

**CANADA - US  
INTERCHANGE AGREEMENT**

*between*

*and*

**THE MANITOBA HYDRO-ELECTRIC BOARD**

*Dated as of: October 21, 1999.*

## INTERCHANGE AGREEMENT

THIS CANADA-US INTERCHANGE AGREEMENT ("Agreement") is dated and entered into as of October 21, 1999 by and between The Manitoba Hydro-Electric Board ("MH"), a Manitoba Crown corporation, and \_\_\_\_\_ (each of the foregoing entities being sometimes referred to individually as "Party" or collectively referred to as "Parties").

### WITNESSETH

WHEREAS, MH is the owner and operator of electric generation and transmission facilities in Canada, and is engaged in the generation, transmission, distribution and sale of electric energy; and

WHEREAS, \_\_\_\_\_ is engaged in the generation, transmission, distribution and sale of electric energy; and

WHEREAS, the Parties desire to sell and purchase from time to time, various forms of electric energy under this Agreement to their mutual benefit; and

WHEREAS, the Parties desire to establish the standard terms and conditions of such interchange of electric energy.

NOW THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties covenant and agree as follows:

### ARTICLE 1 DEFINITIONS

Section 1.01 Unless otherwise specified in this Agreement, all definitions and references to and use of terms and their abbreviations shall have the meanings which are established in the Mid-Continent Area Power Pool Restated Agreement effective January 12, 1996 or successor agreement, as may be amended from time to time.

Agreed Interest Rate - Unless otherwise mutually agreed to by the Coordinating Committee, shall be two percent per annum plus the prime lending rate of interest per annum, in effect, and applicable to each day of the interest period. The prime lending rate of interest shall be the interest rate per annum, publicly announced from time to time, by the Royal Bank of Canada at its main office in the City of Winnipeg, Manitoba, as its preferred lending rate of interest charged to its most creditworthy Canadian commercial customers, whether or not such interest rate per annum is actually charged by said bank to any customer. Notwithstanding the foregoing, in no event shall the Agreed Interest Rate ever exceed the maximum rate of interest allowed under applicable law.

Coordinating Committee - shall be the committee established in Article 4 of this Agreement.

Contingency - a disturbance that results in the loss of any single electric system element, such as a transmission line, transformer or generating unit.

Executive Officer - shall be the individuals identified in Section 6.03 of this Agreement.

Capacity Factor - expressed as a percentage, shall mean:

- (a) the energy delivered during a specified period of time, divided by;
- (b) the product of:
  - (i) the amount of capacity required to be made available to a receiving Party in the specified period of time, and
  - (ii) the number of hours in the specified period of time.

Point of Interconnection - shall mean the point or points, where MH's major transmission facilities, cross the international boundary between the Province of Manitoba and the United States of America.

Supplementary Agreement - shall mean an instrument in writing duly authorized and executed by the Parties which alters, varies, modifies or waives any provision of this Agreement.

Transaction - shall mean a mutually agreed to sale and purchase of power, energy or related services between the Parties in accordance with one of the "Service Schedules" attached hereto as Appendix II.

Week - shall mean a period of seven consecutive days commencing on Monday at 12:01 a.m. Central Time.

Section 1.02 When required by the context of this Agreement, the singular shall include the plural, and plural shall include the singular.

## **ARTICLE 2 APPROVALS AND CONTRACT TERM**

Section 2.01 This Agreement shall become effective upon execution by the Parties and shall continue in full force, subject to Section 2.02 and Section 2.03, until the later of a termination date specified by ninety (90) days prior written notice by either Party to the other Party and a date when all obligations under this Agreement are discharged.

Section 2.02 Performance of this Agreement is conditional upon the Parties receiving the approvals necessary for each Party to enter into this Agreement and conditional upon each Party receiving any approvals required by it, including approvals from any regulatory agency of competent jurisdiction, relating to the Party's participation in this Agreement. Each Party, at its own expense, shall be responsible for securing such approvals

and will reasonably cooperate with the other Party in seeking such approvals.

Section 2.03 This Agreement shall be subject to the present and future local, state, provincial or federal laws, regulations or orders of lawful authorities and may be suspended by or as a result of an order of competent authority in case of war or other emergency, but this Agreement shall become effective again as soon as such order is rescinded or the approval for the connection and transfer of power and energy is again secured.

