

GALLAGHER & KENNEDY

P.A.

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

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ORIGINAL

November 20, 2009

HAND DELIVERED

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Re: *Late-Filed Exhibits; Graham County Electric Cooperative, Inc. Application to Amend Its CC&N and Transfer Certain Assets; Docket No. E-01749A-09-0185*

Dear Sir or Madam:

As discussed at the hearing on this matter on November 17, 2009, enclosed are the original and 13 copies of (1) the 1946 Agreement by and between Graham County Rural Electric Co-operative, Inc., Safford and Thatcher and (2) the Wheeling and Transmission Agreement between Graham County Electric Cooperative, Inc. and the City of Safford. Both are submitted as late-filed exhibits.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:

Michael M. Grant

MMG/plp
10430-13/2302484

Enclosures

Original and 13 copies filed with Docket Control this 20th day of November, 2009.

Arizona Corporation Commission
DOCKETED

NOV 20 2009

DOCKETED BY

A G R E E M E N T

THIS AGREEMENT, Made and entered into the _____ day of January, 1946, by and between the GRAHAM COUNTY RURAL ELECTRIC CO-OPERATIVE, INCORPORATED, a co-operative corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter called the Co-op; the TOWN OF SAFFORD, a municipal corporation of the State of Arizona, hereinafter called Safford; and the TOWN OF THATCHER, a municipal corporation of the State of Arizona, hereinafter called Thatcher,

W I T N E S S E T H:

THAT WHEREAS, at a meeting of the Common Council of the Towns of Safford and Thatcher, duly convened, and held jointly with a duly convened meeting of the Board of Directors of the Co-op, at which meeting a quorum of the respective governing bodies of the three parties were present, and which meeting was held on the 11th day of January, 1946, an agreement was reached among the parties hereto regarding the joint acquisition by the parties of the Arizona General Utilities Company, together with all its physical assets in Graham County, Arizona; and

WHEREAS, such agreement was passed upon by the action of a quorum of the duly constituted directors and councilmen respectively of the parties hereto, and by proper action of said groups endorsed by said bodies and directed to be reduced to writing:

NOW THEREFORE, in consideration of the mutual promises of the parties hereto,

IT IS COVENANTED AND AGREED among the parties hereto that they shall jointly negotiate and contract for the purchase of the Arizona General Utilities Company, an Arizona corporation, by position sale, from the Associated Electric Company of New York, upon the following terms and conditions:

(1) Based upon engineering data and investigation made at the instance of each of the three parties hereto, the parties hereto agree to buy and pay the percentages of the total purchase price, as set forth below:

(a) For 64.4400% of the total purchase price, Safford agrees to purchase the generating plant and distribution lines, and all physical and real properties of the company, located within the corporate limits of the Town of Safford, together with that certain line serving the Safford Municipal Airport, which said line extends from said airport northeast of Safford, Arizona, to Highway 70, between Solomonsville and Safford, including the transformers located at said point on said highway;

(b) For 9.3913% of the total purchase price, Thatcher agrees to purchase all of the distribution lines, transformers and physical properties of the company, located within the corporate limits of the Town of Thatcher;

(c) For 26.1687% of the total purchase price, the Co-op agrees to purchase all the remaining distribution facilities of the company.

(2) It is understood and agreed that Safford and Thatcher, or either, upon the annexation or extension of their corporate limits, at any time in the future, of territory adjacent to either of said towns, shall be sold the distribution facilities then existing in any such territory and owned by the Co-op upon a replacement new cost less depreciation basis, with no goodwill or going concern element considered, and in no event shall the Co-op require that condemnation proceedings be instituted for such acquisition.

(3) It is further understood and agreed that Safford and Thatcher, or either, shall have the right to serve any property now owned in fee by either town or which they shall acquire in fee at any time in the future, and the right to use presently existing

transmission facilities, or to install and maintain necessary transmission facilities for such purpose shall be granted by the Co-op.

(4) The officers of the parties hereto, or their duly authorized representatives, shall forthwith enter into mutual negotiations for the most advantageous price on the purchase of the utilities, and it is agreed that mutual cooperation shall be extended and prompt consideration and attention shall be given by each of the parties to the consummation of a purchase contract.

