

**EXH. RJR-16
DOCKET UE-200115
COLSTRIP UNIT 4 SALE
WITNESS: RONALD J. ROBERTS**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Application of
PUGET SOUND ENERGY**

**For an Order Authorizing the Sale of
All of Puget Sound Energy's Interests
in Colstrip Unit 4 and Certain of
Puget Sound Energy's Interests in
the Colstrip Transmission System**

Docket UE-200115

**SEVENTH EXHIBIT (NONCONFIDENTIAL) TO THE
PREFILED SUPPLEMENTAL DIRECT TESTIMONY OF**

RONALD J. ROBERTS

ON BEHALF OF PUGET SOUND ENERGY

AUGUST 20, 2020

AMENDMENT NO. 1
to
COLSTRIP UNIT 4 PURCHASE AND SALE AGREEMENT

THIS AMENDMENT NO. 1 (this “*Amendment*”), dated as of August 18, 2020, is by and between NORTHWESTERN CORPORATION, a Delaware corporation (“*Buyer*”), and PUGET SOUND ENERGY, INC., a Washington public utility corporation (“*Seller*”). Capitalized terms not defined herein shall have the meanings assigned to them in the Purchase Agreement (as defined below).

WHEREAS, Buyer and Seller are party to that certain Colstrip Unit 4 Purchase and Sale Agreement, dated as of December 9, 2019 (the “*Purchase Agreement*”);

WHEREAS, pursuant to the Ownership and Operation Agreement, Seller was required to offer to other Project Users the right to purchase Seller’s interest in Colstrip and Seller has done so by letters dated January 10, 2019;

WHEREAS, Talen Montana, LLC (“*Talen*”) has exercised such rights by letters dated April 8, 2020 and April 15, 2020, pursuant to the Ownership and Operation Agreement, with the intent of acquiring its proportionate share of the Colstrip 4 Interests (such potential acquisition, the “*Talen Acquisition*”)

WHEREAS Buyer, as a Project User, has exercised such rights by letters dated April 8, 2020 and April 14, 2020, pursuant to the Ownership and Operation Agreement; and

WHEREAS, in light of Talen’s exercise and Buyer’s exercise of such rights, Buyer and Seller have agreed to amend the Purchase Agreement in the manner set forth below.

NOW, THEREFORE, in consideration of the foregoing, and intending to be legally bound, the Parties agree as follows:

1. Amendments.

(a) The first recital of the Purchase Agreement is deleted in its entirety and replaced with the following:

“WHEREAS, Seller is the Owner with respect to a twenty-five percent (25%) undivided interest in the 740MW Colstrip Unit 4, a coal-fired, base-load electric generation facility located in Colstrip, Montana (“*Colstrip Unit 4*”) and Seller desires to sell to Buyer a twelve and a half percent (12.5%) undivided interest in Colstrip Unit 4 and all associated real property, equipment, common real property and common equipment and facilities and all rights incidental thereto, as more specifically defined in Section 2.1 (the “*Colstrip 4 Interests*”).”

(b) All references in the Agreement and the exhibits and schedules thereto with regard to the acquisition by Buyer of Seller’s undivided interest in Colstrip Unit 4 shall be reduced by half (*e.g.*, from 25% to 12.5% or from 12.5% to 6.25%) and all references to “90

MW” in the Power Purchase Agreement attached to the Agreement as Exhibit C shall be replaced with “45 MW.”

(c) Exhibit F attached to the Purchase Agreement shall be replaced with Amended Exhibit F, attached to this Amendment.

(d) Section 2.2 the Purchase Price shall be reduced in proportion to the reduction in interest in Colstrip Unit 4 to be acquired by Buyer.

(e) Section 3.5(g) is deleted in its entirety.

(f) Subsection 7.1(b)(iv) is amended to read as follows:

(iv) With respect to any approvals of the Committee prior to the earliest of the effectiveness of the Vote Sharing Agreement, the termination of this Agreement, or the termination of the Colstrip Unit 4 Purchase and Sale Agreement dated as of August __, 2020 by and between Talen Montana, LLC and Seller: (A) in the case of any proposal to be voted upon under the Ownership and Operation Agreement that relates primarily to Colstrip Unit 4, and that does not involve the Common Facilities, Seller shall cast its vote in accordance with the joint instructions of Buyer and Talen Montana, LLC, if Buyer and Talen Montana, LLC are in agreement regarding how the vote should be cast, and if Buyer and Talen Montana, LLC are not in agreement regarding how to cast the vote, Seller shall abstain from voting on such proposal, (B) in the case of any vote arising from Seller’s ownership interest in Colstrip Units 1 & 2, or any proposal to be voted upon under the Ownership and Operation Agreement that relates primarily to Colstrip Unit 3, and that does not involve the Common Facilities, Seller shall cast its vote in its sole discretion and without involvement of Buyer or Talen Montana, LLC, and (C) in the case of any proposal to be voted upon under the Ownership and Operation Agreement that relates to both Colstrip Unit 3 and Colstrip Unit 4 and/or Common Facilities, Buyer, Talen Montana, LLC, and Seller shall consult with one another in good faith prior to Seller casting the vote on such proposal;

(g) A new Section 7.12 is added to read as follows:

“**Section 7.12. Scheduling Protocols/Allocation Software.** Buyer and Seller agree to use Commercially Reasonable Efforts and act in good faith to address scheduling issues by either revisions to the allocation software presently utilized to schedule and dispatch output from Colstrip Units 3 and 4 or entry into an agreement to true-up scheduling, or a combination of the both, so as to appropriately and equitably implement the effects of the transactions contemplated by the Agreement as may be necessary to equitably and appropriately implement the impact of the transactions contemplated by the Agreement on operations of Colstrip Unit 4.”