### ARTICLE 3 SERVICES TO BE RENDERED

Section 3.01 The Parties may mutually agree to enter into Transactions, expressed in writing, by telephone, electronically or any combination thereof and, whereby, the maximum duration of each Transaction shall be two years. Such Transactions shall take place in accordance with the terms and conditions of this Agreement and the referenced Service Schedule (attached hereto as Appendix II). Each Transaction, together with this Agreement, shall constitute a single integrated agreement and any discrepancy between this Agreement and a Transaction shall be resolved in favour of this Agreement. Service Schedules may be added, modified or amended from time to time by the Coordinating Committee.

Section 3.02 For each Transaction, the ownership and associated risk of the power, energy or related service, shall pass from the selling Party to the purchasing Party at the Point of Interconnection. Unless otherwise agreed, the selling Party shall be responsible for delivery of the service to the Point of Interconnection and the purchasing Party shall be responsible for delivery of service provided from the Point of Interconnection.

Section 3.03 Whenever a Transaction pursuant to a Service Schedule will require the use of transmission facilities that are located in the United States ("U.S. Transmission Facilities"), shall be responsible for securing all necessary rights to use the U.S. Transmission Facilities and shall pay all associated transmission charges. Unless otherwise agreed, shall be responsible for notifying the owners of the U.S. Transmission Facilities prior to a commencement of a Transaction and shall inform MH of all notice requirements imposed on by the U.S. Transmission Facility owners. shall satisfy itself that the U.S. Transmission Facilities are in good working order.

Section 3.04 For effecting interchange, shall be responsible for having or contracting for, control area services located outside of MH's control area, and such control area services shall adhere to approved NERC (North American Reliability Council) operating and interchange practices.

Section 3.05 For all Transactions entered into under the Service Schedules attached hereto, a Party shall have the right to refuse to deliver or to accept delivery of electric power, energy and related services or having begun such delivery or acceptance, to curtail, restrict, or discontinue such delivery or acceptance, without notice, whenever in such Party's reasonable judgement such delivery or acceptance will endanger that Party's facilities or endanger that Party's system operation, including its obligations to serve its retail customers.

## **ARTICLE 4 COORDINATING COMMITTEE**

Section 4.01 A committee, known as the "Coordinating Committee", is hereby established and has the authority to:

- (a) determine the procedures required to obtain the maximum benefits and advantages for the Parties;
- (b) add, modify or amend, from time to time, Service Schedules, to provide for variations in the specific services to be rendered and the terms and conditions applicable thereto;
- (c) determine Transaction accounting and billing procedures; and
- (d) such other matters as provided herein.

Section 4.02 The Coordinating Committee shall also make recommendations to the Parties concerning amendment and revision of this Agreement.

Section 4.03 The Coordinating Committee shall be comprised of one member representing each Party to this Agreement. Members shall only be named and changed by appropriate notice as provided in Section 6.03.

Section 4.04 All decisions of the Coordinating Committee shall be unanimous.

Section 4.05 The Coordinating Committee shall meet at the request of either member. Written minutes shall be kept of all meetings and copies of the minutes shall be mailed to all members within five working days after each meeting. Failure to object, in writing, to the other Party of the minutes within thirty days after receipt of such minutes shall be deemed to be approval thereof.

## **ARTICLE 5 BILLING**

Section 5.01 All rates stated in the Service Schedules are stated in lawful money of the United States of America. Unless otherwise agreed, monetary transactions, accounting and cost calculations between the Parties shall be determined and stated in lawful money of the United States of America. If required for any such monetary transactions, accounting or cost calculation, the rate to be used to convert from the currency of Canada to that of the United States of America for each day shall be the Bank of Canada noon spot exchange rate for such day as published by the Royal Bank of Canada, Winnipeg, Manitoba, Canada, or the last published rate if a rate is not published for such day. If any such monetary transaction, accounting or cost calculation is for a period of time of more than one day, the average of such noon spot exchange rates for each day in the respective period of time shall be used.

Section 5.02 Billings for all Transactions involving capacity pursuant to this Agreement shall be based upon the amount of such capacity required to be made available pursuant to such Transaction. Billings for all Transactions involving energy pursuant to this Agreement shall be based upon the amount of energy scheduled for delivery, at the Point of Interconnection, to the purchasing Party pursuant to such Transaction. All billings for

capacity, energy or related services shall be calculated monthly and at the end of each calendar month for which service was provided to the purchasing Party. In the event where service is provided during a month under more than one Transaction between the Parties, then an aggregate billing for the month can be produced, provided that the amount due for each Transaction is clearly stated and identified.