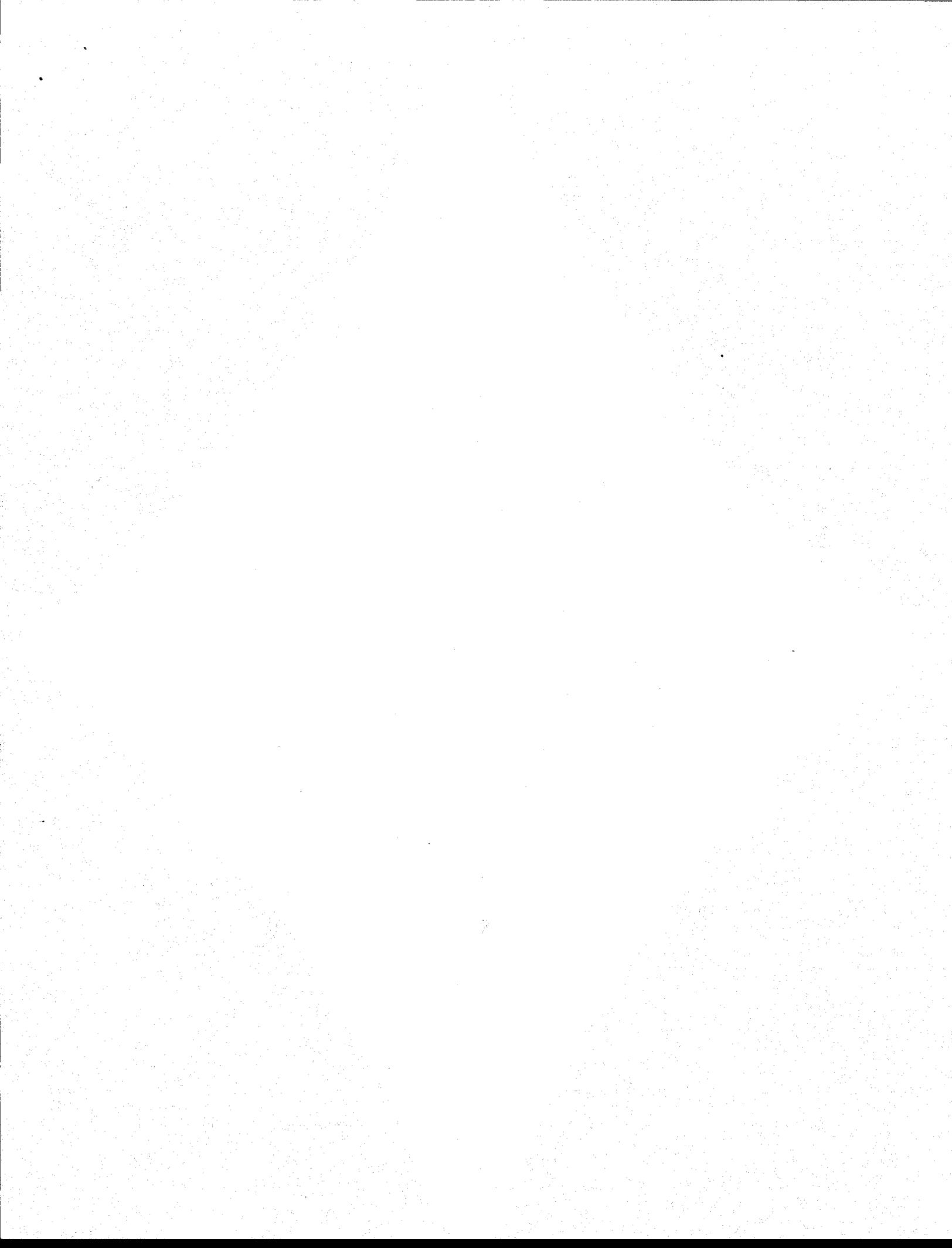
(5) It is further understood and agreed that the particular terms and conditions of such acquisition shall be subject to and dependent upon the terms of the contract for the purchase of said company, to be forthwith negotiated and executed by the parties hereto and the Associated Electric Company of New York.

(6) It is the expressed intention of the governing bodies of the parties hereto to enter into a contract on an equitable basis, whereby Safford will sell electric energy from the generating plant acquired by it to the Co-op and Thatcher for distribution to the services acquired by them, such contract to be consummated before the closing date for the purchase of the property. Such contract is to be in force and effect, in so far as the Co-op is affected, until such time as the Co-op shall secure its own generating equipment, it being the expressed intention, however, that Thatcher shall continue to purchase wholesale electric energy from Safford.

TOWN OF SAFFORD
By W. E. Beach
Mayor
Attest: W. H. Mues
Town Clerk

GRAHAM COUNTY RURAL ELECTRIC
CO-OPERATIVE, INCORPORATED,
By W. A. Batts
President
By Geo. W. West
Secretary

TOWN OF THATCHER,
By J. H. McRae
Mayor
Attest: J. M. Holden
Town Clerk



**WHEELING AND TRANSMISSION AGREEMENT
BETWEEN
GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.
AND
CITY OF SAFFORD**

1. PARTIES:

The Parties to this Agreement are GRAHAM COUNTY ELECTRIC COOPERATIVE, INC., organized and existing under and by virtue of the laws of the State of Arizona, ("GRAHAM") and the CITY OF SAFFORD, ARIZONA, a municipality organized and existing under the laws of the State of Arizona ("SAFFORD"), individually referred to as "Party" and collectively as "Parties."

2. RECITALS:

- 2.1 GRAHAM owns, operates and maintains 69 kV transmission facilities in the vicinity of SAFFORD.
- 2.2 SAFFORD owns, operates and maintains an electrical transmission and distribution system as described on Exhibit A, attached hereto and made a part hereof.
- 2.3 SAFFORD has power and energy available under contracts with Arizona Electric Power Cooperative, Inc. ("AEPSCO"), the Department of Energy, Western Area Power Administration ("WESTERN") for Colorado River Storage Project and Surplus Navajo power, and with the Arizona Power Authority ("APA") for Hoover power, and may have power and energy available from other sources from time to time.
- 2.4 It is advantageous to both parties for GRAHAM to provide SAFFORD with use of Graham's transmission facilities for delivery of SAFFORD's power and energy.
- 2.5 GRAHAM provides retail electric service at certain SAFFORD municipal facilities, which retail service is governed under separate arrangements and is not covered by or subject to this Agreement.
- 2.6 The Parties have entered into Settlement Principles of Territorial Issues dated September 8, 2008, by which the Parties have agreed, in conjunction with replacing the Agreement between the Parties dated January 22, 1946, regarding, *inter alia*, electric service expansion by SAFFORD ("1946 Agreement"), also to replace the Firm Power Wheeling Agreement between GRAHAM and SAFFORD that is currently in effect with this Agreement.

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3. AGREEMENT:

In consideration of the recitals set forth and the mutual covenants herein contained, the Parties hereto agree as follows:

4. EXHIBITS:

Each Exhibit attached to this Agreement is, by this reference, incorporated in and made a part of this Agreement as if set forth in its entirety wherever referenced in this Agreement. Any Exhibit may be modified or replaced by a substitute Exhibit, upon the mutual written agreement of the Parties as evidenced by their signatures on the substitute Exhibit, together with a statement of reference identifying the prior Exhibit for which it is substituted and the effective date upon which it supersedes such prior Exhibit.