2. **Effect of Amendment.**

(a) As of and after the date hereof, each reference in the Purchase Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, “hereby” or words of like import referring to the Purchase Agreement shall mean and be a reference to the Purchase Agreement as amended by this Amendment. Except as expressly provided in this Amendment, the Purchase Agreement shall not be amended or otherwise modified. In the event there is a conflict between the terms of the Purchase Agreement and the terms of this Amendment, the terms provided in this Amendment shall control. This Amendment is expressly made subject to the terms and conditions of the Purchase Agreement as modified herein, and, except as expressly modified herein, the Purchase Agreement shall continue in full force and effect without change.

(b) In the event that the Talen Acquisition is not consummated, Buyer may, at its sole option, terminate this Amendment, which termination shall, effective immediately upon the exercise of such option, render all amendments to the Agreement contained herein null and void as if this Amendment had never been executed.

(c) Notwithstanding this Amendment, Buyer and Seller retain all rights and remedies available to them pursuant to the Agreement so unamended to the extent such rights and remedies are due to any act or omission of either Buyer or Seller that may have occurred prior to the date hereof.

(d) Nothing contained in this Amendment shall be construed to modify, limit or in any other way affect that certain Colstrip Transmission System Purchase and Sale Agreement, dated December 9, 2019 entered between Seller and Buyer.

3. **No Waiver.** Nothing contained in this Amendment shall be construed as a waiver by Buyer of any covenant or provision of the Agreement and the failure of Buyer at any time or times hereafter to require strict performance by Seller of any provision thereof shall not waive, affect or diminish any right of Buyer to thereafter demand strict performance therewith.

4. **Governing Law.** This Amendment shall be governed in all respects in accordance with the provisions of Section 11.2 of the Purchase Agreement.

5. **Counterparts.** This Amendment may be executed in counterparts (including by PDF and further including electronic signatures), each of which shall be deemed an original, but all of which together shall constitute one and the same original instrument. This Amendment shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto.

[Signature page follows]

IN WITNESS WHEREOF, this Amendment has been signed on or behalf of each of the Parties as of the date first above written.

Buyer:

NORTHWESTERN CORPORATION

By: John Hines
Name:

Title: VP, Supply & MT Government Affairs

Seller:

PUGET SOUND ENERGY, INC.

By: [Signature]
Name:

Title: SF VP & GC

VOTE SHARING AGREEMENT

THIS VOTE SHARING AGREEMENT (this “*Agreement*”) is entered into as of [●], 2020 (the “*Effective Date*”) by and among NORTHWESTERN CORPORATION, a Delaware corporation (“*NorthWestern*”), PUGET SOUND ENERGY, INC., a Washington public utility corporation (“*Puget*”), and TALEN MONTANA, LLC, a Delaware limited liability company (“*Talen*”). NorthWestern, Puget, and Talen are sometimes referred to herein individually as a “*Party*” and, collectively, as the “*Parties.*” Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the Ownership and Operation Agreement.

RECITALS

WHEREAS, the ownership, operation and maintenance of the Project is governed by that certain Ownership and Operation Agreement, dated as of May 6, 1981, by and between The Montana Power Company, a Montana corporation, Puget Sound Energy, Inc. (formerly named “Puget Sound Power & Light Company”), a Washington corporation, Avista Corporation (formerly named “Washington Water Power Company”), a Washington corporation, Portland General Electric Company, an Oregon corporation, and PacifiCorp (successor by merger to the Maine corporation named “Pacific Power & Light Company”), an Oregon corporation, as amended on or about October 11, 1991, July 13, 1998, September 14, 2004 and August 18, 2008 (and as may be subsequently amended, modified and supplemented from time to time, the “*Ownership and Operation Agreement*”);

WHEREAS, NorthWestern and Puget are parties to that certain Colstrip Unit 4 Purchase and Sale Agreement dated as of December 9, 2019, as amended by Amendment No. 1 to the Colstrip Unit 4 Purchase and Sale Agreement dated as of [●], 2020, whereby NorthWestern acquired a fifty percent (50%) undivided interest in Puget’s undivided interest in Colstrip Unit 4 (the “*NorthWestern Colstrip Unit 4 Acquisition Agreement*”);

WHEREAS, Talen and Puget are parties to that certain Colstrip Unit 4 Purchase and Sale Agreement dated as of [●], 2020 whereby Talen acquired a fifty percent (50%) undivided interest in Puget’s undivided interest in Colstrip Unit 4 (the “*Talen Colstrip Unit 4 Acquisition Agreement*”); and

WHEREAS, the Parties desire to enter into this Agreement to govern their respective voting obligations under the Ownership and Operation Agreement with respect to Puget’s retained undivided interest in Colstrip Unit 3 and the undivided interest of each of NorthWestern and Talen in Colstrip Unit 4 acquired from Puget (the “*Shared Vote*”).

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained in this Agreement, and intending to be legally bound, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS & INTERPRETATION**

Section 1.1 Definitions. In this Agreement, the following capitalized terms have the meanings assigned below.

“AAA” has the meaning assigned to it in Section 4.2(a).

“*Appointee*” means any of a NorthWestern Appointee, a Puget Appointee, or a Talen Appointee.

“*Authorized Officer*” means, with respect to a Party, any officer of such Party.

“*Business Day*” means any day which is not a Saturday, Sunday or legal holiday in the state of Montana.

“*Colstrip 3 Proposal*” means a Proposal, other than a Unit 3 Decommissioning Proposal or Remediation Proposal, that relates primarily to Colstrip Unit 3, and does not involve the Common Facilities.

“*Colstrip 4 Proposal*” means a Proposal, other than a Unit 4 Decommissioning Proposal or Remediation Proposal, that relates primarily to Colstrip Unit 4, and does not involve the Common Facilities.

“*Colstrip Unit 3*” means such portion of the Project commonly known as “Colstrip Unit 3” and the corresponding interest in the Common Facilities and related facilities, real property and property rights.

“*Colstrip Unit 4*” means such portion of the Project commonly known as “Colstrip Unit 4” and the corresponding interest in the Common Facilities and related facilities, real property and property rights.

