

BYLAWS

OF

Regional Organization for Western Energy, Inc.

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ARTICLE I OFFICES

The principal executive office of the Regional Organization for Western Energy (the “Corporation”) and any other additional offices shall be established and maintained at such location(s) as the Board of Directors may designate from time to time.

ARTICLE II PURPOSE

The purpose of the Corporation is to provide independent regional governance over certain voluntary energy markets, services, and functions to be operated in the western United States, including, but not limited to the Western Energy Day-Ahead Market and the Western Energy Imbalance Market (collectively “Markets”), which it is authorized to provide from time to time pursuant to the Tariff and other applicable statutes, tariffs, rules, and regulations. The independent governance shall be provided to and for entities and persons operating within the markets, consumers, and affected stakeholders while acting in the public interest, including consideration of the policies of all Participating States.

ARTICLE III DEFINITIONS

“Body of State Regulators” means the group of state regulators, consisting of representatives from each Participating State, which will participate in the Corporation’s processes for policymaking and Tariff modifications. The Body of State Regulators shall not be deemed a committee of the Board of Directors under these Bylaws but rather shall be advisory in nature.

“CAISO” means the California Independent System Operator, which operates the Western Energy Markets governed by the Corporation.

“FERC” means the Federal Energy Regulatory Commission or any successor entity.

“Nominating Committee” means a committee that is created and operates pursuant to the Selection Policy and that consists of representatives from various designated market sectors as defined by the Stakeholder Representatives Committee in accordance with these Bylaws. The Nominating Committee shall nominate candidates to serve on the Board, all pursuant to the Selection Policy defined herein. The Nominating Committee shall not be deemed a committee of the Board of Directors under these Bylaws but rather shall be advisory in nature.

“Open Meetings and Records Policies” means the policies adopted by the Board of Directors from time to time, consistent with FERC requirements and these Bylaws to govern notice and public access to meetings and availability and management of public and confidential and privileged materials and records to comply with applicable statutes, rules, and board policies.

“Participating State” means any state with one or more balancing authorities participating in the Western Energy Markets.

“Selection Policy” means the process adopted by the Board of Directors pursuant to Section 5.4.1 of these Bylaws for selection and presentation of a slate of nominees to serve as members of the Board of Directors from time to time.

“Stakeholder Representatives Committee” means the body of stakeholders regularly convened to advise the Corporation and present solutions on issues requiring changes to the Tariff. Members of the Stakeholder Representatives Committee shall be determined within and by designated market sectors. The Stakeholder Representatives Committee shall not be deemed a committee of the Board of Directors under these Bylaws but rather shall be advisory in nature.

“Tariff” means the FERC tariff(s) overseen by the Corporation, as amended from time to time, governed by the Corporation.

“Western Energy Day-Ahead Market” or “WEDAM” means the day-ahead market governed by the Corporation.

“Western Energy Imbalance Market” or “WEIM” means the market and method for resolving imbalance of supply and demand in real time governed by the Corporation.

“Western Energy Markets” or “Markets” means the Western Energy Day-Ahead Market and the Western Energy Imbalance Market, or successor or additional energy markets that may be authorized by the FERC, collectively.

ARTICLE IV PUBLIC INTEREST

Public Interest. Consistent with its status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), the Corporation shall establish a structure that will enable the Corporation to receive, acknowledge, and consider input from affected stakeholders and the general public in the assessment and adoption of policy initiatives and Tariff revisions to improve the delivery of the services it provides for the benefit of its participants and the general public. In establishing this structure, the Corporation shall:

4.1.1 Recognize and establish funding for a Body of State Regulators to participate in the nomination of the Board of Directors and develop and maintain a process for the Board of Directors to receive and respond to information or recommendations by the Body of State Regulators representation in a public process.

4.1.2 Establish and support a Stakeholder Representatives Committee with representatives from various sectors designated by the Board of Directors to propose and review policy initiatives and Tariff revisions and make recommendations to the Board of Directors.

4.1.3 Establish and maintain a public policy committee consisting of members of the Board of Directors, which shall engage with Participating States and their designated representatives, local power authorities, federal power marketing administrations, the consumer advocate organization, and other stakeholders about potential impacts of policy initiatives and Tariff revisions on state, local, or federal policies and advise the Board of Directors of these impacts before the Corporation approves Tariff changes for filing at the FERC.