5. DEFINITIONS:

The following terms, when used herein with initial capitalization, whether in the singular or the plural, shall have the meanings specified:

- 5.1 Agreement: This GRAHAM-SAFFORD Firm Power Wheeling and Transmission Agreement.
- 5.2 GRAHAM Point of Receipt: The point(s) where GRAHAM receives power and energy on behalf of SAFFORD, as set forth on Exhibit B attached to this Agreement.
- 5.3 GRAHAM Point of Delivery: The point(s) where GRAHAM delivers SAFFORD's power and energy to SAFFORD for SAFFORD's further delivery to its customers' loads, as set forth on Exhibit B.
- 5.4 RUS: The Rural Utilities Service, or its successor.
- 5.5 SAFFORD Resources: All power and energy that SAFFORD acquires and causes to be delivered to GRAHAM for delivery to SAFFORD hereunder.
- 5.6 SWTC: Southwest Transmission Cooperative, Inc.

6. GENERAL FACILITY OPERATIONAL PROVISIONS:

- 6.1 Electric power and energy to be transmitted hereunder shall be alternating current, three-phase, sixty cycle, and approximately 69 kilovolts.
- 6.2 SAFFORD shall provide, operate and maintain all facilities (not to include metering) required for receipt of power and energy from GRAHAM, and such facilities shall be compatible with the metering and operation of GRAHAM's system.
- 6.3 Transmission service provided by GRAHAM hereunder is solely for the power and energy requirements of SAFFORD in relation to its retail municipal system needs. SAFFORD shall not transmit the power and energy received hereunder to others without GRAHAM's express written consent first sought and obtained. GRAHAM shall not unreasonably withhold such consent. In the event that the

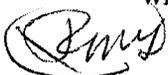


law allows individual customer(s) on the Safford retail municipal system to make their own power purchases, nothing in this Agreement shall prohibit such individual customers from making their own wheeling or transmission arrangements in relation to such power purchases.

- 6.4 SAFFORD shall install, maintain and operate such power service protective equipment and other facilities as are reasonably deemed necessary in accordance with prudent operating procedures and generally accepted utility practices in the State of Arizona to coordinate with the protective relaying, other protective arrangements on and operations of GRAHAM's system.
- 6.5 SAFFORD is responsible for arrangements concerning and compliance with all tariff or contractual arrangements necessary to deliver the SAFFORD Resources to the GRAHAM Point of Receipt.
- 6.6 GRAHAM may discontinue furnishing transmission service if, after notice of an unsatisfactory condition on SAFFORD's system which, under prudent operating procedures and generally accepted utility practices in the State of Arizona, interferes or may interfere with any service supplied from or on GRAHAM's system, SAFFORD fails or refuses to eliminate such unsatisfactory condition within ninety (90) days after notice. GRAHAM shall also be entitled to reimbursement by SAFFORD should any such unsatisfactory condition on or operation of SAFFORD's system, which is not remedied by SAFFORD within ninety (90) days after notice, cause GRAHAM to make specific improvements to GRAHAM's system; provided, however, that as to improvements, GRAHAM shall have given SAFFORD prior notice of the specific improvement for which it seeks reimbursement prior to incurring the expense of same.
- 6.7 Exhibit A sets forth the facilities which are provided by SAFFORD, all of which shall remain the sole property of SAFFORD. Facilities provided by Graham shall remain the sole property of GRAHAM. Facilities provided by any other transmission service provider shall remain the sole property of that provider. Nothing contained in this Section 6.7 shall preclude a Party from entering into ownership or joint ownership of facilities under separate agreement not covered by or subject to this Agreement.
- 6.8 With the exception of the provisions of Section 6.6, nothing contained in this article or otherwise shall be construed to render a Party liable for any claims of whatsoever kind or nature arising out of or resulting from the construction, operation or maintenance of the other Party's power systems or other property and any such liability is expressly disclaimed by each Party.

7. DELIVERY OF POWER AND ENERGY:

GRAHAM will receive SAFFORD's Resources at the GRAHAM Point of Receipt, and will deliver SAFFORD's Resources at the GRAHAM Point of Delivery, less losses.



GRAHAM agrees to use reasonable due diligence, consistent with prudent operating procedures and generally accepted utility practices in the State of Arizona, to provide a constant and uninterrupted supply of electrical power and energy to SAFFORD, consistent with the other provisions of this Agreement.

8. LIMITATIONS AND EXPANSION CAPACITY:

8.1 GRAHAM shall use prudent operating procedures and generally accepted utility practices in the State of Arizona in an effort to provide continuous service to SAFFORD of the same reliability and quality as that provided to GRAHAM's own members. Upon installation of the required equipment, in the event of any curtailment necessitated by failure, outage or other shortage of capacity in GRAHAM's system, such curtailment shall be imposed pro rata upon SAFFORD and GRAHAM's own members in the same proportions as their respective transmission requirements bear to the total GRAHAM system capacity. SAFFORD shall provide its load data to GRAHAM on an annual basis to enable calculation of SAFFORD's pro rata load share.

