

## **1<sup>ST</sup> AMENDMENT TO THE ISO AGREEMENT**

This 1<sup>st</sup> Amendment, made as of the \_\_\_\_ day of \_\_\_\_\_, 2000, by and among the Incorporating Parties (as defined in the ISO Agreement) and the subsequent Parties (as defined in the ISO Agreement) to the ISO Agreement (collectively, the Parties hereto).

### **W I T N E S S E T H**

**Whereas**, the Parties have entered into the ISO Agreement; and

**Whereas**, following further developments and discussions the Parties have determined that certain provisions of the ISO Agreement should be amended to reflect a modification of the governance of the ISO by the Parties with respect to the allocation of voting percentages in the End Use Consumer Sector;

**Now Therefore**, in consideration of the premises and of the mutual covenants and agreements herein set forth, the Parties do hereby agree with each other, for themselves and for their successors and assigns, to amend the ISO Agreement as follows:

#### **Article 1:     Definitions**

Terms used in this 1<sup>st</sup> Amendment will have the meaning set forth in Article 1 of the ISO Agreement, subject to the amendments to those definitions set forth in this Article.

- 0.1     Section 1.31, End-Use Consumer, is amended to read: “A Party that is (i) a Large Consumer, (ii) a Small Consumer, (iii) a not-for-profit organization that represents Small Consumers, (iv) a governmental agency that advocates on behalf of Small Consumers, (v) a governmental agency that acts as a retail Load aggregator primarily for Small Consumers, or (vi) a Large Energy Using Governmental Agency; *provided, however,* that an End-Use Consumer may not be an Affiliate of a Transmission Owner, Generator, Other Supplier, Public Power Party or Environmental Party regardless of where located.”

- 0.2 Section 1.57, Large Consumer, is amended to read: “An Industrial Customer or a Commercial Customer, not under the Control of any federal, state or municipal government or government-owned agency, authority, corporation, or other similar entity, whose peak load in any month within the previous twelve months was two megawatts or more.
- 0.3 A new definition is added between Section 1.57 and Section 1.58, to read: “**1.57A Large Energy Using Governmental Agency.** A federal, state, or municipal government or government-owned agency, authority, corporation, or other similar entity whose peak consumption for self use (i.e., not as retail Load aggregators or for further sale) in any month within the previous twelve months was two megawatts or more.”

## **Article 2: Sectors**

The third sentence of Section 7.04 of the ISO Agreement is amended to read: “If a Party is qualified to participate in more than one sector, it shall advise the ISO President, in writing, of the sector in which it chooses to vote; *provided, however*, that an Investor-Owned Transmission Owner must participate in the Transmission Owners sector and a State Public Power Authority qualified to participate in the Public Power/Environmental Party sector must participate in that sector; and provided further, that a Party qualified to participate in the Large Energy Using Governmental Agency subsector of the End Use Consumer sector or in the government agency subsector of the End Use Consumer Sector may not participate in the Large Consumer subsector of the End Use Consumer Sector.”

## **Article 3: Voting**

Section 7.06(d) of the ISO Agreement is amended to read:

“(d) End-Use Consumer Sector: The twenty (20) percent of the votes on the Management Committee allocated to the End-Use Consumer sector shall be divided among the

following four (4) subsectors: (1) the Large Consumers subsector; (2) the Small Consumers subsector, which shall include Small Consumers and not-for-profit organizations representing Small Consumers; (3) the governmental agency subsector, which shall include governmental agencies that advocate primarily on behalf of Small Consumers and governmental agencies that act as retail Load aggregators primarily for Small Consumers, and (4) the Large Energy Using Governmental Agency subsector. An ESCO, Municipal Electric System, Cooperatively Owned Electric System, Generator Owner, State Public Power Authority or Environmental Party may not participate in the End-Use Consumer sector.

“The allocation of voting shares among the subsectors shall be as follows:

“(i) Nine (9) percent of the total votes on the Management Committee shall be allocated to the Large Consumer subsector; and shall be allocated among Large Consumers using the following formula: seventy-five (75) percent of the subsector's voting share shall be allocated based on a Party's annual Energy usage for the preceding full calendar year; and twenty-five (25) percent of the subsector's voting share shall be allocated on a per capita basis. The votes of Parties in the Large Consumer subsector shall be split into an affirmative component based on the votes for the pending motion, and a negative component based on votes against the pending motion, in direct proportion to the votes cast for and against the motion, rounded to two decimal places.

