

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

SCHEDULING SERVICES

GENERAL TERMS AND CONDITIONS

Effective [DATE]

**This document is subject to change.
Current General Terms and Conditions are posted at <www.midc.org>.**

1. AVAILABILITY.

These General Terms and Conditions apply to the provision of scheduling services for the scheduling of wholesale electric energy into, out of, or through the electric control area of Public Utility District No. 1 of Chelan County (the “District”) pursuant to a signed Enabling Agreement between the District and the Purchaser.

2. RATES.

All scheduling services provided by the District are made based on the rates posted on the Mid-C Website at the time a service is requested. The District reserves the right, at its sole discretion, to amend its rates from time to time; provided, that the District will not change the rates applicable to a specific schedule once the schedule is accepted by the District.

3. SCHEDULING SERVICES.

The scheduling services offered by the District are those set forth in Schedule D posted at the Mid-C Website <www.midc.org>. Scheduling services described in Schedule D are offered to a Purchaser only upon the Purchaser’s execution of an Enabling Agreement for Scheduling Services in the form posted at the Mid-C Website.

The District reserves the right, at its sole discretion, to discontinue, amend or add scheduling services; provided, that the District’s actions will not effect a schedule that is accepted by the District except (1) by mutual agreement; (2) when necessary to curtail or cancel a schedule; (3) when Purchaser fails to meet the credit requirements of the District; or (4) when due to an Uncontrollable Force and defined in these General Terms and Conditions.

The District shall charge the rates posted on the Mid-C Website <www.midc.org> at the time such services are requested. The District may, in its sole discretion, amend said charges from time to time. Scheduling rates shall not change once a schedule has been accepted by the District.

4. UNCONTROLLABLE FORCES.

No party shall be considered to be in default in performance of any of its obligations (except to make payment as specified) when a failure of performance shall be due to an "Uncontrollable Force." The term "Uncontrollable Force" means any cause beyond the control of the party affected, including but not restricted to failure of or threat of failure of facilities, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. No party shall, however, be relieved of liability for failure of performance if such failure be due to causes arising out of its negligence or due to removable or remediable causes which it fails to remove or remedy within a reasonable time period. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Any party rendered unable to fulfill any of its obligations by reason of an Uncontrollable Force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability within a reasonable time period.

5. WAIVERS.

Any waiver at any time by any party of its rights with respect to a default under these General Terms and Conditions, or any other matter shall not be deemed a waiver with respect to any subsequent default of the same or any other matter.

6. NOTICES.

6.1 Any formal notice, demand or request shall be in writing and shall be deemed properly served, given or made if delivered in person, or sent by either registered or certified mail, postage prepaid, or prepaid telegram or telecopy. Any such notice, demand or request directed to the District shall be addressed to:

Power Resource Manager
Public Utility District No. 1 of Chelan County
P.O. Box 1231
Wenatchee, WA 98807-1231

Any such notice to a Purchaser under these General Terms and Conditions shall be addressed to the person and address shown on the Enabling Agreement for Scheduling Services.

- 6.2** The designation of the above persons or the address of any such person, may be changed at any time by notice given in the same manner as provided for other notices.

7. PAYMENT.

7.1 Invoicing and Payment Date.

The District shall invoice Purchaser for the services provided. Payment for amounts invoiced shall be paid so that the payment is received by the District on the 20th day of the billing month or the tenth (10th) day after receipt of the bill whichever is later. Payment shall be considered received when the District receives payment. If the due date falls on a holiday or weekend, payment is due on the next following business day.

7.2 Payment Address.

All payments to the District shall be by electronic funds transfer to:

Bank of America
(ABA #125000024) for credit to
Public Utility District No. 1 of Chelan County,
Account No. 105000006242

7.3 Due Date.

Invoices which are not paid in full by the receiving party when due shall thereafter bear interest at the rate of 1.5% per month or at the maximum rate of interest allowed by law, whichever is less.

