. Notices will be addressed as follows:

If to Utility Member:

Attn: _____

_____@_____

If to Tri-State:

Attn: _____

_____@_____

With a copy to:

Attn: Senior Vice President and General Counsel

Tri-State Generation and Transmission Association, Inc.

at the same mailing address set forth above

SECTION 13 - MISCELLANEOUS

- A. Force Majeure Event. Neither Party will be in default of any of its obligations under this Agreement, except Utility Member's obligation to make payments as specified in this Agreement or the WESC, when a failure of performance is due to a Force Majeure Event, but only to the extent thereof. If a Force Majeure Event occurs, then the affected Party must promptly notify the other Party in writing and, as soon as practicable after the occurrence of that Force Majeure Event, use reasonable endeavors to overcome that Force Majeure Event and minimize any resulting delay in the performance of its obligations under this Agreement. Nothing contained herein, however, will be construed to require either Party to prevent or settle a strike against its will. A Force Majeure Event of the Utility Member or HIL Customer does not excuse the obligation to satisfy the minimum load and energy requirements set forth in Section 5 of this Agreement, established, maintain and/or replenish Security, or pay Tri-State for such failure consistent with Section 5 of this Agreement.
- B. Waiver. A waiver at any time of a right with respect to a default or any other matter shall not be deemed a waiver with respect to any other or a subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.
- C. No Third-Party Beneficiaries. The Parties specifically disclaim any intent to create rights in any person as a third-party beneficiary to this Agreement.

- D. Governing Law. This Agreement shall in all respects be governed by, and controlled in accordance with, the laws of the State of Colorado, irrespective of conflict of law principles.
- E. Entire Agreement. This Agreement and its Exhibits, together with the HIL Tariff, constitute the entire agreement of the Parties and supersede all prior written and oral negotiations, agreements and understandings regarding the subject matter.
- F. Amendment. This Agreement may be amended only by a written document signed by the Parties.
- G. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.
- G. Counterparts. This Agreement may be signed in one or more counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument. Delivery may be affected by actual delivery or by electronic transmission of an executed counterpart copy to the other Party. The Parties agree that this Agreement may be electronically signed. The Parties agree that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- H. Relationship of the Parties. Nothing herein contained will be construed to create an association, joint venture, trust, or partnership between the Parties.
- I. Headings. Headings used herein, such as at the beginning of articles, sections, paragraphs, and provisions, are included solely for convenience and shall not affect the meaning and interpretation of any provision of this Agreement.
- J. Waiver of Jury Trial. EACH PARTY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT.
- K. Dispute Resolution.
1. Any dispute that arises under this Agreement will in the first instance be the subject of informal negotiations between the Parties. The period for informal negotiations will not exceed fifteen (15) Days from the date the dispute arises, unless the period is extended by written agreement of the Parties. A dispute will be deemed to arise when a Party sends the other a written notice describing the issue or issues in dispute and that the dispute resolution procedures of this Section are being invoked.
 2. If the Parties are unable to resolve a dispute by informal negotiation under the preceding paragraph, the dispute will be elevated to the General Manager/Chief Executive Officer of Utility Member, and the Senior Vice President, Energy Management of Tri-State (or any successor title) (the "**Managers**"). Within thirty (30) Days after the expiration of the informal dispute resolution period, the Parties will submit a written statement of position to the Managers. The Managers will review the written statements of position and will meet and confer in an attempt to resolve the dispute. The period for Manager negotiations will not exceed fifteen (15) Days from the date the Managers receive the

Parties' statements of position, unless the period is extended by written agreement of the Parties.

3. If a dispute cannot be resolved by informal dispute resolution, any Party may seek any other remedy available to it at law or in equity.
- L. Severability. If any article, section, paragraph, clause or provision of this Agreement shall be finally adjudged by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect as though such article, section, paragraph, clause or provision or any part thereof so adjudicated to be invalid or unenforceable had not been included herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Execution Date.

Tri-State: TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

Utility Member: _____

By: _____

Name: _____

Title: _____

EXHIBIT A – PROJECT SPECIFIC INFORMATION

Delivery Point:

Expected Operation Date: _____, 20__ (subject to change pursuant to Sections 3(G) and 3(H) of this Agreement)

Expected Project Demand (in MW): ____ MW

HIL Customer:

Maximum Annual Energy: ____ MWh

Maximum Project Peak Demand: ____ MW

Project (Description):

Project Location (GPS coordinates):

Project Metering Point:

Project Metering Point Location (GPS Coordinates):

Security Amount:

MW calculation:

- (a) ____ Maximum Project Peak Demand (in MW)
- (b) ____ Application of Tri-State's planning reserve margin (in MW)
- (c) ____ Self-Supply Resource Credit (in MW), if applicable
- (d) ____ Resource RFP Acquisition Period Adjustment (in MW)

Total per MW ____ (a + b - c - d) ("Security MW")