Section 5.03 All bills shall be delivered monthly by the selling Party to the purchasing Party by letter, fax or e-mail. Bills shall be delivered within fifteen calendar days after the end of the period covered by such bill. The period for billing shall be from 12:01 a.m. Central Time of the first day of the month to 12:01 a.m. Central Time of the first day of the succeeding month. Bills shall be deemed rendered upon receipt by the purchasing Party. If all information necessary is not accurately known in time for the preparation of the monthly bill, estimates may be used to prepare an interim bill with a final bill to be prepared when accurate information becomes known.

Section 5.04 Unless otherwise agreed, payment of all bills shall be made in lawful money of the United States of America.

Section 5.05 All bills (including interim bills) shall be due and payable in immediately available same-day funds within fourteen calendar days from the date the bill is rendered. If such due date falls on a Saturday, Sunday or a United States or Canadian holiday observed by either Party, the payment shall be due and payable on the next following business day of both Parties. Payments received after the due date shall be considered late. Late payments shall include a fee equal to the amount determined by applying the Agreed Interest Rate to the overdue amount billed for the period the payment is late.

Section 5.06 If a Party disputes all or any part of a bill, that Party shall nevertheless pay the full amount of the bill when due and payable and shall give notice to the Party rendering the bill within sixty days from the date the bill is rendered, setting forth the specific details upon which the bill is disputed and the amount thereof in dispute. The disputing Party shall not be entitled to any adjustment on account of any disputed charges for which notice is not given in accordance with this section. If the resolution of a dispute regarding a bill results in a refund, interest thereon shall accrue at the Agreed Interest Rate and shall be compounded daily on the amount to be refunded, from the date of receipt of the notice of dispute until the date upon which refund is made.

Section 5.07 Payment of all bills shall be made by interbank wire transfer to a bank in accordance with the account instructions as provided for in Appendix I and payment shall be deemed made when received by the designated bank.

Section 5.08 Notwithstanding any other provision in this Agreement, each Party shall be solely responsible for the payment of all fines, levies, taxes, fees, duties and royalties on the import or export of electricity imposed directly or indirectly by any federal, provincial, state or municipal legislation, as the case may be, of the country in which the respective Party' headquarters are located without any right of reimbursement in whole or in part from the other Party.

Section 5.09 If any bill remains unpaid after the due date, then the Party to which the amount is due, may, in addition to all other remedies available to it, and after giving the other Party at least five days written notice of intention to do so, discontinue the supply of power, energy or related services and may refuse to resume the

supply so long as any amount due remains unpaid. Such discontinuance shall not be construed as a breach of contract by the Party to which the amount is due, and shall not relieve the other Party of its obligations to pay for services.

## ARTICLE 6 GENERAL

Section 6.01 Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, however, that in each such case, any such assignee shall agree to be bound by the terms and conditions hereof.

Section 6.02 This Agreement does not confer any exclusive rights on either Party with respect to the sale or purchase of power, energy or related services. Neither Party has actual, apparent, or inherent authority to bind the other Party as agent and this Agreement is not intended to and does not create the relationship between the Parties of employer-employee, principal-servant, franchise, association, joint venture or partnership.

Section 6.03 Any notices, demands or requests required or authorized by this Agreement shall be in writing to the "Executive Officers" as follows:

Vice-President  
Power Supply  
Manitoba Hydro  
820 Taylor Ave.  
Post Office Box 815  
Winnipeg, Manitoba R3C 2P4

if to the Manitoba Hydro-Electric Board;

and to:

if to (

and shall be effective upon actual receipt by the Party to whom addressed. The designation of the persons to be notified or the address of such persons may be changed at any time by similar notice.

Section 6.04 Each Party shall keep complete and accurate records and memoranda of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item required hereunder. With respect to invoicing records, each Party shall maintain such records, memoranda and data for the current calendar year plus a minimum of three previous calendar years. The Parties, or their respective designees, shall each have the right upon reasonable prior notice to inspect, review and take copies of each other's records as far as such records concern monetary matters and may be reasonably necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of cost relating to Transactions hereunder. Each Party shall treat such information as confidential and agrees not to use the information for any other purpose.