“*Common Facilities*” has the meaning assigned to it under the Ownership and Operation Agreement.

“*Dispute*” has the meaning assigned to it in Section 4.1.

“*Dispute Notice*” has the meaning assigned to it in Section 4.1.

“*Dispute Notice Response*” has the meaning assigned to it in Section 4.1.

“*Disapproval Statement*” means the written statement submitted to the other members of the Project Committee pursuant to Section 17(h) of the Ownership and Operation Agreement.

“*Governmental Authority*” means (i) the federal government of the United States of America, (ii) any state, county, municipality, or other governmental subdivision within the United States of America, and (iii) any executive, legislative or judicial court, department, commission, board, bureau, agency, or other instrumentality of the federal government of the United States of America or of any state, county, municipality, or other governmental subdivision within the United States of America.

“*Law*” means any applicable law, statute, rule, regulation, ordinance, standard, code, order, judgment, decision, writ, injunction, decree, certificate of need, award, or other governmental restrictions, including any published and publicly available policy or procedure enforceable by any Governmental Authority.

“*Mixed Proposal*” means a Proposal that is not a Colstrip 3 Proposal, Colstrip 4 Proposal, Unit 3 Decommissioning Proposal, Unit 4 Decommissioning Proposal, Unit 3 Budget Proposal, Unit 4 Budget Proposal, or Remediation Proposal. A Mixed Proposal may be either a Mixed Proposal for Replacement of Talen as Operator or a Mixed Proposal Other than for Replacement of Talen as Operator; provided, however, that if a Mixed Proposal may reasonably be classified in any category of Proposal other than as a Mixed Proposal for Replacement of Talen as Operator, such Proposal shall be classified in such other category. A Mixed Proposal Other than for Replacement of Talen as Operator shall include, but is not limited to, budget proposals for years for which there are no planned maintenance outages and budget proposals for years for which there are planned maintenance outages for both Unit 3 and Unit 4 which are of the exact same scheduled duration.

“*NorthWestern Appointee*” has the meaning assigned in Section 2.1(b).

“*NorthWestern Colstrip Unit 4 Acquisition Agreement*” has the meaning assigned to it in the Recitals.

“*NorthWestern’s Colstrip 4 Project Share*” means the 12.5% undivided interest in Colstrip Unit 4 acquired by NorthWestern from Puget, pursuant to the NorthWestern Colstrip Unit 4 Acquisition Agreement. For avoidance of doubt NorthWestern’s Colstrip 4 Project Share shall not include NorthWestern’s 30% undivided interest in Colstrip Unit 4 that was acquired by NorthWestern from The Montana Power Company and that at the time of this Agreement is subject to a separate vote sharing agreement.

“*Objection*” means an objection by a Party (or such Party’s Appointee) to the manner in which another Party’s Appointee intends to use the Shared Vote. Only Prudency Objections may be asserted under this Agreement.

“*Ownership and Operation Agreement*” has the meaning assigned to it in the Recitals.

“*Party Appointee*” means a Talen Appointee, a NorthWestern Appointee, or a Puget Appointee.

“*Person*” means any Governmental Authority or any individual, firm, partnership, corporation, limited liability company, joint venture, trust, unincorporated organization or other entity or organization.

“*Poll*” has the meaning assigned in Section 3.2(b).

“*Project*” has the meaning assigned to it under the Ownership and Operation Agreement.

“*Project Committee*” has the meaning assigned to it under the Ownership and Operation Agreement.

“*Proposal*” means any proposal being considered for action by the Project Committee.

“*Prudency Objection*” means an objection by a Party resulting from a good faith determination by an Authorized Officer of such Party that all or a portion of a Proposal would be inconsistent with Prudent Utility Practices (such determination to be made on the assumption that such Party is a long-term owner (and not merely a lessee) of such Party’s Project Share.

“*Prudent Utility Practices*” means the practices, methods and acts generally engaged in or approved by the electric utility industry in the United States for similarly situated facilities in the United States during a particular time period, in a manner consistent with Laws, reliability, safety and environmental protection, and taking into consideration the requirements of this Agreement, the contracts set forth on [Schedule 2.1(c)] to the NorthWestern Colstrip Unit 4 Acquisition Agreement and on [Schedule 2.1(c)] to the Talen Colstrip Unit 4 Acquisition Agreement, and the other contracts affecting the operation of the Project. Prudent Utility Practices are not necessarily intended to require the optimum or best practices, methods or acts to the exclusion of all others, but rather to include a spectrum of possible practices, methods or acts consistent with the immediately preceding sentence.

“*Puget Appointee*” has the meaning assigned in Section 2.1(b).

“*Puget’s Colstrip 3 Project Share*” means the 25% undivided interest in Colstrip Unit 3 owned by Puget.

“*Remediation Proposal*” means a Proposal primarily concerning the remediation of ground water or soil contamination located at Colstrip Unit 3 or Colstrip Unit 4 as required under applicable Laws.

“*Rules*” has the meaning assigned to it in Section 4.2(a).

“*Shared Vote*” has the meaning assigned to it in the Recitals.

“*Talen Appointee*” has the meaning assigned in Section 2.1(b).

“*Talen Colstrip Unit 4 Acquisition Agreement*” has the meaning assigned to it in the Recitals.

“*Talen’s Colstrip 4 Project Share*” means the 12.5% undivided interest in Colstrip Unit 4 acquired by Talen from Puget, pursuant to the Talen Colstrip Unit 4 Acquisition Agreement.

“*Unit 3 Budget Proposal*” means a Proposal regarding the Project’s budget for a year during which (i) Unit 3 is the only unit at the Project for which there is a planned maintenance outage, or (ii) both Unit 3 and Unit 4 have planned maintenance outages, but the scheduled duration of the planned maintenance outage for Unit 3 is longer than the scheduled duration of the planned maintenance outage for Unit 4.