Total Security Amount = Security MW * \$2,700,000 = \$_____

Security Amount due at Security Due Notice – Filing (Total Security Amount *.25) =
\$_____

Security Amount due at Security Due Notice – Approval (Total Security Amount) =
\$_____ (additional Security Amount of Total Security Amount *.75 = \$_____)

Security Amount due at Security Due Notice – RFP Subsequent = \$_____ (Resource RFP
Acquisition Period Adjustment*\$2,700,000) = RFP Subsequent Security Amount

_____ U.S. Dollars (\$_____) as the initial Security Amount due at Security Due Notice –
Approval that will be stepped down on the ninth (9th) anniversary prior to expiration of the Initial
Term in accordance with the following table, subject to the RFP Subsequent Security Amount
due at Security Due Notice – RFP Subsequent:

Stepdown Schedule

Anniversary Prior to Expiration of Initial Term	Security Amount ¹
	\$

Termination Date (of Agreement for Initial Term) (Section 2(A) of this Agreement): _____² after the
Operation Date, subject to early termination or extension as provided in this Agreement.

¹ Decreases by one ninth (9th) on the ninth anniversary prior to expiration of the Initial Term and thereafter. Example: for a 15-year Initial Term, the initial Security Amount is \$90 million, decreases to \$80 million on the ninth (9th) anniversary prior to expiration of the Initial Term (i.e. sixth (6th) anniversary of the Operation Date) and then \$70 million on the eighth (8th) anniversary prior to expiration of the Initial Term (i.e. seventh (7th) anniversary of the Operation Date).

² 15 years minimum is required and may not extend beyond the term of the WESC.

Metering Specifics Deviation (Section 6 of this Agreement):

EXHIBIT B – SELF-SUPPLY TARIFF - BYOR AND DISTRIBUTED RESOURCE

EXHIBIT C – EXAMPLE CALCULATION OF MINIMUM MONTHLY DEMAND CHARGE, MINIMUM MONTHLY ENERGY CHARGE, AND SELF-SUPPLY RESOURCE CREDIT

Example Calculation of MMDC and MMEC:

Given a sample monthly billing period with:

Monthly LRP Demand = 60,000 kW

Monthly LRP Energy = 43,800,000 kWh

Class A Demand Charges¹ = \$23.86 per kW-month

Class A Energy Charges = \$0.03537 per kWh

Assumes minimum monthly demand of ninety (90) percent and (b) minimum monthly energy of seventy-five (75) percent selected by Utility Member.

If:

MDQ = 50,000 kW at Billing Period TPP/MCP

MEQ = 36,000,000 kWh for Billing Period

Then:

MMD = 60,000 kW x 0.9 = 54,000 kW

MDQ of 50,000 kW < MMD of 54,000 kW, thus

SDQ = MMD of 54,000 kW – MDQ of 50,000 kW = 4,000 kW

MMDC = 4,000 kW of SDQ x \$23.86 kW-month = \$95,440

And:

MME = 43,800,000 kWh x 0.75 = 32,850,000 kWh

MEQ of 31,620,000 kWh < MME of 32,850,000 kWh, thus

SEQ = 32,850,000 – 31,620,000 = 1,230,000 kWh

MMEC = 1,230,000 kWh x \$0.03537 = \$43,505

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

Example Calculation of Self-Supply Resource Credit and Security Amount:

Given sample information for generation resource:

Generation resource listed in Exhibit B: 100 MW solar nameplate capacity

Capacity credit for solar: 5%

Maximum Project Peak Demand: 150 MW

Planning reserve margin: 30.5%

Resource RFP acquisition period: 2029-2034

Resource expected commercial operation date: 2032

Self-Supply Resource Credit = $100 \text{ MW} \times .05 = 5 \text{ MW}$

Planning reserve margin application: $150 \text{ MW} \times .305 = 45.75 \text{ MW}$

After Self-Supply Offset = $(150 \text{ MW} + 45.75 \text{ MW}) - 5 \text{ MW (Self-Supply Resource Credit)} = 190.75 \text{ MW}$

Security Amount = $190.75 \times \$2,700,000 = \$515,025,000$

Security Amount due at Security Due Notice – Filing: \$128,756,250

Security Amount due at Security Due Notice – Approval: \$515,025,000 (an additional \$386,268,750)

Example Calculation of Resource RFP Acquisition Period Adjustment and Security Amount:

Resource RFP acquisition period: 2029-2034

Maximum Project Peak Demand: 70 MW

Maximum demand of Project per LRP during Resource RFP acquisition period (Initial Resource Acquisition Peak): 50 MW

Planning reserve margin: 30.5%

Resource RFP Acquisition Period Adjustment = $26.1 \text{ MW } ((70 \text{ MW} \times 1.305) - (50 \text{ MW} \times 1.305))$

After Resource RFP Acquisition Period Adjustment = $65.25 \text{ MW } (50 \times 1.305)$

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

Security Amount for 2029-2034 RFP acquisition period = $(65.25) * \$2,700,000 =$
\$176,175,000

Security Amount due at Security Due Notice – Filing: \$44,043,750

Security Amount due at Security Due Notice – Approval: \$176,175,000 (an additional
\$132,131,250)

Security for additional 26.1 MW is later required for applicable RFP Subsequent acquisition period

1 – To simplify this example we are using a single demand component rate rather than separate Generation, Transmission Delivery Demand – Network, and Transmission Delivery Demand – Non-Network component rates.