7.4 Credit Terms.

The District may implement reasonable credit review procedures in order to determine the ability of any Purchaser to meet its obligations to the District under these General Terms and Conditions. This review shall be made in conformance with standard commercial practices. In addition, the District may require the Purchaser to provide and maintain in effect, during the term of the service agreement, an unconditional and irrevocable letter of credit as security to meet its responsibilities and obligations under these General Terms and Conditions. At the request of the Purchaser, the District may consider alternative forms of security that are consistent with commercial practices established by the Uniform Commercial Code and that adequately protect the District against risk of nonperformance by the Purchaser. Service under any Enabling Agreement for Scheduling Services under these General Terms and Conditions may be immediately terminated for failure to maintain adequate creditworthiness.

8. APPROVALS.

These General Terms and Conditions are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction. Nothing contained in these General Terms and Conditions shall give the Federal Energy and Regulatory Commission jurisdiction over parties not otherwise subject to such jurisdiction or be construed as a grant of jurisdiction over any party by any state or federal agency not otherwise having jurisdiction by law.

9. TRANSFER OF INTEREST.

No voluntary transfer of the rights or obligations of any party shall be made without the written consent and approval of the other party except to a successor in operation of the properties of any party. Any successor or assignee of the rights of any party, whether by voluntary transfer, judicial or foreclosure sale or otherwise, shall be subject to all these provisions and conditions to the same extent as though such successor or assignee were the original party, and no assignment or transfer of any rights shall be effective unless and until the assignee or transferee agrees in writing to assume all of the obligations of the assignor or transferor and to be bound by all of the provisions and conditions of these General Terms and Conditions.

Purchaser consents to the District assigning real time responsibilities to Shell Energy North America or other entity designated by the District.

10. SEVERABILITY.

In the event that any of the terms, covenants or conditions of these General Terms and Conditions or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of these General Terms and Conditions and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that the provisions are not separable from all other provisions of these General Terms and Conditions.

11. NO DEDICATION OF FACILITIES.

Any undertaking by one party to another party under any provision of these General Terms and Conditions shall not constitute the dedication of the electric system or any portion thereof of the undertaking party to the public or to the other party, and it is understood and agreed that any such undertaking under any provision by a party shall cease upon the termination of such party's obligations.

12. ENERGY AND CAPACITY.

The Purchaser shall be responsible for and shall arrange energy and capacity for all schedules, and shall bear all costs associated with the energy and capacity.

13. TRANSMISSION SERVICE.

The Purchaser shall be responsible for and shall arrange transmission services for all schedules, and shall bear all costs associated with transmission services.

14. RECORDING.

Each party consents to the creation of tape or electronic recordings of all telephone conversations between the parties. Such recordings may be submitted into evidence in any proceeding or action related to these General Terms and Conditions. Each party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees.

15. THIRD PARTY BENEFICIARY.

These General terms and Conditions shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of any duty, obligation, or undertaking established herein.

16. CURTAILMENT OR CANCELLATION OF A SCHEDULE.

In order for a party to curtail or cancel a schedule, that party must abide by NERC Reliability Standards and WECC business practices.

17. LIMITATION OF REMEDIES AND DAMAGES.

17.1 Notwithstanding anything to the contrary in these General Terms and Conditions, THE DISTRICT DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WHETHER EXPRESS OR IMPLIED, RELATED TO THE SCHEDULING SERVICES PROVIDED BY THE DISTRICT, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM ANY COURSE DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE OR PRACTICE.

17.2 In the event the Purchaser is damaged as a result of the District's performance or non-performance of obligations under these General Terms and Conditions, the District shall pay the Purchaser the Purchaser's actual direct damages up to an amount equal to the amount the Purchaser paid the District for the scheduling services at issue. The District's repayment of said amount shall be the Purchaser's sole and exclusive remedy and measure of damages. All other remedies and damages of the Purchaser against the District, whether based in contract, tort or equity, are waived. The Purchaser agrees not to pursue any other remedy or seek recovery of any other damages from the District.