Section 6.05 Each Party hereby grants its consent to the other Party to record telephone calls and electronic communications for the purpose of this Agreement. All written records and recordings of telephone calls and electronic communications, regardless of form, shall be admissible as proof of the contents thereof in any arbitration or other legal proceeding arising out of this Agreement.

Section 6.06 The transfer of power and energy between the Parties shall be measured by MH's metering equipment (meter or meters) located in the Province of Manitoba.

Section 6.07 Unless otherwise specifically provided herein, this Agreement may be altered, modified, varied or waived, in whole or in part, only by Supplementary Agreement.

Section 6.08 The Parties shall not be responsible or liable to each other for any loss or damage resulting from failure to perform obligations hereunder as a result of any cause beyond their control which could not have been reasonably foreseen and which could not have reasonably been avoided, including but not limited to, acts of God, strikes, injunctions, breakdowns, or repairs. The Parties shall be prompt and diligent in removing, if practicable, the cause of such failure to perform, but nothing herein contained shall be construed as permitting a Party to continue to fail to perform after said cause has been removed; however a Party shall not be obligated to agree to any settlement of a strike or labour dispute which, in that Party's sole opinion, may be inadvisable or detrimental.

Section 6.09 If conditions arise, in accordance with Section 6.08, which affect the selling Party's ability to make, or to continue to make available power, energy or related service under any or all Transactions, the selling Party may curtail, restrict or discontinue any or all service, without notice, in accordance with the following priority criteria.

- all Firm service provided to the selling Party's retail customers shall take priority over all Transactions;
- Firm Transactions shall take priority over all System Participation and Unit Participation Sales;
- System Participation and Unit Participation sales shall take priority over all other Transactions; and
- unless otherwise specified through contractual obligations, in the event that more than one sale of the same type exists (eg. Firm), priority between such sales shall be determined on a pro rata basis.



Section 6.10 As between the Parties, the selling Party shall be deemed to be in exclusive control of the power and energy prior to the Point of Interconnection and shall be responsible for, and shall indemnify the purchasing Party from, any damages or injury the purchasing Party or any third party may suffer or incur, caused thereby except to the extent such damages or injury were caused by the willful misconduct of the purchasing Party. The purchasing Party shall be deemed to be in exclusive control of the power and energy from and after the Point of Interconnection and shall be responsible for, and shall indemnify the selling Party from, any damages or injury the selling Party or any third party may suffer or incur, caused thereby except to the extent such damages or injury was caused by the willful misconduct of the selling Party. For the purposes of this section,

- (a) "willful misconduct" does not include negligent acts or omissions by a Party, and
- (b) "damages or injury" includes indirect, incidental and consequential damages, and without restricting the generality of the foregoing, expenses or liabilities associated with the interruption of power, energy or related services to any third person, excepting damage or injury where said interruption is contemplated and authorized pursuant to the terms of this agreement, including sections 2.03, 3.05, 5.09, 6.08 and 6.09.

Each Party shall promptly notify the other Party of claims, demands or actions which may result in a claim for indemnity. Failure to notify will not relieve a Party from liability unless, and then only to the extent that, such failure results in the forfeiture by such Party of a substantial right or defence. No settlement of any claim which may result in a claim for indemnity may be made by either Party without the prior consent of the other Party, which consent may not be unreasonably withheld. Neither Party shall be liable under this agreement in respect of any settlement of a claim unless it has consented in writing to such settlement.

Section 6.11 This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other than contained herein or expressly incorporated herein.

Section 6.12 Each of the Parties are parties to existing agreements with other parties which include providing for interconnection, pooling and interchange of electrical services. This Agreement shall not affect the obligations and rights of a Party with respect to such existing agreements.

Section 6.13 This Agreement shall be governed and construed in accordance with the laws of the Province of Manitoba.

Section 6.14 For the purposes of determining the ability of the Parties to meet obligations related to service hereunder, either Party may from time to time require reasonable credit review procedures and such review shall be made in accordance with standard commercial practices. Where and each time that a Party reasonably determines that a risk exists in extending credit to the other Party, then, without restricting any other rights or remedies which may be available at Law,

- (a) that Party may require the other Party to provide and maintain in effect, an unconditional and irrevocable letter of credit, a deposit, or an alternative mutually agreed form of security sufficient

for the other Party to meet its obligations under this Agreement, and

- (b) that Party may suspend the supply of capacity, energy and related services to the other Party, to the extent that the amount at risk by the other Party exceeds the value of the security provided pursuant to paragraph (a) hereof.