“(ii) Four and five-tenths (4.5) percent of the total votes on the Management Committee shall be allocated to the Small Consumer subsector which shall include Small Consumers and not-for-profit organizations representing Small Consumers. Not-for-profit organizations that participate in this subsector must be certified by the ISO Board under Section 2.02. Each Party that is a Small Consumer or a not-for-profit organization representing Small Consumers shall be entitled to cast one (1) vote. The four and five-tenths (4.5) percent of the votes on the Management Committee allocated to Small Consumers and not-for-profit organizations representing Small Consumers shall be split into an affirmative component based on the votes for the pending motion, and a negative component based on votes against the pending motion, in direct proportion to the votes cast for and against the motion, rounded to two decimal places.

“(iii) Four and five-tenths (4.5) percent of the total votes on the Management Committee shall be allocated to the governmental agency subsector, which shall include governmental agencies that advocate primarily on behalf of Small Consumers and governmental agencies that act

as retail Load aggregators primarily for Small Consumers. Governmental agencies that participate in this subsector must be certified by the ISO Board under Section 2.02. Within the governmental agency subsector, two and seven-tenths (2.7) percent of the total votes on the Management Committee shall be exercised by the State-Wide Consumer Advocate selected by the ISO Board from among the governmental agencies that qualify as organizations that advocate primarily on behalf of Small Consumers. The ISO Board will select as the State-Wide Consumer Advocate the agency that it believes will best represent the interests of all classes of Small Consumers (including farms) throughout the State, giving due consideration to the demonstrated ability of the candidate agencies to provide sufficient resources to identify and to represent the interests of such consumers before federal, state, and local governmental agencies, and to coordinate with other groups having similar interests. The remaining one and eight-tenths (1.8) percent of the total votes on the Management Committee allocated to the governmental agency subsector shall be exercised by governmental agencies that advocate on behalf of Small Consumers, other than the agency selected as the State-Wide Consumer Advocate, and governmental agencies that act as retail Load aggregators primarily for Small Consumers.

“(iv) Two (2) percent of the total votes on the Management Committee shall be allocated to the Large Energy Using Governmental Agency subsector; and shall be allocated among Large Energy Using Governmental Agencies using the following formula: seventy-five (75) percent of the subsector's voting share shall be allocated based on a Party's annual Energy usage for the preceding full calendar year; and twenty-five (25) percent of the subsector's voting share shall be allocated on a per capita basis. The votes of Parties in the Large Energy Using Governmental Agency subsector shall be split into an affirmative component based on the votes for the pending motion, and a negative component based on votes against the pending motion, in direct proportion to the votes cast for and against the motion, rounded to two decimal places.”

#### **Article 4:     Activation of Sectors and Subsectors**

The second paragraph of Section 7.07 of the ISO Agreement is amended to read: “Each sector and subsector that is subject to the activation criteria shall have a minimum of five (5) parties, excluding affiliates, to be activated and to vote on matters before the Management Committee, except

the Large Energy Using Governmental Agency subsector, which shall have a minimum of one (1) party to be activated and to vote on matters before the Management Committee.”

#### **Article 5: Quorum**

The fifth sentence of the first paragraph of Section 7.08, Quorum, of the ISO Agreement is amended to read: “If none of the Parties in a subsector vote, the voting share of the subsector in which no Parties vote shall be reallocated to the other subsectors of that sector on a proportional basis according to the relative voting weight of the subsectors; provided, however, that (i) the governmental agency subsector shall never exercise more than four and five-tenths (4.5) percent of the total votes on the Management Committee, (ii) the Large Energy Using Governmental Agency subsector shall never exercise more than two (2) percent of the total votes on the Management Committee, and (iii) the Environmental Parties subsector shall never exercise more than two (2) percent of the total votes on the Management Committee.

#### **Article 6: Conditions Precedent to Effectiveness**

This 1<sup>st</sup> Amendment shall become effective upon completion of the last of the following conditions:

1. When approved by the Management Committee and the ISO Board, as provided in Section 19.01 of the ISO Agreement.
2. When filed with the Commission, as provided in Section 19.03 of the ISO Agreement.
3. When executed by the Parties.

#### **Article 7: Counterparts**

This 1<sup>st</sup> Amendment may be executed in counterparts.

**Article 8: Other Provisions Unaffected; Merger of Provisions**

Except as provided in this 1<sup>st</sup> Amendment, all other provisions of the ISO Agreement remain in full force and effect, according to its terms. Upon its effectiveness, this 1<sup>st</sup> Amendment shall be read together with, and is intended to constitute part of, the ISO Agreement.

**IN WITNESS WHEREOF**, each of the Parties has caused this 1<sup>st</sup> Amendment to be executed in its corporate name by its proper officers as of the date first written above.

*[add signature lines for each Party]*