17.3 The Parties confirm that the express remedies and measures of damages provided in these General Terms and Conditions satisfy the essential purposes hereof. It is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive. The Parties acknowledge that the damages are difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

17.4 THE PARTIES HAVE SPECIFICALLY NEGOTIATED THIS SECTION 17.

18. INDEMNIFICATION.

To the extent allowed by law, Purchaser agrees to defend, indemnify and hold harmless the District, its agents, commissioners, officers and employees from and against all liabilities, claims, losses, penalties, sanctions, damages or expenses of any type or nature, including attorneys fees, arising from the District's performance of scheduling services for the Purchaser pursuant to these General Terms and Conditions. This indemnification provision shall not be applicable to losses caused by the negligence of the District.

19. GOVERNING LAW.

This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington or the laws of the United States of America, whichever is applicable, as if executed and to be performed wholly within the State of Washington. Purchaser specifically agrees to and submits itself to the exclusive jurisdiction of the courts of the State of Washington or the federal courts located in the State of Washington or the Court of Federal Claims, as appropriate. Venue of any action arising out of these General Terms and Conditions shall be Chelan County, Washington or the United States District Court for the Eastern District of Washington or the Court of Federal Claims, as appropriate.

20. ATTORNEYS FEES.

If any action at law or in equity is necessary to enforce or interpret the terms of these General Terms and Conditions, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements, in addition to any other relief granted.

21. DEFINITIONS.

The following terms used in these General Terms and Conditions shall have the following meanings:

"General Terms and Conditions" means these General Terms and Conditions for the provision of scheduling services and its exhibits and schedules.

"Intermediary Control Area" means the same as the term is defined in the prevailing version of NERC's Operating Manual's section titled "Terms Used in the Policies".

"Mid-C Website" means the District's Website at <www.midc.org>.

"NERC" means the North American Electric Reliability Council.

"POD" means the point of delivery.

"POI" means point of integration.

“*PPT*” means the prevailing time within the Pacific time zone.

“*PSE*” means purchasing-selling entity. PSE means the same as the term is defined in the prevailing version of NERC’s Operating Manual’s section titled “Terms Used in the Policies”.

“*Pre-scheduled Day*” means the pre-scheduling days identified in the prevailing version of the WECC’s Pre-Scheduling Calendar”.

“*Sink Control Area*” means the same as the term is defined in the prevailing version of NERC’s Operating Manual’s section title “Terms used in the Policies”.

“*Source Control Area*” means the same as the term is defined in the prevailing version of NERC’s Operating Manual’s section title “Terms used in the Policies”.

“*WECC*” means Western Electricity Coordinating Council.

“*WSPP Agreement*” means the version of the agreement between the members of the Western Systems Power Pool in effect at the time the scheduling service is requested.

ENABLING AGREEMENT FOR SCHEDULING SERVICES

1. PURCHASER.

Purchaser is: _____,
a _____.

2. ADDRESS OF PURCHASER.

Purchaser's address for all notices required in the General Terms and Conditions is:

3. SERVICES.

Upon execution of this Enabling Agreement for Scheduling Services, the Purchaser may request scheduling services from Public Utility District No. 1 of Chelan County (the "District") according to the General Terms and Conditions and procedures applicable to such scheduling services as are posted on the Mid-C Website <www.midc.org> at the time the schedule is accepted by the District.

4. TERMS AND CONDITIONS.

Purchaser agrees to all the General Terms and Conditions and other conditions related to the scheduling services as are posted on the Mid-C Website www.midc.org at the time the schedule is accepted by the District.

5. TERM.

This Agreement becomes effective when executed by both parties and shall remain in effect until terminated by either party. This Agreement may be terminated by either party on no less than thirty (30) days written notice. The parties shall fully perform all obligations incurred prior to the giving of notice of termination; provided, that the District may immediately cancel any schedule, cancel any energy or capacity transaction, refuse to accept a schedule or terminate this Agreement, if in the sole discretion of the District, Purchaser no longer meets the credit requirements of the District.

The parties hereto have agreed to the foregoing terms and conditions as of the ____ day of _____, 20____.

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

By: _____

Janet Jaspers
Power Resource Supervisor

(PURCHASER)

(Name of Organization)

By: _____

(Title)