8.2 To the best knowledge and information of GRAHAM, there is sufficient transmission capacity presently available to transmit the SAFFORD Resources. However, GRAHAM makes no warranty in this regard. The Parties acknowledge that SAFFORD's future power and energy requirements and/or GRAHAM's members' future requirements might necessitate improvements or additions to GRAHAM's system in order to adequately serve both. In such event, the Parties will make any such additions or improvements on the GRAHAM system in accordance with Section 28 hereof

9. METERING:

Approved billing metering facilities shall be provided, owned and maintained by the Arizona Electric Power Cooperative, Inc. or Southwest Transmission Cooperative, Inc. (the "Cooperatives") and adjustments and/or estimates necessitated by meter inaccuracies or failures shall be made, pursuant to and in accordance with contractual or tariff arrangements between the Cooperatives and SAFFORD. GRAHAM shall re-bill SAFFORD for any correction in billing made due to metering error in the next monthly bill rendered by GRAHAM to SAFFORD after the amount of the correction is determined by the Cooperatives, and such correction, when made and paid, shall constitute full adjustment of any claim between the Parties arising out of such inaccuracy of metering equipment. SAFFORD and GRAHAM shall have the right to observe all meter tests. In the event SAFFORD or GRAHAM desires a special meter test and the Cooperatives perform such test and it discloses that the meters are recording within the acceptable accuracy range under the contractual or tariff arrangements, the Party requesting the special test shall reimburse the Cooperatives for the cost of such test.



10. METER READINGS AND BILLING:

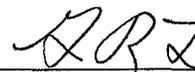
In accordance with the metering provisions of the contractual or tariff arrangements between the Cooperatives and SAFFORD, the Cooperatives shall read the meters used to measure the electrical power and energy delivered to SAFFORD on the first day of each month or as otherwise provided, and shall render monthly statements to GRAHAM and SAFFORD, which shall include all relevant information required to determine SAFFORD's wheeling charges as set forth in Section 11. A bill for services shall be rendered by GRAHAM to SAFFORD as soon thereafter as may be practical and shall be accompanied by a statement itemizing all factors which may be necessary to properly verify the accurate computation of such bill.

11. CHARGES FOR TRANSMISSION SERVICE:

11.1 The charge for transmission service shall be the product of the rate for wheeling service set forth in Section 11.2, as the same may be adjusted pursuant to this Section 11, multiplied by the quotient produced by a numerator equal to kWh delivered (as metered at the GRAHAM Point of Delivery) and a denominator equal to the difference of 1 (one) minus the loss factor set forth in Section 11.2, with the loss factor expressed in decimal form, as the same may be adjusted pursuant to this Section 11.

11.2 The initial rate for wheeling service shall be \$0.00250 per kilowatt-hour ("kWh"). The rate for wheeling service shall be increased by \$0.00005 per kWh once every two calendar years with the first increase occurring January 1, 2011. The associated initial loss factor for the GRAHAM 69 kV system shall be 2.25%, which GRAHAM may adjust upon demonstration to SAFFORD that a change is warranted, but no more often than once every two years; and an adjustment shall be made only if there is a change of 5/100th of a percent or more from the loss factor then in effect.

11.3 With respect to the initial 2.25% loss factor, the Parties agree that certain impending delivery system changes, including the addition of a new 69 kV line connecting SWTC's Hackberry Substation to GRAHAM's Thatcher Substation, the addition of a third 69/12.47 kV transformer at SAFFORD's 8th Avenue Substation, and the possible relocation of the GRAHAM Point of Delivery to the 69kV side of the 69/12.47 kV transformers will affect system losses and may result in a substantive change in loss factor. Accordingly, the Parties agree that GRAHAM shall cause a third party agreeable to SAFFORD to perform a loss factor study prior to January 1, 2011 to determine whether and to what extent the initial 2.25% loss factor should be reset. If a reset is determined to be appropriate, the reset loss factor shall be deemed effective for billing purposes as of the first day of



the month following the date that the last of such delivery system changes are in service. Such reset loss factor shall reflect the agreement of the Parties as to the cumulative impact on the initial 2.25% loss factor of such delivery system changes. The Parties also agree to share equally in the costs of the third party performing the first loss factor study. All subsequent loss factor studies shall be performed and their costs shared by the Parties pursuant to Section 28.

- 11.4 All of SAFFORD's loads shall be metered at a GRAHAM Point of Delivery and be subject to GRAHAM'S wheeling and loss rates, with the exception of any of SAFFORD's loads that are served by resources of either GRAHAM or the Town of Thatcher, or their successors, under a retail tariff.
- 11.5 In addition to the charges set forth in Section 11.1, any governmental transactions tax, privilege tax, sales tax or other gross revenue tax, including, but not limited to assessments or regulatory impositions of FERC, the Arizona Corporation Commission or other governmental taxing and/or regulatory bodies, which may now or later be mandatorily imposed by law upon the service provided by GRAHAM to SAFFORD pursuant to this Agreement shall be added by GRAHAM to the charges of Section 11.1 to SAFFORD; provided that GRAHAM provides SAFFORD with 90 days' notice prior to adding any such taxes or assessments that may be imposed after the effective date of this Agreement; with GRAHAM's first billing thereafter collecting for such taxes or assessments from the date of their imposition..

12. PAYMENT AND PENALTY:

Payment by SAFFORD of charges billed by GRAHAM shall be due on the 15th day of the calendar month following the month for which the bill is rendered, or on the 15th day after the date of deposit by GRAHAM of the bill in the United States Mail, whichever is later. Bills not paid in full by said due date shall thereafter bear an additional charge of one percent (1%) per month, or the maximum legal rate of interest, whichever is less, on the unpaid amount prorated by days until payment is received by GRAHAM, and such charge shall also apply to any unpaid bill, or portion thereof, which is disputed and thereafter determined to be proper. A billing or any other dispute shall not relieve SAFFORD of the obligation to make payments as and when due, although SAFFORD's rights may be reserved by designating a payment as "made under protest". Accordingly, any overpayment due to billing error that is subsequently corrected shall bear interest at the same rate from the time of overpayment until the date of refund or issuance of a subsequent bill on which the resulting credit is given.