APPENDIX B – MEMBER PROJECT REQUEST FORM



TRI-STATE Member Project Request

Application For Performing Planning Studies for New or Modified Delivery Points

MEMBER NAME: _____

PROJECT NAME: _____

IN-SERVICE DATE REQUESTED: _____

Is the proposed project in the current construction work plan?

Yes: ☐ No: ☐ Date of CWP: _____

LOCATION:

County: _____

Latitude: _____ Longitude: _____

LOAD CENTER OR PROJECT CHARACTERISTICS:

	<u>Existing</u>	<u>Proposed</u>
Delivery Voltage (kV)	_____	_____
Transformer Capacity (MVA)	_____	_____
Voltage Regulation	<input type="checkbox"/> LTC	<input type="checkbox"/> Regulators <input type="checkbox"/> None

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Member Project Request Code:

Date Issued:

Project Delivery Point Type: ☐ New ☐ Modified ☐ Retired

Tri-State Planning Engineer:

Initial Load /10 Year Forecast (MW): _____ x MW / x MW

Tri-State Power Markets

Designated Resource:

Tri-State OATT Admin.

ATC Availability:

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM**PURPOSE & NEED:**

Provide the reason for a new or modified DP, typical examples include:

- New large Customer
- Area load growth
- Reliability
- New Customer with planned transfers from other area DP's
- Change in delivery voltage (High or Low side of the delivery point)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

DELIVERY POINT LOAD:

Provide the following information if known for new, existing, and/or transferred load:

- **Type:** Agricultural, rural, urban, residential, commercial, industrial, mixed, etc.
- **Characteristics:** If applicable, provide data for large motors or processes that may result in service issues such as power factor, low voltage, etc.
- **Diverse/Exclusive:** Provide data for percent of existing and new load at the DP that is for a sole customer.

PROJECT DESCRIPTION:

Provide project information known: (Attach Electrical One Line, area maps, diagrams, etc.)

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

LOAD PROJECTION FOR NEW / MODIFIED DELIVERY POINT

Ten Year Forecast Summer or Winter	Year	Total Member Coincident Peak-MCP (kW)	Estimated Monthly Load Factor (%)	Amount of Transferred Load From Existing Delivery Point(s) (kW)
Reference Note	(a)	(b)	(c)	(d)
0 Previous Year				
1 In-Service				
2 Second Year				
3 Third Year				
4 Fourth Year				
5 Fifth Year				
6 Sixth Year				
7 Seventh Year				
8 Eighth Year				
9 Ninth Year				
10 Tenth Year				

Table 1 – Load Projection of New/Modified Delivery Point

- (a) Provide the load forecast the year before (if applicable) and the years after with the in-service year being the year of construction completion and commercial operation.
- (b) Provide the Summer or Winter load forecast based on the higher peak season. Include new load, estimated load growth, and amount of load transferred to this new/modified DP in the applicable years projected.
- (c) Provide the estimated monthly load factor for the total load forecast
 $\text{Load Factor} = \text{Energy Consumed (kWh)} / \text{Maximum Demand (kW)} * 720 \text{ (hours)}$
- (d) Provide the estimated total load transferred from other delivery points for Summer or Winter based on the higher peak season. Loads to be transferred are to be defined in Table 2.

TRI-STATE MEMBER PROJECT REQUEST (MPR) APPLICATION FORM

**LOAD TRANSFERRED TO THE NEW / MODIFIED DELIVERY POINT
FROM EXISTING DELIVERY POINT(S)**

Name of the Existing Delivery Point(s) Summer or Winter	Existing Member Coincident Peak Load (kW)	Member Coincident Peak Load To Be Transferred (kW)	Year Transfer Occurs
Reference Note	(a)	(b)	(c)

Table 2 – Load Projection of Transferred Load to New/Modified Delivery Point

- (a) Provide the latest Summer or Winter Member Coincident Peak load at the existing DP based on the higher peak season. Forecasted load growth to be transferred should be included on Table 1 in the years subsequent to the initial transfer.
- (b) Provide the estimated peak load to be transferred to the New or Modified DP for Summer or Winter.
- (c) The year that the transfer from the existing DP to the New/Modified DP are projected to occur.

DATE ISSUED: _____**MEMBER SYSTEM CONTACT:** _____**PHONE:** _____ **EMAIL:** _____

If you have any questions, or need assistance in completing this delivery point form, please contact the Tri-State System Planning Department as referenced below.

TSGT PLANNING ENGINEER: _____**PHONE:** _____ **EMAIL:** _____

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