4.1.4 Support the creation of and make funding available for a consumer advocate organization that represents the interests of one or more consumer advocate offices authorized by state law in any Participating State and facilitate the engagement by the consumer advocate organization with the Corporation in the stakeholder engagement process developed for policy decisions to be made by the Board.

4.1.5 Establish and maintain an office of public participation of the Corporation to provide information and education to members of the public about the Corporation's activities and initiatives and to facilitate engagement in its processes.

4.1.6 Establish and maintain an independent market expert to provide analysis to the Board of Directors on the impacts of market dynamics and Tariff rule or policy changes on end-use consumers so that overall costs to end-use consumers may be minimized. The market expert shall also provide advice on any additional matters included by the Board of Directors in the market expert scope of work.

4.1.7 Adopt policies that reduce, to the extent possible, the overall economic cost to customers within Participating States.

State Policies. The Board shall consistently acknowledge and, where practicable, approve tariff changes, rules, or business practices that respect, accommodate, and do not unduly burden Participating States' achievement of state or local policy objectives, including procurement, resource adequacy, environment, reliability, and other consumer interests. The Board shall minimize any adverse impacts of revisions to its Tariffs, rules, and business practices on Participating States' policy objectives.

ARTICLE V BOARD OF DIRECTORS

Powers. The business and affairs of the Corporation shall be managed by, and all corporate powers shall be exercised by or under the direction of the Board of Directors.

Formation Board of Directors. The Board of Directors named in the Certificate of Incorporation shall be referred to as the formation Board of Directors and shall serve until replaced by the initial Board of Directors through the procedures adopted consistent with Section 5.3. This transition is expected to occur not later than nine (9) months prior to the planned commencement of the Corporation's governance of the Western Energy Markets. The formation Board of Directors shall have no authority to approve any tariff, business practice, or agreement with the CAISO, and these decisions shall be made by the initial and any future Board of Directors.

Section 5.3 Initial Board of Directors. The Nominating Committee shall nominate individuals to serve on the initial Board of Directors pursuant to the Selection Policy. The Pathways Launch Committee (a body of individuals entrusted with the founding of the Corporation) shall approve and propose to the formation Board a slate of candidates consisting of up to five individuals to serve as the initial Board of Directors commencing on the date of termination of the formation Board of Directors. The formation Board of Directors shall appoint

the initial Board of Directors, giving all due consideration to the slate proposed by the Pathways Launch Committee. In addition to those directors whose terms commence upon the termination of the formation Board of Directors, it is anticipated that two additional individuals shall be nominated by the Nominating Committee and elected by the initial Board of Directors at the first annual meeting conducted after the Tariff changes are approved by FERC and implemented to authorize independent governance of the Markets by the Corporation. Thereafter, the directors shall be elected, consistent with the Selection Policy and the procedures and processes set forth in Section 5.4.2.

Election of Board of Directors.

5.4.1 **Selection Policy.** The Board of Directors shall establish a Selection Policy to govern the procedures for selection of members of the Board of Directors and shall conduct the board selection process consistent with the Selection Policy as amended from time to time. The Selection Policy shall ensure an independent, representative Board of Directors that includes directors from multiple Participating States.

5.4.2 **Election Procedures.** Following the election of the initial Board of Directors, the Nominating Committee shall nominate individuals to succeed those directors who resign, are removed from office, or when their terms are expiring. Based on the results of this process, the Board of Directors shall elect directors to fill vacancies and expiring terms at each annual meeting of the Board of Directors. Each director, including a director elected to fill a vacancy, shall hold office throughout the term for which the director was elected until the election and seating of a successor director or until the death, resignation, or removal of such director. Elections of directors need not be by written ballot.

Qualification of Directors. Directors shall have such qualifications as may be prescribed by policies adopted by the Board of Directors, the Selection Policy, or by these Bylaws, and any other independence requirements adopted by the Board of Directors.