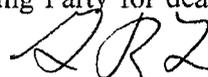


13. UNCONTROLLABLE FORCES:

- 13.1 No party shall be considered to be in default in the performance of any of its obligations under this Agreement, except as enumerated hereunder, when a failure of performance shall be due to Uncontrollable Forces, as defined below. The Party claiming excused failure of performance shall promptly contact the other Party and provide written notice that an Uncontrollable Force has caused failure of performance.
- 13.2 The term "Uncontrollable Forces" shall mean any cause beyond the control of the Party unable to perform its obligation, which such Party could not reasonably have been expected to avoid by exercise of due diligence, and which it has been unable to overcome despite having exercised due diligence. Causes beyond the control of a Party shall include, but not be limited to, acts of God; failure of or threat of immediate failure of facilities; explosion, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophe; epidemic, war, riot, sabotage, civil disturbance or disobedience, strike, labor disturbance, dispute or unrest of whatever nature; labor, material or fuel shortage; restraint by court order or public authority; and action or nonaction by or inability to obtain necessary authorizations or approvals from any governmental agency or authority.
- 13.3 A Party shall not, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or to removable or remediable causes which it fails to remove or remedy with reasonable dispatch and due diligence. Any Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall nonetheless exercise due diligence to remove such inability with all reasonable dispatch.
- 13.4 Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved.
- 13.5 Should GRAHAM experience an Uncontrollable Force that interrupts service to SAFFORD, GRAHAM shall use prudent operating procedures and generally accepted utility practices in the State of Arizona in an effort to establish alternative means to promptly restore such service. In the event that, even after use of such reasonable efforts, GRAHAM remains unable to restore service to SAFFORD because of Uncontrollable Forces, GRAHAM shall not be liable to SAFFORD for such interruption. GRAHAM shall be entitled to payment for the actual metered electric power and energy delivered during the billing period pursuant to Section 11 hereof.

14. LIABILITY:

- 14.1 Each Party shall indemnify and hold harmless the other Party, its directors, officers, agents and employees from and against (i) any claim or action brought by an agent, employee or member of the indemnifying Party for death, personal



injury, or loss or damage to property, whether direct, indirect or consequential, related to activities undertaken by the indemnifying Party within the scope of this Agreement; and (ii) any costs or expenses of repairing any damage to the other Party's property resulting from any entry onto the property of the other Party or work performed upon real or personal property of the other Party pursuant to any of the provisions of this Agreement.

14.2 The provisions of this Section 14 shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of any valid insurance policy of any Party.

15. RIGHT OF ACCESS:

Duly trained, qualified and authorized representatives of GRAHAM and the Cooperatives shall be permitted to enter the SAFFORD 8th Avenue Substation and any other substation owned by SAFFORD and connected to GRAHAM's 69 kV system after reasonable notice to SAFFORD, if practicable, at all reasonable times as may be necessary in order to carry out the provisions of this Agreement.

16. NOTICES:

Any notice or other written communication to or upon SAFFORD or GRAHAM pursuant to this Agreement shall be deemed properly made and received if made in writing and addressed to the person(s) and address(es) for SAFFORD and GRAHAM set forth below, and shall be effective (i) three days after it is deposited and post-marked with the United States Postal Service, postage prepaid, return receipt requested, or (ii) upon hand delivery:

If to GRAHAM:

General Manager
Graham County Electric Cooperative, Inc.
9 West Center Street
Pima, Arizona 85543

With a copy to:

Michael M. Grant
Gallagher & Kennedy, P.A.
2575 East Camelback Road # 1100
Phoenix, Arizona 85016-9225



If to SAFFORD:

City Manager
City of Safford
717 Main Street
Safford, Arizona 85548-0272

With copies to:

City Attorney
City of Safford
717 Main Street
Safford, Arizona 85548-0272

K.R. Saline & Associates
160 North Pasadena, # 101
Mesa, Arizona 85201-6764

Routine correspondence regarding mutual discussions, negotiations, deliberations, transactions, or operations may be made by electronic mail, facsimile, telephone, or such other means as the Parties may mutually determine from time to time in furtherance of efficient, effective, and cooperative communication.

17. **AVAILABILITY OF RECORDS:**

All records and information of the Parties pertaining to operations under the terms and conditions of this Agreement shall be available for inspection and utilization by duly authorized representatives of the other Parties upon reasonable notice and during normal business hours.

18. **WAIVER:**

Any waiver by a Party hereto of its right with respect to a default under this Agreement or with respect to any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any subsequent recurrence of the same, or any different default or matter. No delay short of the statutory period of limitations in observing or enforcing any right hereunder shall be deemed a waiver of such right.

19. **ASSIGNMENT:**

19.1 **Permitted Assignments:** This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto. GRAHAM, without the approval of SAFFORD, may assign, transfer, mortgage or pledge this Agreement to create a security interest for the benefit of the United States of America, acting through the Administrator of the RUS (the "Administrator").



(ii) the National Rural Utility Cooperative Finance Corporation ("CFC"). Thereafter, without the approval of SAFFORD (i) the Administrator or CFC may cause this Agreement to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such security interest, or (ii) if the Administrator first acquires this Agreement pursuant to 7 U.S.C. Sec. 907, the Administrator may sell, assign, transfer, or otherwise dispose of this Agreement to a third party; provided, however, in either case, that (a) GRAHAM is in default of its obligations secured by such security interest and the Administrator or CFC has given SAFFORD notice of such default; and (b) the Administrator or CFC has given SAFFORD thirty (30) days prior notice of its intention to sell, assign, transfer or otherwise dispose of this Agreement indicating the identity of the intended third-party assignee or purchaser. No such permitted sale, assignment, transfer or other disposition shall release or discharge GRAHAM from its obligations under this Agreement.