“*Unit 3 Decommissioning Proposal*” means a Proposal regarding the decommissioning, mothballing, closure, retirement, deactivation, shut down, deconstruction, removal, or demolition of all or a portion of Colstrip Unit 3 alone.

“*Unit 4 Budget Proposal*” means a Proposal regarding the Project’s budget for a year during which (i) Unit 4 is the only unit at the Project for which there is a planned maintenance outage, or (ii) both Unit 3 and Unit 4 have planned maintenance outages, but the scheduled duration of the planned maintenance outage for Unit 4 is longer than the scheduled duration of the planned maintenance outage for Unit 3.

“*Unit 4 Decommissioning Proposal*” means a Proposal regarding the decommissioning, mothballing, closure, retirement, deactivation, shut down, deconstruction, removal, or demolition of all or a portion of Colstrip Unit 4 alone.

“*Unit 4 Owner*” means Talen and NorthWestern, individually, and “*Unit 4 Owners*” means Talen and NorthWestern, collectively.

Section 1.2 Other Capitalization. Unless otherwise defined in this Agreement (including the Recitals), all other capitalized terms used in this Agreement have the meanings assigned to such terms in the Ownership and Operation Agreement.

Section 1.3 Interpretation. Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms “hereof,” “herein,” “hereby” and derivative or similar words refer to this entire Agreement; (d) the terms “Article” or “Section” refer to the specified Article or Section of this Agreement; and (e) any reference to the entirety or any part of any agreement or document shall refer to any amendment, supplement or replacement of the same. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

ARTICLE 2 APPOINTEES; GENERAL COVENANTS OF THE PARTIES

Section 2.1 Appointment Processes.

(a) Unless otherwise agreed in writing by the Parties, each Appointee appointed pursuant to this Agreement shall (i) have sufficient financial and/or operational experience with electric energy plants similar to the Project, (ii) be an individual who is an employee of one of the Parties to this Agreement or one of their respective affiliates, and (iii) serve in accordance with the applicable terms and provisions of this Agreement and the Ownership and Operation Agreement.

(b) Puget shall appoint the individual and alternates who shall be entitled to use the Shared Vote on Puget’s behalf under this Agreement (the “*Puget Appointee*”). NorthWestern shall appoint the individual and alternates who shall be entitled to use the Shared Vote on NorthWestern’s behalf under this Agreement (the “*NorthWestern Appointee*”). Talen shall appoint the individual and alternates who shall be entitled to use the Shared Vote on Talen’s behalf under this Agreement (the “*Talen Appointee*”).

(c) Notice of any appointment made pursuant to this Section 2.1 shall be delivered in writing to the other Parties not later than one Business Day prior to the effective date of such appointment. Nothing in this Section 2.1 is intended to limit the Parties’ ability to agree in writing to alter the selection process for any Appointee. The Notice of appointment shall contain

contact information for the Appointee, including a physical mailing address, electronic mail address, and telephone number.

Section 2.2 Appointee Obligations. During his or her term each Appointee shall act in accordance with this Agreement. If an Appointee breaches any of its material obligations under this Agreement, such Appointee shall be removed by the appointing Party promptly after (a) receipt of written notice from the non-appointing Party, which notice shall describe the breach in reasonable detail, and (b) such appointing Party's or its Appointee's failure to cure such breach within five business days from the date such written notice is received. A replacement Appointee shall be selected in the manner of selecting the Appointee set forth in Section 2.1.

Section 2.3 General Acknowledgments and Agreements. The Parties hereby make the following acknowledgements and agreements:

(a) Wherever either Party's approval, consent or agreement is required under this Agreement, it is understood that such approval, consent or agreement shall not be unreasonably withheld, delayed or conditioned unless this Agreement specifically provides that a different standard should apply.

(b) The Parties shall maintain in confidence the communications, discussions and deliberations with the Appointees and between the Parties regarding the advice to, consultation with, and the establishment of strategy and casting of votes with respect to the Shared Vote; provided that (i) the obligation set forth herein shall not be construed to prohibit disclosure (A) to a Party's employees, shareholders, directors, officers, advisors, agents, representatives or lenders, (B) of information that is or becomes generally available to the public other than as a result of any improper disclosure of such information by the disclosing Party, or (C) of information required to be disclosed under applicable Laws and (ii) the Parties may mutually agree to disclose some or all of the communications, discussions or deliberations addressed hereby. Nothing in this Section 2.3(b) shall constitute a waiver of, or agreement not to assert, any attorney-client, work product, or other privilege unless otherwise available with respect to a Party, its Appointees and their separate deliberations and consultations.

(c) Nothing contained herein shall prohibit an Appointee from advancing any argument or taking any position at a Project Committee meeting inconsistent with the official vote being cast by the Shared Vote, and the Parties shall not interfere with an Appointee's efforts to communicate with the Project Committee on any matter before the Project Committee.

(d) This Agreement does not apply to rights, votes, approvals, consents, waivers or the like that are to be made or exercised directly by Owners or Project Users or the Operator (including by an individual appointed as a Party Appointee but only to the extent acting on behalf of such Owners or Project Users and not as a Party Appointee) under the Ownership and Operation Agreement (as opposed to rights, votes, approvals, consents, waivers or the like designed to be made or exercised by the members of the Project Committee or the Project Committee as a whole). The Party Appointees shall not have the power to bind the Parties beyond their ability to cast the Shared Vote hereunder; it being understood that Appointees may

waive Objections but do not, in capacities as such, have the power to waive any other rights under this Agreement.

Section 2.4 Exclusive Remedies. Furthermore, each Party agrees that its exclusive remedy for a breach of this Agreement shall be an action against the other Parties, and not its Appointee, in the manner permitted by this Agreement.

ARTICLE 3 THE VOTING PROCESS

Section 3.1 Voting Rights and Objections Generally.