Number of Directors. The number of directors of the Corporation shall be set by the Board of Directors by resolution, from time to time, between three (3) and eleven (11), following the replacement of the formation Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

Term of Office of Directors. The terms of directors elected to the initial Board of Directors as set forth herein shall be staggered in classes of approximately equal numbers for periods from one to three years to ensure a balanced rotation of terms on the Board of Directors once the Corporation assumes governance over the Western Energy Markets. As terms of the initial Board of Directors expire, terms of successor directors shall be three (3) years and shall be staggered. Directors may serve a maximum of three (3) full three-year terms. The terms on the initial Board of Directors that are less than three years in length shall not be counted towards the maximum number of terms.

Resignation and Removal of Directors and Filling Vacancies.

5.8.1 **Resignation.** Any director may resign at any time upon written notice given in writing or by electronic transmission to the Corporation. Any such resignation shall

be effective upon delivery, unless the notice of resignation specifies a future effective date, and unless otherwise specified, the acceptance of such resignation shall not be a precondition to its effectiveness. Vacancies created by the resignation or removal of one or more members of the Board of Directors and new directorships created in accordance with the Bylaws of the Corporation, may be filled by the vote of a majority of the Board of Directors excluding the resigning director based on a slate of nominations presented by the Nominating Committee consistent with the Selection Policy, even if there remains less than a quorum of the directors then in office or by a sole remaining director.

5.8.2 Removal of a Director. Unless otherwise restricted by statute, by the Certificate of Incorporation or by these Bylaws, any director may be removed, with or without cause, by the Board of Directors. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office. When one or more directors are removed, replacement of such director(s) shall be governed by the Selection Policy.

ARTICLE VI MEETINGS OF THE BOARD OF DIRECTORS

Meetings.

6.1.1 Annual Meeting. The annual meeting of the Board shall be held on a date chosen by the President or the Board for the purposes of electing directors and officers and transacting such business as may properly come before the meeting. If the annual meeting is not held on the date designated therefore, the Board shall cause the meeting to be held as soon thereafter as may be convenient.

6.1.2 Regular Quarterly Meetings. The Board of Directors shall meet at least once during each quarter of the fiscal year at such dates, times, and locations, as the Board of Directors determines. At least two meetings each year shall be held at a location in a Participating State other than the Participating State where the principal place of business of the Corporation is located. The regularly scheduled meetings of the Board of Directors shall be established for each fiscal year in advance. Such regularly scheduled meetings may be held without further notice to the directors.

6.1.3 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or any two (2) directors consistent with policies adopted by the Board of Directors. The purpose of any such special meeting shall be limited to those circumstances that require the Board of Directors to take prompt action and that cannot be deferred to a regular meeting of the Board of Directors.

6.1.4 Executive Sessions. The Board of Directors may hold closed executive sessions for discussion of matters consistent with the open meeting policy. Directors and certain officers and employees of the Corporation, as designated or otherwise permitted by the directors, may be present during any executive session; provided, however, that to the extent deemed necessary by the Chair of the Board of Directors, any other person or persons having business before the Board of Directors that relates specifically to the matter or matters to be

discussed during any portion of an executive session may be present during such portion of an executive session. The Board of Directors may, at any time during any meeting, vote to adjourn the open meeting and reconvene in an executive session if consistent with the Open Meeting and Records Policies and at least a majority of the directors present at such meeting vote in favor of such adjournment and reconvening.

Notice of Meetings.

6.2.1 **General Notice.** Except as provided in Section 6.2.2, public notice of the date for each annual and regular quarterly meeting of the Board of Directors shall be set in the last meeting of a calendar year for the following calendar year, and the dates shall be placed on the Corporation's website within 30 days. A further notice of each meeting shall be placed on the Corporation's website at least four (4) business days before such meeting. The notice shall include an agenda that makes clear which items are for purposes of discussion, which are for purposes of taking action, which items are to be considered in an executive session and the purposes of such executive session(s), to the extent practicable, and instructions for remote participation. Failure to give the required notice of any item on which action is taken during the meeting shall void such action.

6.2.2 **Notice of Special Meetings.** Notice of a special meeting or special executive session shall be given to the Board of Directors at least two (2) days prior to the meeting and the public as soon as practicable and before the meeting is to be held. Such notice to the directors shall be delivered personally, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, by facsimile, or by electronic transmission. The notice requirements of this section may be waived in writing by any director with respect to that director, either before or after the meeting. The attendance of any director at a special meeting without protesting the lack of notice of such meeting, made as soon as reasonably practicable, shall constitute a waiver of notice by that director. All waivers shall be made part of the minutes of a special meeting.