19.2 Other Assignment: Except as provided in Sections 19.1 and 19.3, neither Party shall assign its interest in this Agreement in whole or part without the prior written consent of the other party. Such consent shall not be unreasonably withheld.

19.3 Collateral Assignment: Nothing contained in this Section 19 shall be construed to prevent GRAHAM from making a collateral assignment of the revenues due under the terms of this Agreement. No assignment, merger or consolidation shall relieve any Party of any obligation under this Agreement.

20. TERM:

This Agreement shall become effective on January 1, 2009 (the "Effective Date") and shall remain in effect through December 31, 2033. Thereafter, this Agreement shall continue in effect through the end of each successive calendar year unless terminated effective at the end of a particular year (but no earlier than the end of 2033) by written notice given by either Party to the other at least three (3) years in advance of the end of a calendar year. From and after the Effective Date, the provisions of this Agreement shall govern the provision of transmission service by GRAHAM for SAFFORD, and the Old Wheeling Agreement as defined in Section 23 shall terminate as of the Effective Date, except that SAFFORD's payment obligations for transmission service provided prior to the Effective Date shall survive termination and remain an obligation of SAFFORD until paid in full.

21. CAPITAL CREDITS:

The Parties agree that the wheeling charges received by GRAHAM hereunder are not patronage capital but cost recovery of the expense of providing and maintaining



transmission facilities. SAFFORD agrees it will not have capital credits assigned and will not receive patronage refunds on such wheeling charges.

22. CONTROLLING LAW:

This Agreement shall be governed by and interpreted in accordance with Arizona law.

23. PRIOR AGREEMENT:

SAFFORD and GRAHAM are parties to a Firm Power Wheeling Agreement that is still in effect as of the date this Agreement is executed by the Parties (the "Old Wheeling Agreement"). Upon termination of the Old Wheeling Agreement pursuant to Section 20, the relationship between SAFFORD and GRAHAM with respect to the transmission service provided by GRAHAM to SAFFORD and future transmission development and operation shall be governed exclusively by the terms of this Agreement.

24. SPECIFIC PERFORMANCE:

In addition to such other remedies as may be available under applicable law, the Parties acknowledge that the remedies of specific performance and/or injunctive relief shall be available and proper through an arbitration proceeding pursuant to Section 25 in the event any Party fails or refuses to perform its duties hereunder.

25. AUTHORIZED REPRESENTATIVES; DISPUTE RESOLUTION:

25.1 Each Party shall appoint an Authorized Representative who shall be responsible to work with the Authorized Representative of the other Party to implement this Agreement. Each Party shall give the other Party notice of the identity and contact information of its Authorized Representative and may change its Authorized Representative at any time by notice to the other Party.

25.2 Any question, dispute, or controversy (a "dispute") arising out of or related to the terms and/or subject matter of this Agreement shall be submitted in writing by the Authorized Representative of the disputing Party to the Authorized Representative of the other Party. The Authorized Representatives shall attempt to resolve any such dispute within fifteen (15) days of such submittal and presentation.

25.3 In the event the Authorized Representatives are unable to resolve the dispute within such fifteen (15) days, such dispute shall be submitted by the disputing Party to arbitration and resolved in accordance with the arbitration procedures set forth as follows:

25.3.1 The Authorized Representatives shall attempt to agree on the selection, retention, and appointment of a single neutral independent arbitrator with expertise in the area of the dispute, within ten (10) business days after expiration of the fifteen (15) day resolution period in Section 11.1 above.



The cost of such single arbitrator shall be shared equally by the Parties. If the Parties fail to agree upon a single arbitrator within that ten (10) business day period, each Party shall choose one arbitrator within the next five (5) business days who shall sit on a three (3) member arbitration panel. Safford shall retain and provide one arbitrator at its sole expense and Graham shall retain and provide one arbitrator at its sole expense. Those two arbitrators shall select and retain a third independent arbitrator, who shall chair the arbitration panel. The expenses related to the third independent arbitrator shall be shared equally by Safford and Graham. In either case, the arbitrators shall not have any current or past substantial business or financial relationships with any Party to the arbitration (except prior arbitration).

25.3.2 The arbitrator(s) shall conduct an arbitration of the dispute within twenty (20) days after appointment (or such shorter or longer time as agreed upon by the arbitrator(s) and approved by the Parties). The arbitrator(s) shall provide each of the Parties with the opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and applicable substantive law. Except to the extent it would be contrary to or inconsistent with the provisions herein, the provisions of A.R.S. §§ 12-1501, et seq., shall apply. If there is a three member panel rather than a single arbitrator, the powers of the arbitrators, including the power to issue rulings on the merits of the dispute, may be exercised by a majority.

25.3.3 Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within thirty (30) days following the arbitration, and shall notify the Parties in writing of such decision and the reasons for it, but without the necessity of detailed findings of fact and conclusions of law. In the discretion of the arbitrator(s), the ruling may include an award of the prevailing Party's costs and reasonable attorneys' fees against the other Party. The decision of the arbitrator(s) shall be final and binding on the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be opposed or modified in accordance with and for the reasons set forth in A.R.S. §§ 12-1512 and 1513. The decision of the arbitrator(s) shall be consistent with applicable federal law and FERC regulations.

26. EASEMENTS:

26.1 The Parties agree that easements required by a requesting Party from the other Party to enable the requesting Party to perform in accordance with the provisions



of this Agreement shall be made available to the requesting Party without undue cost or delay by the other Party. Each Party agrees to be reasonable within standard utility practice with respect to the locations it requests for such easements in the service territory of the other Party.