Section 6.15 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.16 It is acknowledged and agreed that capacity, energy and related services are inherently dangerous, and the selling Party offers no warranty, express or implied, that the power, energy or related services will not cause injury to person, property or business. For breach of any provision for which an express remedy or measure of damages is herein provided, such express remedy or measure of damages shall be the sole and exclusive remedy hereunder. The obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to direct, actual damages only and such direct, actual damages shall be the sole and exclusive remedy hereunder and all other remedies or damages at law or in equity are waived. 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, without limitation, the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, otherwise obtaining an adequate remedy is inconvenient and the liquidated damages constitute a reasonable approximation of the harm or loss.

## ARTICLE 7 ARBITRATION

### Section 7.01

- (a) Condition Precedent to Arbitration. Prior to initiation of arbitration, any controversy, claim or dispute shall be first submitted to the Coordinating Committee for review and decision. If the controversy, claim or dispute is not resolved within 30 calendar days after submission to the Coordinating Committee, it shall be referred in writing by the Coordinating Committee to the Executive Officers of the Parties, as specified in Section 6.03 of this Agreement, who shall meet for the purpose of discussing and resolving the controversy, claim or dispute to the satisfaction of the Parties. Any decision by the Executive Officers to resolve a controversy, claim or dispute must be unanimous. If the controversy, claim or dispute is not resolved within 30 calendar days after referral to the Executive Officers, either Party may proceed to arbitration.
- (b) Initiation. Arbitration proceedings must be initiated within 120 calendar days of the date the controversy, claim or dispute was first submitted to the Coordinating Committee and shall be initiated by written notice to the other Party setting forth the point or points in dispute. Unless otherwise agreed to in writing by the Parties, failure to initiate arbitration within such 120 day

period shall be deemed a waiver of the right to arbitrate that controversy, claim or dispute. Provided however, that any such waiver shall not preclude a Party from initiating arbitration proceedings in respect of a similar claim, controversy or dispute based on facts which arise subsequent to the date the controversy, claim or dispute was first submitted to the Coordinating Committee.

- (c) Arbitration Proceedings. Subject to Section 6.01 (a) above, any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof, shall be settled by arbitration. For greater clarity and certainty, arbitration shall not be available to anyone who is not a Party to this Agreement, and the aforesaid requirement to arbitrate shall not preclude a Party from seeking contribution, indemnification or damages from the other Party in proceedings instituted by third parties in courts of competent jurisdiction. Unless otherwise provided in this Article, the arbitration shall be conducted before three arbitrators and shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as amended and then in effect. The American Arbitration Association or its successor, if any, shall submit to each Party an identical list of names of persons to be chosen as arbitrators, which list shall contain an equal number of persons ordinarily resident in the United States of America and ordinarily resident in Canada. All arbitrators shall be competent by virtue of education and experience in the particular matter subject to arbitration. Before proceeding with the first hearing, each arbitrator shall take an oath of office. The arbitrators shall require witnesses to testify under oath administered by a duly qualified person. The arbitrators shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement insofar as shall be necessary to determine the particular matter subject to arbitration. The arbitrators shall not have jurisdiction or authority to add to, detract from, or alter the provisions of this Agreement or any applicable law or rule of civil procedure. The arbitrators shall have the power to order specific performance under any and all provisions of this Agreement and no Party can avoid specific performance based on an argument that the other Party has an adequate remedy at law.
- (d) Jurisdiction. The arbitrators may rule on their own jurisdiction, including any objections with respect to the existence or validity of this Agreement. For that purpose, this Article shall be treated as an agreement independent of the terms of the balance of this Agreement. A decision by the arbitrators that this Agreement is null and void shall not entail ipso jure the invalidity of this Article. If a Party disputes the authority or jurisdiction of the arbitrators, the Party shall notify the other Party as soon as the matter alleged to be beyond the authority or jurisdiction of the arbitrators is raised during the arbitration proceedings. The arbitrators may rule on the issue as to whether or not they have the authority or jurisdiction in dispute, either as a preliminary question or in an award on the merits.
- (e) Governing Law. The arbitrators shall apply the proper law determined by the conflict of laws rules which the arbitrators consider applicable. In determining the proper law to be applied, the arbitrators shall endeavor to select the law having the closest real connection to the particular matter subject to arbitration.