6.2.3 **Waivers of Notice to Director.** Whenever notice is required to be given to a director under any provision of the General Corporation Law of Delaware or of the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Such waiver shall be deemed delivered if made by electronic transmission. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except when the director attends a meeting for the express purpose of objecting, at the beginning of the meeting or upon the director's arrival, to the transaction of any business because the meeting is not lawfully called or convened.

Place of Meetings; Telephonic Meetings. The Board of Directors may hold meetings, both regular and special, consistent with Section 6.2. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, and consistent with the Open Meetings and Records Policies, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or other electronic communications by means of which all persons

participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Transparency and Public Participation.

6.4.1 Attendance. Any member of the public may attend and observe meetings of the Board of Directors, except as provided in Section 6.1.4, and attendance will be available to remote participants. Decisions rendered by the Corporation shall be transparent and supported by documented materials, subject to the Open Meetings and Records Policies and other procedures established for executive sessions.

6.4.2 Public Comment. Consistent with the Open Meetings and Records Policies, at each meeting, the Board of Directors shall provide an opportunity for members of the public to comment on matters being considered by the Board of Directors at such time as the Board of Directors shall specify on the agenda. Members of the Board of Directors shall engage in informal public outreach from time to time to support reasonable public access to directors by representatives from Participating States.

**ARTICLE VII
VOTING**

Quorum and General Voting Requirements. At all meetings of the Board of Directors, two-thirds (2/3) of the directors then in office shall constitute a quorum for the transaction of business. The approval or action by a majority of the directors then in office at any meeting at which there is a quorum present shall be the act of the Board of Directors, except as may otherwise be specifically provided by the General Corporation Law of Delaware, by the Certificate of Incorporation, or as set forth below in Section 7.2 of these Bylaws. A director of the Corporation who is present at a board or committee meeting at which any action is taken shall be deemed to have assented to the action taken unless (i) the director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding the meeting or transacting any business at such meeting, (ii) the director's dissent or abstention from the action taken is entered in the minutes of the meeting, or (iii) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation within a reasonable time after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Major Decisions. Notwithstanding the provisions of Section 7.1, the action or approval of a two-thirds majority of the directors then in office shall be required to approve major decisions as follows:

- 7.2.1 Remove a director from the Board of Directors;
- 7.2.2 Amend, alter, or repeal these Bylaws;
- 7.2.3 Amend the Certificate of Incorporation;
- 7.2.4 Adopt a plan of merger or consolidation with another corporation;

7.2.5 Authorize the sale, lease, or exchange of all or substantially all of the property and assets of the Corporation not in the ordinary course of business;

7.2.6 Authorize the voluntary dissolution of the Corporation or revoke proceedings therefore; or

7.2.7 Adopt a plan for the distribution of all or substantially all assets of the Corporation.

Adjourned Meeting. If a quorum is not present at any meeting of the Board of Directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Standard of Care.

7.4.1 General. A director shall perform the duties of a director, including duties as a member of any committee of the Board of Directors on which the director may serve, in good faith, in a manner that such director believes to be in the best interest of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

7.4.2 Reliance. In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) One or more officers or employees of the Corporation whom the director believes to be reliable and competent in the matters presented;

(b) Counsel, independent accountants or other persons as to matters that the director believes to be within such person's professional or expert competence; or

(c) A committee of the Board of Directors upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, makes any reasonable inquiry when the need therefor is indicated by the circumstances and acts without knowledge that would cause such reliance to be unwarranted.

7.4.3 Ethical Conduct. The members of the Board of Directors shall on a periodic basis certify their review and understanding of a Directors' Code of Conduct and Ethical Principles adopted by the Board of Directors consistent with the General Corporation Law of Delaware.

Loans and Self-Dealing Transactions.

7.5.1 Loans. The Corporation shall not make any loan of money or property to, or guarantee the obligation of, any individual director, officer or employee; provided, however, that the Corporation may advance money to a director, officer or employee of the Corporation or any subsidiary for expenses reasonably anticipated to be incurred in performance

of the duties of such director, officer or employee so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

7.5.2 Self-Dealing Transactions. The Board of Directors shall not approve a transaction to which the Corporation is a party and in which one or more of the directors or their employers has a material financial interest and that does not meet the requirements of Section 7.5.3 below.