26.2 Any easement that has been granted by a Party to the other Party shall not be set aside by the granting Party so long as the other Party requires such easement to provide electric service in its service territory or to provide service pursuant to this Agreement.

27. MODIFICATIONS TO SAFFORD SUBSTATION:

At a time agreed upon by the Parties, anticipated to be no later than January 1, 2011, GRAHAM shall modify the existing Safford substation to incorporate a 69kV circuit breaker ring bus with at least three (3) breakers, as illustrated on the drawing set forth as Exhibit C hereto, made a part hereof. While GRAHAM shall solely own, operate and maintain such 69 kV facilities and equipment, each Party shall be responsible for 50% of the capital costs of constructing such new 69 kV facilities and equipment. SAFFORD shall be solely responsible for the capital, operation and maintenance ("O&M") costs of any new equipment or modifications of existing equipment associated with the 69/12.47kV transformers and the low side facilities required to accommodate the 69 kV breaker ring. In addition, GRAHAM shall cause to be upgraded, and SAFFORD shall be solely responsible for the costs of upgrading, the two (2) intersecting segments of 69 kV line into the Safford 69/12.47 kV substation to meet the thermal rating of GRAHAM'S existing Dos Condados 69 kV to Thatcher 69 kV transmission line and to meet National Electric Code requirements at such thermal rating; such upgrades are anticipated to be completed before the ring bus is completed. At the completion of such upgrades, SAFFORD shall transfer ownership to GRAHAM of the two intersecting segments of 69 kV line, including any poles not replaced by GRAHAM as part of the upgrade, and SAFFORD shall grant GRAHAM an associated easement for those two intersecting segments of 69 kV line and associated poles. GRAHAM, in performing the upgrade of such 69 kV lines, shall ensure that any 12.47 kV under-built distribution line owned by SAFFORD affixed to poles of such intersecting segments of 69 kV line shall remain affixed to such intersecting segments of 69 kV line after such upgrade. SAFFORD shall retain ownership, O&M responsibility and cost responsibility for any such 12.47 kV under-built distribution line and, after the transfer of the two intersecting segments of 69 kV line to GRAHAM, SAFFORD shall retain the permanent right to utilize the poles of such upgraded intersecting segments of 69 kV line for such 12.47kV under-built line at no charge by GRAHAM to SAFFORD.



28. NEW 69 KV TRANSMISSION LINES AND FACILITIES AND/OR IMPROVEMENTS TO EXISTING 69 KV TRANSMISSION LINES AND FACILITIES:

28.1 Except as otherwise provided in Section 27, the provisions of this Section 28.1 shall apply to all new 69 kV transmission lines, improvements to existing 69 kV transmission lines, new 69 kV facilities in new or existing 69 kV step-down substations, and new 69 kV step-down transformers. The Parties shall jointly plan for, and GRAHAM shall be responsible for the construction of, all additional new 69 kV transmission lines, all improvements to existing 69 kV transmission lines, and all new 69kV facilities in new or existing 69 kV step-down substations. Each Party shall be solely responsible for construction of any 69 kV step-down transformers required by it. The capital costs of such new 69 kV transmission lines and improvements to existing 69 kV transmission lines shall be allocated to each Party pro rata based upon the benefits received by each Party from such 69 kV lines. The costs of new 69 kV facilities in new or existing 69 kV step-down substations shall be borne by the Party(ies) or third parties that own the 69 kV step-down transformer(s) and associated disconnect switch at such substations in proportion to their respective cost responsibility for the 69 kV step-down transformers and associated 69 kV disconnect switch. GRAHAM shall own, operate, maintain and control all such new and/or improved 69 kV transmission lines and substation facilities (excluding any 69 kV step-down transformers, associated 69 kV disconnect switch(es), and 12.47 kV distribution facilities not solely owned by GRAHAM), and shall be responsible for O&M costs of such lines and substation facilities.

28.2 The Parties agree to share their respective load forecasts and transmission plans through a joint planning committee consisting of one representative of each Party. At the request of either Party, such committee shall cause technical transmission planning and delivery system loss studies to be performed as may be agreed between the Parties from time to time. The scope and allocation of the costs of such technical studies shall be agreed to in writing by the Parties before expenses for any such study are incurred.

29. CONFLICT OF INTEREST:

Notice is hereby given of the provisions of A.R.S. Section 38-511.



IN WITNESS WHEREOF, the City of Safford and Graham County Electric Cooperative, Inc. have caused this Wheeling and Transmission Agreement to be executed, attested, and delivered by their respective duly authorized executives as of this 19 day of December, 2008.

CITY OF SAFFORD

By: Ronald M. Green

Print Name: RONALD M. GREEN

Its: MAYOR

ATTEST:

By: Georgia Luster
City Clerk

APPROVED AS TO FORM:

By: Jeffrey C. Zimmerman
Jeffrey C. Zimmerman
Moyes, Sellers & Sims,
Special Outside Counsel

GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.