(a) With respect to any Colstrip 3 Proposal, Colstrip 4 Proposal, Mixed Proposal, Colstrip 3 Decommissioning Proposal, Colstrip 4 Decommissioning Proposal, Colstrip 3 Budget Proposal, Colstrip 4 Budget Proposal, or Remediation Proposal, the Shared Vote shall be cast strictly in accordance with this Agreement by the Party Appointee or Party Appointees as described in the table contained below in this Section 3.1(a). Objections shall be communicated as soon as possible but in any event prior to the casting of an official vote by the Project Committee as follows: (i) the Objection shall be communicated in writing delivered via email or verbally by telephone or in person to the other Parties' Appointees for any Proposal received on the day of the Project Committee meeting in which such Proposal is to be considered and (ii) the Objection shall be communicated in writing delivered via email or verbally by telephone or in person to the other Parties' Appointees for any Proposal received prior to the day of the Project Committee meeting in which such Proposal is to be considered. The Objections which may be raised and the manner in which the Shared Vote may be cast are set forth on the table below. If the Puget Appointee is designated in the table contained below in this Section 3.1(a) to cast the Shared Vote, and the Puget Appointee is absent from a Project Committee meeting and appropriate alternate arrangements consistent with the Ownership and Operation Agreement have not been made (except for such absences due to an emergency or similar circumstances beyond such Appointee's control), the Unit 4 Owners' Appointees may collectively cast the Shared Vote as determined in accordance with the provisions of this Section 3.1(a). If the Unit 4 Owners' Appointees are designated in the table contained below in this Section 3.1(a) to cast the Shared Vote, and one of such Unit 4 Owners' Appointees is absent from a Project Committee meeting and appropriate alternate arrangements consistent with the Ownership and Operation Agreement have not been made (except for such absences due to an emergency or similar circumstances beyond such Appointees' control), the other Unit 4 Owners' Appointee may cast the Shared Vote as determined in accordance with the provisions of this Section 3.1(a). If the Unit 4 Owners' Appointees are designated in the table contained below in this Section 3.1(a) to cast the Shared Vote, and both of such Appointees are absent from a Project Committee meeting and appropriate alternate arrangements consistent with the Ownership and Operation Agreement have not been made (except for such absences due to an emergency or similar circumstances beyond such Appointees' control), the Puget Appointee may cast the Shared Vote as determined in accordance with the provisions of this Section 3.1(a).

Subject Matter	Voting Rights if no Objection is Raised	Permitted Objections	Default Resolution in Event of Objection or Disagreement between Unit 4 Owners' Appointees
Colstrip 3 Proposal	Puget Appointee casts the Shared Vote	<i>None</i>	Not Applicable
Colstrip 4 Proposal	Unit 4 Owners' Appointees collectively cast the Shared Vote, if the Unit 4 Owners are in agreement regarding how to cast the Shared Vote	<i>None</i>	If the Unit 4 Owners' Appointees are not in agreement regarding how to cast the Shared Vote, the Unit 4 Owners' Appointees shall abstain from voting on the Colstrip 4 Proposal, and no Shared Vote shall be cast with respect to such Proposal under this Agreement.
Mixed Proposal Other than for Replacement of Talen as Operator	Unit 4 Owners' Appointees collectively cast the Shared Vote, if the Unit 4 Owners are in agreement regarding how to cast the Shared Vote	<i>Prudency Objection:</i> The Puget Appointee shall be entitled to raise a Prudency Objection.	<p>If the Puget Appointee raises a Prudency Objection, the Unit 4 Owners' Appointees shall collectively cast the Shared Vote consistent with the results of a valid Poll conducted in accordance with <u>Section 3.2</u>. So long as such a Poll may be conducted, <u>Article 4</u> does not apply to Prudency Objections.</p> <p>If the Puget Appointee does not raise a Prudency Objection, but the Unit 4 Owners' Appointees are not in agreement regarding how to cast the Shared Vote, the Unit 4 Owners' Appointees shall abstain from voting on the Mixed Proposal, and no Shared Vote shall be cast with respect to such Proposal under this Agreement.</p>

Subject Matter	Voting Rights if no Objection is Raised	Permitted Objections	Default Resolution in Event of Objection or Disagreement between Unit 4 Owners' Appointees
Mixed Proposal for Replacement of Talen as Operator	NorthWestern Appointee casts the Shared Vote	<i>Prudency Objection:</i> Either or both the Puget Appointee and the Talen Appointee shall be entitled to raise a Prudency Objection.	If either the Puget Appointee or the Talen Appointee raises a Prudency Objection, the NorthWestern Appointee shall cast the Shared Vote consistent with the results of a valid Poll conducted in accordance with <u>Section 3.2</u> . So long as such a Poll may be conducted, <u>Article 4</u> does not apply to Prudency Objections.
Unit 3 Budget Proposal	Puget Appointee casts the Shared Vote	<i>None</i>	Not Applicable
Unit 4 Budget Proposal	Unit 4 Owners' Appointees collectively cast the Shared Vote, if the Unit 4 Owners are in agreement regarding how to cast the Shared Vote	<i>None</i>	If the Unit 4 Owners' Appointees are not in agreement regarding how to cast the Shared Vote, the Unit 4 Owners' Appointees shall abstain from voting on the Unit 4 Budget Proposal, and no Shared Vote shall be cast with respect to such Proposal under this Agreement.
Unit 4 Decommissioning Proposal	Unit 4 Owners' Appointees collectively cast the Shared Vote, if the Unit 4 Owners are in agreement regarding how to cast the Shared Vote	<i>Prudency Objection:</i> The Puget Appointee shall be entitled to raise a Prudency Objection.	If the Puget Appointee raises a Prudency Objection, the Unit 4 Owners' Appointees shall collectively cast the Shared Vote consistent with the results of a valid Poll conducted in accordance with <u>Section 3.2</u> . So long as such a Poll may be conducted, <u>Article 4</u> does not apply to Prudency Objections. If the Puget Appointee does not raise a Prudency Objection, but the Unit 4