7.5.3 Exempt Transactions. The following transactions are exempted from the prohibition of Sections 7.5.1 and 7.5.2 above; provided, however, that any transaction described in paragraph (d) below must be included on the agenda of a Board of Directors meeting:

(a) A transaction that is part of a public or charitable program approved by the Board of Directors and that results in a benefit to one or more directors or their families only because they are members of a substantial class of unrelated persons intended to be benefited by the program.

(b) A transaction of which the director with a material financial interest has no actual knowledge of the financial interest, and that does not exceed the lesser of one (1) percent of the gross receipts of the Corporation for the preceding fiscal year or one hundred thousand dollars. However, a series of related transactions aggregating more than one hundred thousand dollars during a fiscal year will not be exempted pursuant to this provision.

(c) A transaction that has been approved in writing by the offices of the Attorney General in the Participating State with jurisdiction, in which the transaction will occur, before or after it was consummated.

(d) A transaction that the Board of Directors, having knowledge of the material facts concerning the transaction and the director's interest in the transaction, authorizes (by a vote of a majority of the directors then in office without counting the vote of the interested director) after considering and in good faith determining, upon reasonable investigation under the circumstances, that (i) the transaction will be entered into by the Corporation for its own benefit, (ii) the transaction is fair and reasonable as to the Corporation and (iii) the Corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Inspection Rights. To the extent provided in the Delaware General Corporation Law, each director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of the Corporation. No director shall use or disseminate any non-public information obtained as a result of any such inspection, or otherwise in his or her capacity as a director, for his or her own personal gain, to the detriment of the Corporation or to the detriment of any competitors of any entity with which the director is affiliated except in connection with the enforcement of a tariff, contract or applicable law and consistent with the Corporation's policy regarding confidential information.

Compensation.

7.7.1 Retainers and Fees. Directors shall receive compensation, which may take the form of an annual retainer and/or fees for attending each meeting of the Board or of Committees of the Board, as determined by the Board of Directors, in order to ensure the fullest participation in the decisions of the Corporation and to avoid hardship on the part of the directors. Such determination may establish compensation that differs for the Chair of the Board of Directors, chairs of committees, and other Board members.

7.7.2 Expense Reimbursement. Subject to approval by the Board of Directors, directors shall also be entitled to receive reimbursement for reasonable and necessary travel and other actual expenses incurred in performing duties of his or her office and in attending meetings of the Board of Directors and meetings of committees of the Board of Directors on which they are a member.

ARTICLE VIII CHAIR AND COMMITTEES

Chair and Vice-Chairs. The Board of Directors may, by resolution adopted by two-thirds of the directors then in office, appoint a Chair of the Board of Directors. At the discretion of the Board of Directors, one or more vice-chairs may also be appointed by the Board of Directors to assist the Chair.

Committees of Directors. The Board of Directors may, by resolution adopted by two-thirds of the directors then in office, designate one or more committees, including an Executive Committee, each consisting of two or more directors, to serve at the pleasure of the Board of Directors. Appointments to such committees shall be made annually by a two-thirds vote of the directors then in office. Any such committee, to the extent delegated in the resolution or in these Bylaws, shall have and may exercise all the powers and all of the authority of the Board of Directors in the management and affairs of the Corporation, except that no committee, regardless of the Board of Directors resolution, may:

- 8.2.1 Fill vacancies on the Board of Directors or on any committee;
- 8.2.2 Fix compensation of directors for serving on the Board of Directors or any committee;
- 8.2.3 Amend, repeal, or modify these bylaws or adopt new bylaws;
- 8.2.4 Amend, repeal, or modify any resolution of the Board of Directors that by its express terms is not so amendable, repealable, or modifiable;
- 8.2.5 Appoint any other committees of the Board of Directors or the members of these committees; or
- 8.2.6 Approve any self-dealing transaction as referred to in Section 7.5.2.

Advisory Committees. Advisory committees may be appointed from time to time by two-thirds of the directors then in office. Advisory committees' membership may consist of both directors and non-directors or non-directors only. Advisory committees have no legal or

expressed authority to act for the Corporation but shall report their findings and recommendations to the Board of Directors or a committee of the Board of Directors.