- (f) Discovery. Each Party shall have the rights of discovery in accordance with the applicable rules of the Federal Rules of Civil Procedure. All issues subject to discovery shall be determined by order of the arbitrators upon motion made to them by either Party. When a Party is asked to reveal material which the Party considers to be proprietary information or trade secrets, the Party shall bring the matter to the attention of the arbitrators who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.
- (g) Continuation of Performance. Pending the final decision of the arbitrators, the Parties agree to diligently proceed with the performance of all obligations, including the payment of all sums required by this Agreement. Interest shall accrue at the Agreed Interest Rate and shall be compounded daily on all overpayments and underpayments which occur pending resolution of a controversy, claim or dispute.
- (h) Costs. All fees, costs and expenses of the American Arbitration Association and the arbitrators incurred in connection with the arbitration shall be allocated between the Parties by the arbitrators. The nature of the dispute and the outcome of the arbitration shall be factors considered by the arbitrators when allocating such fees, costs and expenses. Fees, costs and expenses to be allocated shall not include the Party's own employees, expert consultants and attorneys, or the costs of exhibits and other incidental costs.
- (i) Enforcement. Any decision (including orders arising out of disputes as to the scope or appropriateness of a request for, or a response to, discovery) of an arbitrator may be enforced in a court of competent jurisdiction with all costs, including court costs and attorney's fees and disbursements, paid by the Party in default or in error. Judgement upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction and may be enforced in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
- (j) Correction and Interpretation of Award; Additional Award. Within 30 calendar days after receipt of an award, a Party, with notice to the other Party, may request the arbitrators to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature, or may request the arbitrators to give an interpretation of a specific point or a part of the request. The interpretation shall form part of the award. The arbitrators may correct any error as herein-before referred to on their own initiative within 30 calendar days after the date of an award. In addition, within 30 calendar days after receipt of an award, a Party with notice to the other Party, may request the arbitrators to make an additional award as to claims presented in the arbitration but omitted from the award. If the arbitrators consider the request to be justified, they shall make an additional award within 60 calendar days after receipt of the request. The arbitrators may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award.

# APPENDIX I

APPENDIX I

INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For The Manitoba Hydro-Electric Board:

Bank wire transfer to: \_\_\_\_\_  
for transfer to: \_\_\_\_\_  
for credit to: \_\_\_\_\_

For \_\_\_\_\_

Bank wire transfer to: \_\_\_\_\_  
for credit to: \_\_\_\_\_

## **APPENDIX II**

# Table of Contents

| <u>Service Schedules</u>                                     | <u>Page</u> |
|--|-------------|
| I System Energy Interchange Service                          | ii          |
| II Unit Participation Power Interchange Service              | iii         |
| III System Participation Power Interchange Service           | iv          |
| IV Firm Power Interchange Service                            | v           |
| V Operating Reserve Interchange Service                      | vi          |
| VI Emergency and Scheduled Outage Energy Interchange Service | vii         |



## SERVICE SCHEDULE I

### SYSTEM ENERGY INTERCHANGE SERVICE

#### Section 1. Service to be Provided

- 1.01 This Service Schedule provides for the sale of System Energy by a Party to the other Party for a specified period.

#### Section 2. Conditions of Service

- 2.01 Scheduling of energy under this Service Schedule shall be mutually agreed to by the Parties.

- 2.02 System Energy shall be classified as either Interruptible, Assured or Firm System Energy, whereby:

Interruptible System Energy shall mean energy whereby the delivery can be interrupted at any time and for any reason without cause by either Party, immediately, upon notice given to the other Party.

Assured System Energy shall mean energy whereby the schedule for delivery can be curtailed or terminated, with a minimum of three (3) hours notice, by either Party, except:

- in the event that the selling Party experiences a first contingency loss, whereby, then the selling Party can curtail or terminate the schedule for delivery, immediately; or
- unless otherwise mutually agreed.

Firm System Energy shall mean energy which is committed to be delivered within the term of the Transaction and which is intended to be available for all scheduled times. A Party wishing to change or terminate the schedule for delivery of such energy shall provide at least 24 hours notice to the other Party, or shorter notice by mutual consent, and the change or termination will only be effective by mutual consent.