Subject Matter	Voting Rights if no Objection is Raised	Permitted Objections	Default Resolution in Event of Objection or Disagreement between Unit 4 Owners' Appointees
			Owners' Appointees are not in agreement regarding how to cast the Shared Vote, the Unit 4 Owners' Appointees shall abstain from voting on the Unit 4 Decommissioning Proposal, and no Shared Vote shall be cast with respect to such Proposal under this Agreement.
Unit 3 Decommissioning Proposal	Puget Appointee casts the Shared Vote	<i>Prudency Objection:</i> Either or both the NorthWestern Appointee and the Talen Appointee shall be entitled to raise a Prudency Objection with respect to any Unit 3 Decommissioning Proposal for the deconstruction, removal, or demolition of all or a portion of Colstrip Unit 3.	If either or both the NorthWestern Appointee and the Talen Appointee raise a Prudency Objection, the Puget Appointee shall cast the Shared Vote consistent with the results of a valid Poll conducted in accordance with <u>Section 3.2</u> . So long as such a Poll may be conducted, <u>Article 4</u> does not apply to Prudency Objections.
Remediation Proposal	Puget Appointee casts the Shared Vote	<i>Prudency Objection:</i> Either or both the NorthWestern Appointee and the Talen Appointee shall be entitled to raise a Prudency Objection.	If either or both the NorthWestern Appointee and the Talen Appointee raise a Prudency Objection, the Puget Appointee shall cast the Shared Vote consistent with the results of a valid Poll conducted in accordance with <u>Section 3.2</u> . So long as such a Poll may be conducted, <u>Article</u>

Subject Matter	Voting Rights if no Objection is Raised	Permitted Objections	Default Resolution in Event of Objection or Disagreement between Unit 4 Owners' Appointees
			4 does not apply to Prudency Objections.

(b) In connection with any Colstrip 3 Proposal, Colstrip 4 Proposal, Mixed Proposal, Unit 3 Decommissioning Proposal, Unit 4 Decommissioning Proposal, Unit 3 Budget Proposal, Unit 4 Budget Proposal, or Remediation Proposal, the Puget Appointee, the NorthWestern Appointee, and the Talen Appointee agree to cooperate reasonably and consult with one another regarding the classification of such Proposal and the establishment of strategy and casting of the Shared Vote in accordance with and subject to the terms of this Agreement. This covenant to cooperate includes, without limitation, the obligation to provide each other Party with notice of any conflict or disagreement regarding classification of a Proposal as soon as reasonably practicable, and in any event within two (2) Business Days following the Parties' receipt of such Proposal in accordance with the provisions of the Ownership and Operation Agreement. If a Proposal may reasonably be classified in more than one category of Proposal, such Proposal shall (except as otherwise provided in the definition of "Mixed Proposal" with respect to Mixed Proposals for Replacement of Talen as Operator) be classified in the category to which the Proposal primarily relates. Without limiting any provision of Section 3.1(a), if the Puget appointee, the NorthWestern Appointee, and the Talen Appointee are unable to agree upon the appropriate classification of a Proposal within seven (7) days after the Parties' receipt of notice of such Proposal, the dispute regarding classification shall be resolved in accordance with Article 4, and the classification of such Proposal as determined in accordance with Article 4 shall be binding upon the Parties. If, despite the good faith efforts of the Parties, the Project Committee vote occurs prior to resolution of a disagreement regarding classification of a Proposal, the Shared Vote shall not be cast.

(c) In each instance in which the Shared Vote is cast, the Puget Project Committee member shall, without regard to the Party or Parties authorized to cast such Shared Vote under this Agreement, be deemed for purposes of Section 17(f) of the Ownership and Operation Agreement to have voted in a manner consistent with such Shared Vote.

Section 3.2 The Conduct and Results of a Prudency Objection Poll.

(a) If a Party Appointee asserts a Prudency Objection, the applicable Party or Parties that are entitled to cast the vote pursuant to Section 3.1 shall request that the Project Committee conduct a Poll regarding such Proposal as follows: (i) if the Prudency Objection is asserted on the day of or during the Project Committee meeting in which the Proposal is to be considered, such Party or Parties shall request during the Project Committee meeting that a Poll be conducted during such meeting and (ii) if the Prudency Objection is asserted prior to the day of the Project Committee meeting in which the Proposal is to be considered, such Party or Parties shall give notice both telephonically and by email to the Party asserting the Prudency Objection that such Party or Parties will request that a Poll be taken at the Project Committee meeting.

(b) A valid “Poll” is one in which the Party Appointees and the Project Committee members representing the other Project Users present their respective good faith indications of how they intend to vote on the Proposal being considered. For purposes of conducting the Poll, the Project Shares of each Party shall be tallied separately. Therefore, the results of a valid Poll shall present a pure tally of the Project Users’ positions with respect to a Proposal based on each Project User’s separate Project Share. For purposes of such Poll a Proposal shall be deemed approved if the Proposal is approved by Party Appointees and other Project User Project Committee members representing not less than the minimum percentage of the Project Shares (as determined in accordance with Section 3.2(b)) required for approval of such Proposal under the Ownership and Operation Agreement, without application of the requirement of Section 17(f) of the Ownership and Operation Agreement for approval by the Operator’s Project Committee member and two other Project Committee members. The official Shared Vote on the Proposal being considered in the Poll shall be cast consistent with the results of the Poll in light of the voting and approval requirements that are applicable to such Proposal under the Ownership and Operation Agreement (i.e., either approved or not approved). The fact that a Party Appointee or other Project User’s Project Committee member casts an official vote on the Proposal that differs from its Poll vote shall have no bearing on the validity of the official Shared Vote. The Shared Vote cast may be changed only upon the concurrence of all of the Parties, and in accordance with the terms and provisions of the Ownership and Operation Agreement.