Audit & Finance Committee. The Board of Directors shall appoint an Audit Committee of the Board of Directors consisting of two or more directors elected by the Board of Directors. The Audit Committee shall have no powers of the Board of Directors but shall serve in an advisory capacity by reviewing the Corporation's annual independent audit and preparing a report for the Board of Directors. In addition, the Audit Committee shall monitor compliance with the Employees' and Directors' Code of Conduct and Ethical Principles to ensure the independence of the Corporation and shall make regular reports to the Board of Directors regarding such compliance. The Audit Committee shall make recommendations from time to time to the Board of Directors as to the implementation of procedures to oversee compliance with the Code of Conduct and Ethical Principles. The Audit Committee shall also have any other duties that are assigned by the Board of Directors.

Public Policy Committee. The Board of Directors shall appoint a Public Policy Committee of the Board of Directors consisting of two or more directors elected by the Board of Directors. The Public Policy Committee shall be responsible for conducting outreach at key points in the stakeholder process to Participating States and their designated representatives, local power authorities, federal power marketing administrations and stakeholders to collect input about the potential for adverse impacts on a state, local, or federal policy by an initiative. The input collected by the Public Policy Committee will be incorporated in the stakeholder process and presented to the Board of Directors before it votes on a final Tariff change.

Committee Meetings. Meetings of committees of the Board of Directors, notices of such meetings and the actions of such committees shall be governed by and held and taken in accordance with the provisions of Article VI of these bylaws concerning meetings of the Board of Directors. For the purposes of the application of Article IV to the meetings of Board of Directors committees, references in Article IV to the Board of Directors shall be read as references to the relevant committee of the Board of Directors. Minutes shall be kept of each meeting of any committee. The Board of Directors may adopt rules for the governance of any committee not inconsistent with the provisions of these Bylaws.

ARTICLE IX OFFICERS AND STAFF

Officers. The officers of the Corporation shall include a President, a Secretary, a Chief Financial Officer, and a Treasurer. At the discretion of the Board of Directors the Corporation may also have one or more vice presidents, assistant vice presidents, assistant secretaries, assistant treasurers and any such other officers as may be appointed in accordance with these Bylaws. Any number of offices may be held by the same person. Each officer shall hold office until such officer's successor is elected and qualified or until such officer's earlier resignation or removal. Board members shall not be eligible to serve as officers during their board term.

Appointment; Vacancies. The Board of Directors shall appoint all officers of the Corporation for such terms as the Board of Directors shall specify. Any vacancy occurring in any office shall be filled by the Board of Directors in accordance with this Section.

Removal. Subject to the rights, if any, of the officer under any contract of employment, any officer of the Corporation may be removed at any time with or without cause by the Board of Directors.

Resignation. Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect on the date of the receipt of that notice or at any later time specified by that notice and unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract of employment with the officer.

President. The President shall be the chief executive officer of the Corporation and shall be responsible for conducting the affairs of the Corporation in a manner consistent with the policies and directives of the Board of Directors. He or she shall have such additional powers and duties as may be prescribed by the Board of Directors.

Secretary. The Secretary shall serve notice of and act as Secretary at all meetings of the Board of Directors, shall prepare agendas for the Board of Directors, shall record the proceedings of all meetings in the minute books and shall keep or cause to be kept a book of minutes of all meetings and activities of directors and committees of directors. The Secretary shall have such additional powers and duties as shall be prescribed by the Board of Directors.

Chief Financial Officer. The Chief Financial Officer of the Corporation shall be responsible for maintaining books and records of the Corporation and shall prepare and submit such accounting and tax forms as may be required by local, state, and federal law. The Chief Financial Officer shall have such additional powers and duties as shall be prescribed by the Board of Directors.

Treasurer. The Treasurer of the Corporation shall have charge and custody of and shall receive, safeguard, disburse and account for all funds of the Corporation, and shall deposit and invest them in such banks, other depositories or investments as may be designated by the Board of Directors. The Treasurer shall have such additional powers and duties as shall be prescribed by the Board of Directors.

Compensation. The reasonable salaries of the officers shall be fixed from time to time by the Board of Directors, or by any committee or officer to which or whom, as the case may be, the Board of Directors has delegated such authority.