By: Gene Robert Larson

Print Name: GENE ROBERT LARSON

Its: Board President

ATTEST:

By: Steve M. Lutz
General Manager

RMS

GRJ

EXHIBIT A
TO
WHEELING AND TRANSMISSION AGREEMENT
BETWEEN
GRAHAM AND SAFFORD

SAFFORD owns, operates and maintains an electrical transmission and distribution system as described below:

- 1) SAFFORD's 8th Avenue Substation (excluding the Cooperatives' owned meters) located on the northwest corner of 8th Avenue and Highline Canal.
- 2) SAFFORD's 12.47 kV distribution system emanating from SAFFORD's 8th Avenue Substation.
- 3) SAFFORD's south 69-kV transmission line from SAFFORD's 8th Avenue Substation to a tap on GRAHAM's Dos Condados to Thatcher 69-kV transmission line at switch numbers DS081, DS082 and DS083. Ownership of this line shall subsequently be transferred to GRAHAM in accordance with Section 27.
- 4) SAFFORD's north 69-kV transmission line from SAFFORD's 8th Avenue Substation to a tap on GRAHAM's Stewart to Thatcher 69-kV transmission line at switch number S202 and S201. Ownership of this line shall subsequently be transferred to GRAHAM in accordance with Section 27.
- 5) SAFFORD owns additional municipal facilities to which GRAHAM provides retail electric service, which service is governed under separate arrangements and is not covered by or subject to this Agreement.

This is the revised Exhibit A, effective as of the Effective Date of the Agreement.

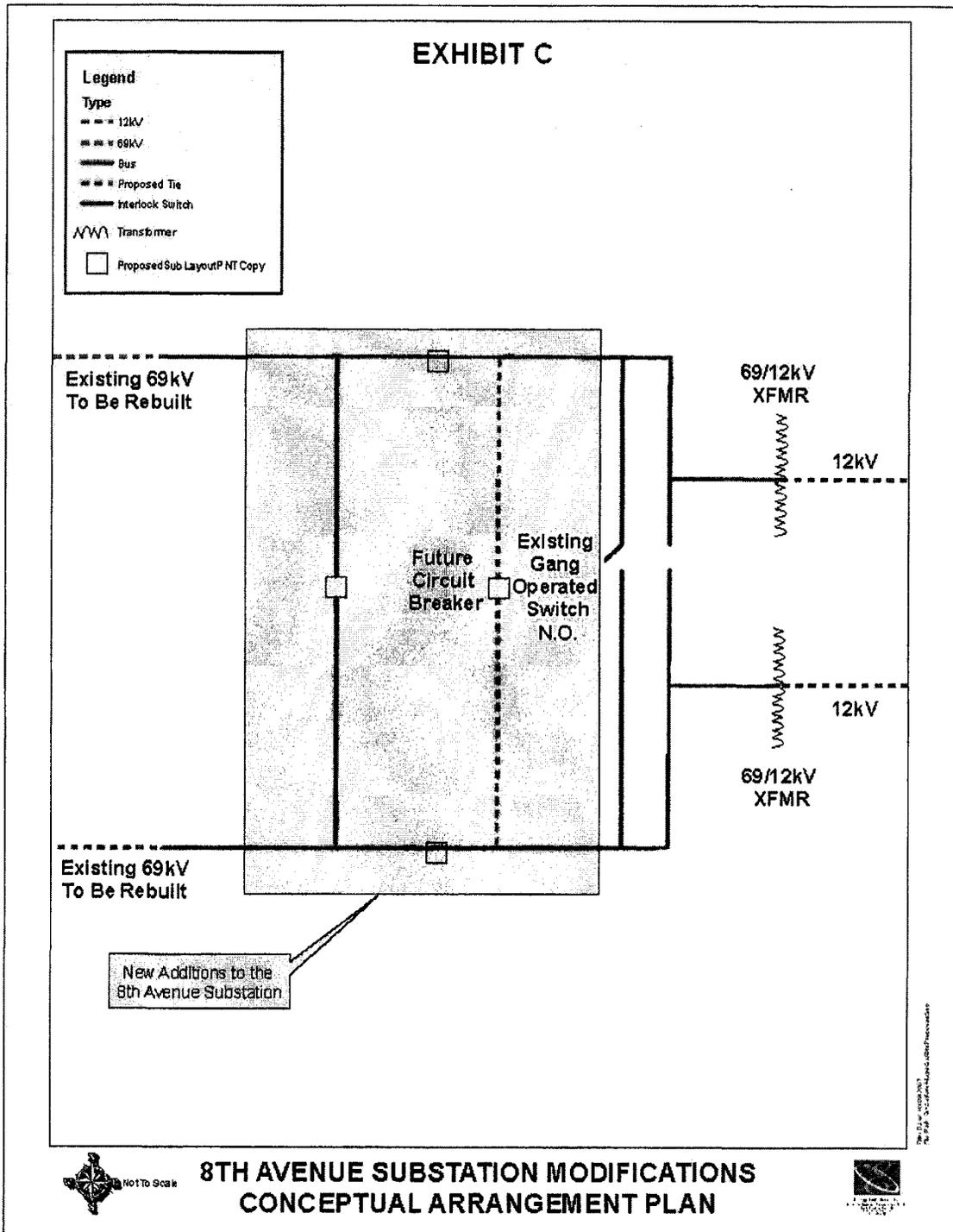


EXHIBIT B
TO
WHEELING AND TRANSMISSION AGREEMENT
BETWEEN
GRAHAM AND SAFFORD

	DESIGNATED GRAHAM POINT OF RECEIPT AND VOLTAGE	SYSTEM LOSS FACTORS	METERED DESIGNATED GRAHAM POINT OF DELIVERY AND VOLTAGE
SAFFORD Resources	Dos Condados 69-kV Substation	$\frac{1}{10000}$ (1 - .0225)	SAFFORD'S 8 th Avenue Substation 12.47 kV Bus

- SYSTEM LOSS FACTOR; an additional two and twenty five hundredths percent (2.25%) shall be added to the actual metered kW and kWh as a mutually agreed upon adjustment to account for all losses from the GRAHAM Point of Receipt to the GRAHAM Point of Delivery. The meters are located at SAFFORD's 8th Avenue Substation on the low side of the 69/12.47 kV transformers.

This is the revised Exhibit B, effective as of the Effective Date of the Agreement.



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