#### Section 3. Schedule of Rates

- 3.01 The rate and term for System Energy shall be mutually agreed to by the Parties.

## SERVICE SCHEDULE II

### UNIT PARTICIPATION POWER INTERCHANGE SERVICE

#### Section 1. Service to be Provided

- 1.01 This Service Schedule provides for the sale of Unit Participation Power by a Party to the other Party from a specific generating unit or units. Unit Participation Power shall mean power and energy which is sold from a specific generating unit or units on the basis that it is continuously available except when such unit or units are temporarily out of service for maintenance or repair, during which time the delivery of energy from other sources shall be at the selling Party's option.

#### Section 2. Conditions of Service

- 2.01 This Service Schedule shall be available for the sale of Unit Participation Power for a period of one month or more.

- 2.02 On or before 1000 hours Central Time on the Thursday immediately preceding each Week, for the duration of the Transaction, the purchasing Party shall provide the selling Party with a proposed schedule of energy deliveries, under this Service Schedule, for each clock hour of the following Week.

- 2.03 Unless otherwise mutually agreed, on or before 1000 hours Central Time of each day, the purchasing Party may modify the hourly schedule, provided in Section 2.02 above, by providing the selling Party with a modified schedule of energy deliveries for each clock hour of the following day.

- 2.04 In the event that the selling Party experiences an outage on the specified generating unit or units, then the schedule for delivery can be changed by the selling Party, immediately, upon notice given to the other Party.

#### Section 3. Schedule of Rates

- 3.01 The demand charge (expressed in dollars per MW-month), energy rate (expressed in dollars per MWh.), capacity factor and term for Unit Participation Power under this Service Schedule shall be mutually agreed to by the Parties.

## SERVICE SCHEDULE III

# SYSTEM PARTICIPATION POWER INTERCHANGE SERVICE

### Section 1. Service to be Provided

- 1.01 This Service Schedule provides for the sale of System Participation Power by a Party to the other Party for a specified period for the purpose of obtaining a supply of power which can be depended upon with the same degree of assurance as that expected from the Purchaser's own generating capacity but which does not include reserve capacity.

### Section 2. Conditions of Service

- 2.01 This Service Schedule shall be available for the sale of System Participation Power for periods of one hour or more.

- 2.02 On or before 1000 hours Central Time on the Thursday immediately preceding each Week, for the duration of the Transaction, the purchasing Party shall provide the selling Party with a proposed schedule of energy deliveries, under this Service Schedule, for each clock hour of the following Week.

- 2.03 Unless otherwise mutually agreed, on or before 1000 hours Central Time of each day, the purchasing Party may modify the hourly schedule, provided in Section 2.02 above, by providing the selling Party with a modified schedule of energy deliveries for each clock hour of the following day.

- 2.04 In the event that the selling Party experiences a second contingency loss, then the schedule for delivery can be changed by selling Party, without notice.

### Section 3. Schedule of Rates

- 3.01 The demand charge (expressed in dollars per MW-"unit of time"), energy rate (expressed in dollars per MWh.), capacity factor and term for System Participation Power under this Service Schedule shall be mutually agreed to by the Parties.

## SERVICE SCHEDULE IV

### FIRM POWER INTERCHANGE SERVICE

#### Section 1. Service to be Provided

- 1.01 This Service Schedule provides for the sale of Firm Power by one Party to the other Party. Firm Power shall mean power and associated energy intended to be available at all times during the period covered by a commitment. Such power shall include required reserve capacity.

#### Section 2. Conditions of Service

- 2.01 This Service Schedule shall be available for the sale of Firm Power for a period of one month or longer.

- 2.02 On or before 1000 hours Central Time on the Thursday immediately preceding each Week, for the duration of the Transaction, the purchasing Party shall provide the selling Party with a proposed schedule of energy deliveries, under this Service Schedule, for each clock hour of the following Week.

- 2.03 Unless otherwise mutually agreed, on or before 1000 hours Central Time of each day, the purchasing Party may modify the hourly schedule, provided in Section 2.02 above, by providing the selling Party with a modified schedule of energy deliveries for each clock hour of the following day.

#### Section 3. Schedule of Rates

- 3.01 The demand charge (expressed in dollars per MW-month), energy rate (expressed in dollars per MWh.), capacity factor and term for Firm Power under this Service Schedule shall be mutually agreed to by the Parties.