Authority and Duties of Officers. In addition to the foregoing authority and duties, all officers of the Corporation shall respectively have such authority and perform such duties in the management of the business of the Corporation as may be designated from time to time by the Board of Directors.

Execution of Instruments. The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract

or execute any instrument in the name of and on behalf of the Corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount. Notwithstanding the foregoing, President shall have the authority to execute legal instruments on behalf of the Corporation, subject to any restrictions or limitations that the Board of Directors may impose. The President's authority to execute legal instruments on behalf of the Corporation may be delegated by the President to officers and employees of the Corporation on a general or limited basis with the prior approval of the Board of Directors.

Employees Code of Conduct and Ethical Principles. The Board of Directors shall oversee the design and implementation of and shall adopt the Corporation's Compliance and Ethics Program, including the Employee's Code of Conduct and Ethical Principles, and the Corporation's procedures for employees and others to report suspected misconduct. The Board of Directors shall approve any material modifications to the foregoing policies.

ARTICLE X RECORDS

Minute Book. The Corporation shall keep or cause to be kept a minute book that shall be available for public inspection during the Corporation's normal business hours and shall contain:

10.1.1 The record of all meetings of the Board of Directors including the date, place, those attending the proceedings thereof (other than members of the public), a copy of the notice of the meeting and when and how given, waivers of notice of meeting, written consents to holding meeting, written approvals of minutes of meeting and similarly as to meetings of committees of the Board of Directors and as to meetings or written consents of the Incorporator of the Corporation prior to the appointment of the initial Board of Directors.

10.1.2 A copy of the Articles of Incorporation and all amendments thereof and a copy of all certificates filed with the Secretary of State.

10.1.3 A copy of these bylaws, as amended, duly certified by the Secretary.

Availability of Information. Access to records, confidentiality protections, and all handling of requests for records and data related to the activities of the Board of Directors and operations of the Markets shall be governed by the Open Meetings and Records Policies adopted by the Board of Directors from time to time, which, when adopted, shall be consistent with applicable FERC requirements. The Open Meetings and Records policies shall generally acknowledge that information regarding the Corporation and its operations, other than information that the Board of Directors has determined must be kept confidential in order to protect the interests of the Corporation according to standards adopted in the Open Meetings and Records Policies or information received by the Corporation that is subject to a confidentiality obligation, shall be publicly available, provided that the Corporation may require any recipient of such information

comply with processes adopted in the Open Meetings and Records Policies and to pay the reasonable costs of providing such information.

10.2.1 The Open Meetings and Records Policies shall be published and shall establish the types of records that are presumed confidential, the process in which the public can access non-confidential information, the time in which the Corporation must respond to a records request, and other matters to facilitate access consistent with the duties of the Corporation.

10.2.2 Subject to the Open Meetings and Records Policies, the Board of Directors shall make confidential market data available to state energy regulatory commissions, and any consumer advocacy organizations designated by state statute or regulation in any Participating State to advocate on behalf of the public related to electricity market issues.

Records Retention. The Board of Directors shall oversee the implementation of a records retention program complying with FERC requirements and any other applicable laws.

ARTICLE XI INDEMNIFICATION

Indemnification of Officers and Directors. To the fullest extent permitted by applicable law as it presently exists or may hereafter be amended (provided, that in the case of such an amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), the Corporation shall indemnify and hold harmless each person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a “proceeding”) by reason of the fact that such person is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity (including service with respect to an employee benefit plan), against all liability, loss and reasonable expense incurred by such person, including attorneys’ fees, judgments, fines, penalties, Employee Retirement Income Security Act (ERISA) excise taxes and amounts paid in settlement of proceedings. Except as set forth in Section 11.2 below, the Corporation shall be required to indemnify a person in connection with a proceeding (or part thereof) initiated by such person only if the proceeding (or part thereof) was authorized by the Board of Directors. The right to indemnification under this Article shall be construed as a contractual right of the indemnitees and shall inure to the benefit of an indemnitee’s heirs, executors, and administrators.