(c) Where Puget, through its Appointee, has cast the Shared Vote to reject (or not approve) a Proposal, Puget shall have the sole right and, as among the Parties, the responsibility to submit a Disapproval Statement, and the Unit 4 Owners shall have no right to submit a Disapproval Statement representing the Shared Vote relating to such rejected (or unapproved) Proposal. Where the Unit 4 Owners, through their Appointees, have abstained from voting on a Proposal or have cast the Shared Vote to reject (or not approve) a Proposal, the Unit 4 Owners shall have the sole right and, as among the Parties, the responsibility to submit a Disapproval Statement, and Puget shall have no right to submit a Disapproval Statement representing the Shared Vote relating to such rejected (or unapproved) Proposal. If the Shared Vote was not cast for any other reason, Puget, on the one hand, and the Unit 4 Owners, on the other hand, shall attempt to submit, through the Puget Project Committee member, a joint Disapproval Statement that contains the Parties’ positions on, and alternatives with respect to, the Proposal. If two or more Parties are submitting a Disapproval Statement, such Parties shall reasonably cooperate to prepare and submit a Disapproval Statement on behalf of the Shared Vote that present positions and alternative proposals that are agreeable to such Parties; it being the express preference of this Agreement that a Disapproval Statement actually be submitted within the time periods required under the Ownership and Operation Agreement.

ARTICLE 4 DISPUTE RESOLUTION

Section 4.1 Mutual Discussions. If any dispute or difference of any kind whatsoever shall arise between the Parties in connection with, or arising out of, this Agreement or the interpretation, performance, breach, termination or validity hereof, including without limitation any claim based on contract, text or statute (the “*Dispute*”), the Parties shall attempt to settle such Dispute in the first instance by mutual discussions in accordance with this Section 4.1. Within seven (7) Business Days of the receipt by any Party of a notice from any other Party of

the existence of a Dispute referring to this Article 4 (the “*Dispute Notice*”), the receiving Party shall reply with a written response (a “*Dispute Notice Response*”). Both the Dispute Notice and the Dispute Notice Response shall include (i) a statement of the relevant Party’s position with regard to the Dispute and a summary of arguments supporting such position; and the name and title of the executive who will represent that Party in attempting to resolve the Dispute pursuant to this Section 4.1. Within seven (7) Business Days of delivery of the Dispute Notice Response, the designated executives shall meet and attempt to resolve the Dispute. All negotiations pursuant to this clause shall be confidential and shall be treated as compromise and settlement negotiations, and no oral or documentary representations or offers made by the Parties during such negotiations shall be admissible for any purpose in any subsequent proceedings.

Section 4.2 Arbitration. If any Dispute is not resolved within thirty (30) days of receipt of a Dispute Notice pursuant to Section 4.1, then, upon any Party’s request, the Dispute shall be finally and exclusively resolved by arbitration as follows:

(a) The arbitration shall be held accordance with the Commercial Arbitration Rules (the “*Rules*”) of the American Arbitration Association (the “AAA”), then in effect, except as modified herein. The arbitration shall be held, and the award shall be issued in Billings, Montana.

(b) The Parties shall appoint an arbitrator satisfactory to all Parties. If the arbitrator is not appointed within the time limit provided herein, such arbitrator shall be appointed by the AAA by using a listing, striking and ranking procedure in accordance with the Rules. Any arbitrator appointed by the AAA shall be a retired judge, preferably from a Federal District Court or Federal Court of Appeals, or a practicing attorney with no less than twenty (20) years of experience and an experienced arbitrator and if possible shall have experience with disputes relating to electric power infrastructure.

(c) The hearing shall be held, if possible, within four (4) months after the appointment of the arbitrator, or as soon thereafter as is reasonably practicable.

(d) By agreeing to arbitration, the entities signing this Agreement do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitrator shall have full authority to grant provisional remedies and to direct the entities signing this Agreement to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any entity signing this Agreement to respect the arbitrator’s orders to that effect.

(e) Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. §1 et seq. In arriving at their decision, the arbitrator shall be bound by the terms and conditions of this Agreement and the Closing Documents (as defined in the NorthWestern Colstrip Unit 4 Acquisition Agreement and the Talen Colstrip Unit 4 Acquisition Agreement, respectively) and shall apply the governing law of this Agreement as designated in Section 7.3 hereof.

(f) Any controversy concerning whether a Dispute is an arbitrable Dispute or as to the interpretation or enforceability of this paragraph shall be determined by the arbitrator.

(g) The arbitrator is not empowered to award damages in excess of compensatory damages, and each Party hereby irrevocably waives any right to recover consequential, punitive, exemplary or similar damages with respect to any Dispute. The award, which shall be in writing and shall state the findings of fact and conclusions of law upon which it is based, shall be final and binding on the Parties and shall be the sole and exclusive remedy among the Parties regarding any claims, counterclaims, issues or accounting presented to the arbitrator. Judgment upon any award may be entered in any court of competent jurisdiction. In appropriate circumstances, the arbitrator shall have the authority to order a termination of this Agreement.

The arbitrator's award shall allocate, in their discretion, among the Parties to the arbitration all costs of the arbitration, including the fees and expenses of the arbitrator and reasonable attorneys' fees, costs and expert witness expenses of the Parties. The award shall be final and binding on the Parties and may be enforced in any court having jurisdiction.