## SERVICE SCHEDULE V

### OPERATING RESERVE INTERCHANGE SERVICE

#### Section 1. Service to be Provided

- 1.01 A Party may arrange for the other Party to supply part or all of its Operating Reserve requirement.

#### Section 2. Conditions of Service

- 2.01 Energy associated with Spinning Operating Reserve will be available within 10 minutes notice.

- 2.02 Unless otherwise mutually agreed, the schedules for delivery can only be changed with a minimum of two (2) hours notice to the other Party, except when:

- the selling Party experiences a first contingency loss; or
- for any other conditions which may be mutually agreed to by the Parties,

then the schedule for delivery can be changed by either Party, immediately, upon notice given to the other Party.

#### Section 3. Schedule of Rates

- 3.01 The demand charge (expressed in dollars per MW-"unit of time"), energy rate (expressed in dollars per MWh.), and term for Operating Reserve under this Service Schedule shall be mutually agreed to by the Parties.

## SERVICE SCHEDULE VI

# EMERGENCY AND SCHEDULED OUTAGE ENERGY INTERCHANGE SERVICE

### Section 1. Service to be Provided

- 1.01 This Service Schedule provides for the supply of energy by one Party to the other Party during Emergency Outages or Scheduled Outages of generating or transmission facilities.

### Section 2. Scheduling of Deliveries

- 2.01 Unless otherwise mutually agreed, deliveries of Emergency Energy shall be scheduled as soon as possible after the occurrence of an Emergency Outage in accordance with the principles and practices determined and recommended by the Coordinating Committee.

- 2.02 Unless otherwise mutually agreed, deliveries of Scheduled Outage Energy shall be scheduled in accordance with the principles and practices determined and recommended by the Coordinating Committee.

- 2.03 Unless otherwise mutually agreed, schedules for delivery can not be changed without giving a minimum of three hours notice to the other Party, except when:

- the selling Party experiences a first contingency loss and needs to change the schedule of delivery for energy under this Service Schedule in order to re-establish its operating reserve requirements; or
- for any other conditions which may be mutually agreed to by the Parties,

then the schedule for delivery can be changed by either Party, immediately, upon notice given to the other Party.

### Section 3. Schedule of Rates

- 3.01 Unless otherwise mutually agreed, the purchasing Party shall pay the selling Party for Emergency Energy furnished under this Service Schedule, the greater of 3.0 cents per kilowatt-hour or 110 percent of the selling Party's Incremental Cost of supplying such energy.

- 3.02 The purchasing Party shall compensate the selling Party for Scheduled Outage Energy furnished under this Service Schedule at a mutually agreed to price.

# Supplementary Agreement #1

Between

And

**The Manitoba Hydro-Electric Board**

This Supplementary Agreement is entered into by and between ( ), and The Manitoba Hydro-Electric Board ("MH"), a Manitoba Crown corporation, (each of the foregoing entities being sometimes referred to individually as "Party" or collectively referred to as "Parties").

## RECITALS

0.01 WHEREAS, the Parties entered into an Interchange Agreement ("Interchange Agreement") dated October 21, 1999; and

0.02 WHEREAS, Section 6.07 of the Interchange Agreement allows for modification of the Interchange Agreement by way of a Supplementary Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Supplementary Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties covenant and agree as follows:

Section 1.0 - Section 3.01 of the Interchange Agreement shall be deleted and replaced with the following:

"The Parties may mutually agree to enter into Transactions, expressed in writing, by telephone, electronically or any combination thereof and, whereby, the maximum duration of each Transaction shall be two years. Such Transactions shall take place in accordance with the terms and conditions of this Agreement and the referenced Service Schedule (attached hereto as Appendix II). Each Transaction, together with this Agreement, shall constitute a single integrated agreement and any discrepancy between this Agreement and a Transaction shall be resolved in favour of the Transaction. Service Schedules may be added, modified or amended from time to time by Supplementary Agreement."

Section 2.0 All remaining terms and conditions of the Interchange Agreement shall remain unchanged other than the modification stated in this Supplementary Agreement.

Section 3.0 This Agreement is made in duplicate.

Accepted and Agreed to by:

\_\_\_\_\_

Dated \_\_\_\_\_

**THE MANITOBA HYDRO-ELECTRIC BOARD**