Prepayment of Expenses; Undertaking to Repay. The Corporation shall pay the expenses (including attorneys’ fees) expected to be incurred in defending any proceeding in advance of its final disposition; provided, however that if the General Corporation Law of Delaware then so requires, the payment of expenses incurred in advance of the final disposition of the proceeding by a director or officer in such person’s capacity as such (and not in any other capacity in which service is or was rendered by such person such as service with respect to an employee benefit plan) shall be made only upon receipt of an undertaking by the director or officer to repay all amounts advanced if it is determined by a final judicial determination from which there is no further possibility of appeal that the director or officer is not entitled to be indemnified under this Article or otherwise and provided, further that the Corporation shall not be required to prepay

any expenses to a person against whom the Corporation directly brings a claim alleging that such person has (i) breached such person's duty of loyalty to the Corporation, or committed an act or omission not in good faith or that involves intentional misconduct or a knowing violation of law, or (ii) derived an improper personal benefit from a transaction.

Claims by Indemnitee; Presumption of Validity. If a claim for indemnification or payment of expenses under this Article not paid in full within 60 days after a written claim therefor has been presented to the Corporation (except in the case of a claim for prepayment of expenses in accordance with Section 11.2 above, in which case the applicable period shall be 20 days) the indemnitee may file suit to recover the unpaid amount of such claim. If successful in whole or in part in any such suit, the indemnitee shall be entitled to be paid the expense of prosecuting such claim. In any such action, the Corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or payment of expenses under applicable law. The indemnitee shall be presumed to be entitled to indemnification under this Article upon submission of a written claim (and, in an action brought to enforce a claim for prepayment of expenses, where the required undertaking, if any is required, has been tendered to the Corporation), and thereafter the Corporation shall have the burden of proof to overcome the presumption that the indemnitee is so entitled. Neither the failure of the Corporation (including its Board of Directors or independent legal counsel) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances, nor an actual determination by the Corporation (including its Board of Directors or independent legal counsel) that the indemnitee is not entitled to indemnification shall be a defense to the suit or create a presumption that the indemnitee is not so entitled.

Non-Exclusivity of Rights. The rights conferred on any person by this Article shall not be exclusive of any other rights that such person may have or may hereafter acquire under any statute, provision of the Certificate of Incorporation or these Bylaws, contractual agreement, or disinterested directors or otherwise. Additionally, nothing in this Article shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article.

Set-off Against Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount that such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise or nonprofit entity.

Effect of Amendment or Repeal. No repeal or modification of this Article shall adversely affect any right or protection afforded hereunder to any person in respect of an act or omission occurring prior to the time of such repeal or modification.

Indemnification of Employees and Agents. The Corporation may, by action of the Board of Directors, extend the rights described in this Article to individual employees or agents, or groups of employees or agents of the Corporation with the same scope and effect as the provisions of this Article; provided, however, that an undertaking of the sort described in Section 11.2 shall be required only if specifically requested by the Board of Directors.

Insurance; Indemnification Agreements. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or nonprofit entity against any liability asserted against such person and incurred by such person in any such capacity, or arising out of the status of such person as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of the General Corporation Law of Delaware. The Corporation may enter into contracts with any person who is or was a director, officer, employee or agent, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or nonprofit entity, in furtherance of the provisions of this Article. The Corporation may also create a trust fund or use other means (including, without limitation, a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification as provided herein.

Reliance Upon Books, Reports and Records. Each director, each member of any committee designated by the Board of Directors and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person as to matters which such director or committee member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Certain Definitions. For purposes of this Article, references to the "Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise or nonprofit entity, shall stand in the same position under this Article with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

ARTICLE XII MISCELLANEOUS

Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

Corporation Seal. The Corporation shall have a seal that shall be specified by resolution of the Board of Directors. The seal shall be affixed to all corporate instruments, but failure to affix it shall not affect the validity of the instrument.

Amendment of Bylaws. These bylaws may be amended by the vote of at least two-thirds of the directors then in office. All directors must receive at least thirty days' prior written notice of any vote on amending these bylaws.

Reimbursement of Expenses of the Corporation. The Corporation shall provide full reimbursement for monies reasonably and necessarily expended on behalf of the Corporation by its directors, officers, and employees.

Checks. From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidence of indebtedness that are issued in the name of or payable to the Corporation, and only the persons so authorized shall sign or endorse those instruments.

Posting. These bylaws, the certificate of incorporation, a code of conduct and ethical principles, and the specific policies referenced herein shall be made available to the public on the Corporation's website.

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