ARTICLE 5 TERM & TERMINATION

Section 5.1 **Term.** This Agreement shall become effective as of the date first written above and shall continue in full force and effect until the end of the term of the Ownership and Operation Agreement in accordance with Section 32 thereof.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Parties that, as of the Effective Date:

(a) such Party is duly formed and validly existing under the laws of the jurisdiction of its organization and is duly authorized to do business in each other jurisdiction in which it is required to be so qualified with full power and authority to perform its obligations hereunder and that the execution, delivery and performance of this Agreement has been duly authorized by such Party;

(b) this Agreement has been duly executed and delivered by such Party and constitutes the legal, valid, binding and enforceable obligation of such Party enforceable in accordance with its terms against such Party subject to the effect of bankruptcy, insolvency, moratorium and other similar Laws relating to creditors' rights generally, whether existing at law or in equity, by general equitable principles and by an implied covenant of good faith and fair dealing;

(c) no consent, approval or authorization of, or filing, registration or qualification with, any court or governmental authority on the part of such Party is required for the execution and delivery of this Agreement by such Party and the performance of its obligations and duties hereunder, other than those that have been made or obtained; and

(d) such Party is in material compliance with all Laws and legal requirements applicable to its business.

ARTICLE 7 MISCELLANEOUS

Section 7.1 Assignment: Third Party Beneficiaries. A transfer or assignment by any Party of any part of its interest under this Agreement to any other Person (an “*Assignee*”) shall be subject to the non-assigning Parties’ receipt of written evidence that each of the following conditions has been satisfied: (a) the assigning Party shall be simultaneously transferring or assigning a corresponding portion of its Project Share, which is subject to this Agreement, to such Assignee, (b) such Assignee shall have assumed in writing the corresponding duties and obligations of the assigning Party which arise and are attributable to the period after the effective date of the assignment and (c) if a partial (but not a full) assignment of this Agreement is being effected, arrangements regarding the casting of the Shared Vote acceptable to the non-assigning Parties shall be agreed upon in writing (including, without limitation, by amending this Agreement). Except as explicitly provided herein, nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties and their successors and assigns permitted hereunder any rights, remedies, obligations or liabilities under or by reason of this Agreement.

Section 7.2 Specific Performance. The Parties hereby declare that it is impossible to measure in money the damages that will accrue to a Party hereto by reason of a failure to perform any of the obligations under this Agreement and agree that the terms of this Agreement shall be specifically enforceable. If any Party hereto institutes any action or proceeding to specifically enforce the provisions hereof, the Party against which such action or proceeding is brought hereby waives the claim or defense therein that such Party has an adequate remedy at law, and such Party shall not offer in any such action or proceeding the claim or defense that such remedy at law exists.

Section 7.3 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MONTANA WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

Section 7.4 Limitation on Certain Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE LIABLE FOR SPECIAL, PUNITIVE, SPECULATIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING LOST PROFITS IN THE NATURE OF INDIRECT DAMAGES OR LOSS OF OPPORTUNITY DAMAGES, FOR ANY REASON WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, STATUTE, OTHER LAW OR OTHERWISE AND WHETHER OR NOT ARISING FROM ANY OTHER PARTY’S SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT, UNLESS SUCH DAMAGES ARE AWARDED TO A PERSON IN AN INDEMNIFIABLE THIRD PARTY CLAIM OR ARE ATTRIBUTABLE TO THE FRAUD OR WILLFUL MISCONDUCT OF A PARTY.

Section 7.5 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7.6 Notices and Communications. Except as otherwise provided in this Agreement, any notice, request, instruction or other document to be given hereunder by a Party hereto shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third (3rd) Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid

Notices to NorthWestern shall be addressed to the NorthWestern Appointee at the address provided pursuant to Section 2.1(c), with a copy to:

NorthWestern Corporation
208 North Montana Ave. Suite 205
Helena, MT 59601
Attention: Legal Department
Email: Heather.Grahame@northwestern.com and John.Tabaracci@northwestern.com

or at such other address and to the attention of such other Person as NorthWestern may designate by written notice to the other Parties.

Notices to Puget shall be addressed to the Puget Appointee at the address provided pursuant to Section 2.1(c), with a copy to:

Puget Sound Energy, Inc.
355 110th Avenue NE
Bellevue, WA 98004
Attention: Legal Department
Email: Steve.Secrist@pse.com and Samuel.Osborne@pse.com

or at such other address and to the attention of such other Person as Puget may designate by written notice to the other Parties.

Notices to Talen shall be addressed to the Talen Appointee at the address provided pursuant to Section 2.1(c), with a copy to:

Talen Montana, LLC
1780 Hughes Landing Boulevard Suite 800
The Woodlands, TX 77380
Attn: General Counsel

Email: Andrew.Wright@talenergy.com and Damon.Obie@talenergy.com

or at such other address and to the attention of such other Person as Talen may designate by written notice to the other Parties.

Section 7.7 Amendments and Waivers. This Agreement may be amended, supplemented or otherwise modified only by a writing executed and delivered by each Party. No waiver of any right under this Agreement shall be binding unless such waiver is in a writing by the Party to be bound. No failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege under this Agreement, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 7.8 Further Assurances. Each of the Parties agrees to perform all such acts (including executing and delivering such instruments and documents) as reasonably may be requested by any other Party to fully effect the intent and each and all of the purposes of this Agreement.

Section 7.9 Conflicts. In the event of a conflict between either the NorthWestern Colstrip Unit 4 Acquisition Agreement or the Talen Colstrip Unit 4 Acquisition Agreement, on the one hand, and this Agreement, on the other hand, the terms and provisions of this Agreement shall govern.

Section 7.10 Headings. The Article and Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 7.11 Survival. The representations and warranties set forth in Article 6 shall survive the Effective Date.

Section 7.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but all of which together shall constitute a single instrument.

Section 7.13 Contract Only, etc. This Agreement creates a contractual relationship among the Parties and does not give rise to any fiduciary, quasi-fiduciary, partnership or other special relationship which would result in the implication of rights, duties or standards of care or performance other than such rights, duties and standards as would attend a contract between sophisticated commercial parties each represented by separate counsel.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the Parties as of the day first above written.

NORTHWESTERN CORPORATION

By: _____
Name:
Title:

PUGET SOUND ENERGY, INC.

By: _____
Name:
Title:

TALEN MONTANA, LLC

By: _____
Name:
Title: