

**PRIVELEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT
SUBJECT TO JOINT DEFENSE AND COMMON INTEREST PRIVILEGE**

JOINT DEFENSE AND COMMON INTEREST AGREEMENT

THIS JOINT DEFENSE AND COMMON INTEREST AGREEMENT (Agreement) dated January 8, 2019 (the Effective Date), is entered into by and among the undersigned legal counsel, on behalf of themselves as counsel, their respective law firms, associated employees and consultants, and their respective clients listed below each legal counsel's signature on the signature page of this Agreement. Each client is individually referred to herein as a "Party," and the clients are collectively referred to as "the Parties."

WHEREAS, Basin Electric Power Cooperative (Basin Electric) is a generating and transmitting electric cooperative which provides, on a cooperative basis, electrical power and energy at wholesale to its member cooperatives;

WHEREAS, East River Electric Power Cooperative (East River) is a Class A member of Basin Electric and purchases electrical power and energy from Basin Electric which it resells, on a cooperative basis, to its member cooperatives;

WHEREAS, in addition to Basin Electric and East River, the Parties are either Class A members of Basin Electric or members of East River;

WHEREAS, the Parties that are Class A members of Basin Electric have all signed substantially identical wholesale power contracts (the Basin Electric All Requirements Contracts) with Basin Electric requiring them to purchase all of their incremental electrical power and energy requirements from Basin Electric;

WHEREAS, the Parties that are members of East River have all signed substantially identical wholesale power contracts (the East River All Requirements Contracts and together with the Basin Electric All Requirements Contracts, the All Requirements Contracts) with East River requiring them to purchase all of their incremental electrical power and energy requirements from East River;

WHEREAS, two members of East River, Meeker Cooperative Light Association and Dakota Energy Cooperative, have indicated they wish to terminate their East River All Requirements Contracts and discontinue buying all of their incremental electrical power and energy requirements from East River pursuant to their East River All Requirements Contracts;

WHEREAS, the Parties recognize that they have a common interest in preserving the legal validity and enforceability of the All Requirements Contracts in the event of any legal proceedings whether in arbitration, mediation, or in a trial before a court of law (the Proceedings); and

WHEREAS the Parties recognize that it is likely to be in their best interest, in defending or asserting their respective legal rights in any Proceedings, to share a variety of information and resources related to the All Requirements Contracts, without waiving or otherwise risking loss of the protection of the attorney-client privilege, the work-product doctrine, or other applicable privileges, nondisclosure agreements, or legal protections (collectively Privileges).

NOW THEREFORE the Parties hereby agree with respect to their joint defense and common interest, as follows:

1. The Parties acknowledge that they have certain common interests in advocating or defending their interests regarding the legal validity and enforceability of the All Requirements Contracts in any Proceedings. The Parties also acknowledge that it may be in their best interests in the sole discretion of each Party: (a) to exchange and jointly develop information, legal theories, and other material related to the All Requirements Contracts otherwise protected by all or any of the Privileges ("Joint Defense Information"); and (b) to pool their respective work product in a joint and common defense. To the extent the Parties choose to share or jointly develop Joint Defense Information, the terms of this Agreement apply. Nothing herein shall be construed to require a Party to share privileged information or communications with another Party; nor shall this Agreement be construed to alter any of the rights or obligations set forth in any confidentiality, non-disclosure or other agreement already entered into by a Party.

2. Each Party agrees that all Joint Defense Information exchanged or jointly developed pursuant to this Agreement is communicated in confidence for the purposes of securing or communicating legal advice and representation and shall not be used for any other purpose, and is therefore subject to: (a) any and all of the Privileges belonging to the Party conveying or jointly developing the information, which Privileges may not be waived without the prior written consent of such Party, which consent will not be unreasonable withheld when requested by another Party; and (b) the terms of this Agreement. Any inadvertent or purposeful disclosure by any Party of information exchanged pursuant to this Agreement shall not constitute a waiver of any Privilege of any other Party.

3. To ensure the confidentiality of Joint Defense Information and to preserve any and all of the Privileges belonging to each Party, each Party agrees not to, without the written consent of the other Party from which Joint Defense Information was received or which jointly participated in the development of that Joint Defense Information, give, show, make available, or communicate in anyway any such Joint Defense Information to anyone other than: (a) the signatories to this Agreement, (b) in the case of external counsel, the partners, associates, counsel, staff and other employees of the respective law firms that are working on defending the All Requirement Contracts and/or participating in any Proceedings, (c) in the defense of the All Requirements Contracts in any Proceedings, and (d) independent consultants or experts retained by the Parties in connection with the defense of the All Requirements Contracts; provided, however, that any such attorney, consultant, or expert must agree to abide by the confidentiality and other provision of this Agreement prior to receiving any Joint Defense Information. To ensure that any attorney, consultant, or expert whom a party may retain in connection with the defense of the All Requirements Contracts agrees to abide by the confidentiality provisions of this Agreement before receiving any Joint Defense Information, each Party shall provide a copy of this Agreement to any such attorney, consultant, or expert together with a document stating that one of terms of the engagement of the attorney, consultant, or expert is that such person agrees to be bound by the confidentiality provisions of this Agreement. Joint Defense Information shall not be further disclosed to any other person unless authorized in writing by the Party or Parties that originated the Joint Defense Information. Regardless of whatever Joint Defense Information is created or shared, and unless the Parties subsequently agree otherwise in writing, each Party is responsible, at its sole cost and expense, for the advice and counsel provided by its own attorneys, consultants, and experts.

4. If any government entity or other person requests or demands, by subpoena or otherwise, that a Party produce Joint Defense Information received from the other Party or jointly developed by the Parties, the Party to which the request or demand is addressed shall assert, at its sole cost or expense, all applicable Privileges, and shall immediately upon receiving the request or demand notify the other Party or Parties about the request or demand and indicate the Joint Defense Information covered by the government request or demand so as to afford such Party or Parties the opportunity to intervene in any Proceeding to assert any applicable Privilege on its or their own behalf and at its or their own cost or expense. In the event that disclosure is ordered notwithstanding the assertion of any applicable Privilege, the Parties shall cooperate in seeking an appropriate protective order to limit the extent and nature of disclosure.

5. Each Party agrees that the sharing of Joint Defense Information between the Parties pursuant to this Agreement does not waive (a) any Privilege, or (b) the confidentiality of such Joint Defense Information which has been designated confidential pursuant to a Protective Order or which is otherwise confidential, and further agrees that no Party may claim such a waiver.

6. The sharing of Joint Defense Information pursuant to this Agreement shall not prevent a Party from asserting any claim, at law or in equity, against any other Party in any proceeding. If there is any proceeding between the Parties in the future (including a proceeding involving additional parties not involved in this Joint Defense Agreement), no Party may use against another Party in that proceeding Joint Defense Information received from that Party or jointly developed by the Parties. Furthermore, no oral or written statements made by one Party to another Party and covered by this Agreement shall be deemed an admission in that proceeding. The Parties further agree to enter into a stipulated protective order in any subsequent proceeding between or among them that shall protect all Joint Defense Information from disclosure to third parties.

7. The Parties agree that no adequate remedy is available at law for a breach of this Agreement and that, in addition to any other remedies available, performance of this Agreement may be specifically ordered, a breach hereof may be enjoined, or both.

8. In the event that any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void, or unenforceable, that provision shall have no force or effect, but its illegality or unenforceability shall neither affect nor impair the enforceability of any other provision of this Agreement.

9. This Agreement may not be amended, except by an instrument in writing signed by all Parties.

10. This Agreement may be signed in separate counterparts, each of which shall be binding on the Parties who, through their counsel, are signatory to any counterpart.

11. This Agreement applies to all exchanges of Joint Defense Information between the Parties before execution of this Agreement and is intended as the written embodiment of the Parties' prior oral joint defense

12. Subject to the Parties' respective rights and obligations under any nondisclosure, confidentiality, or other agreement made in connection with the All Requirements Contracts, any Party is free to withdraw from (and in that limited sense thereby terminate) this Agreement upon

written notice to the other Parties or their counsel. Upon notice of such withdrawal, each Party shall promptly return all documents in the nature of Joint Defense Information received from the terminating Party or written Joint Defense Information previously disclosed to it by the terminating Party. Each Party shall continue to be bound by this Agreement with respect to the required confidential treatment of any Joint Defense Information received by it or its counsel from the terminating Party or that Party's counsel or jointly developed by the Parties or the Parties' counsel prior to the withdrawal.

13. Upon completion of the Proceedings or termination of all discussions between the Parties with respect to protecting the legal integrity of the All Requirements Contracts, each Party shall promptly return all documents in the nature of Joint Defense Information received from the other Parties pursuant to this Agreement and shall continue to protect from disclosure to any third party all oral and written Joint Defense Information previously disclosed to it by the other Parties or jointly developed by the Parties. Each Party shall continue to be bound by this Agreement with respect to the required confidential treatment of any Joint Defense Information received by it or its counsel from the other Parties' counsel or jointly developed by the Parties or the Parties' counsel prior to the withdrawal.

14. The term of this Agreement shall begin on the Effective Date and shall expire on December 31, 2022 provided, however, this Agreement shall terminate earlier upon the completion of all Proceedings or upon cessation of discussions between the Parties concerning defending the legal integrity of the All Requirements Contracts.

15. This Agreement shall be construed and interpreted, and the rights of the Parties shall be determined, in accordance with the substantive laws of the State of South Dakota without respect to that state's conflict of laws principles.

16. Nothing contained herein or done pursuant to this Agreement shall be deemed to create an attorney-client relationship between one Party's counsel and another Party. The fact that a Party's counsel has executed this Agreement and from time to time received Joint Defense Information from another Party or its counsel pursuant to this Agreement shall not in any way preclude (or be used as a basis for seeking disqualification preventing) the first Party's counsel and those working with such counsel from fully representing any interest of that Party, including representation that may be construed as being adverse to the other Party (such as but not limited to examining or cross-examining any officer or employee of such other Party in any proceeding). The undersigned counsel for each Party represent they have specifically advised their respective client of this paragraph in the Agreement.

Dated: January 8, 2019

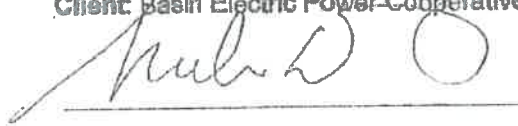
By: Robert K. Sahr, General Counsel

Client: East River Electric Power Cooperative, Inc.



Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated:

By:
Client:

Dated:

By:
Client:

Dated: March 7, 2019

By: Maxon R. Davis, Its Attorney
Client: Central Montana Electric
Power Cooperative, Inc.



Dated:

By:
Client:

written notice to the other Parties or their counsel. Upon notice of such withdrawal, each Party shall promptly return all documents in the nature of Joint Defense Information received from the terminating Party or written Joint Defense Information previously disclosed to it by the terminating Party. Each Party shall continue to be bound by this Agreement with respect to the required confidential treatment of any Joint Defense Information received by it or its counsel from the terminating Party or that Party's counsel or jointly developed by the Parties or the Parties' counsel prior to the withdrawal.


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Dated: 3/4/2019

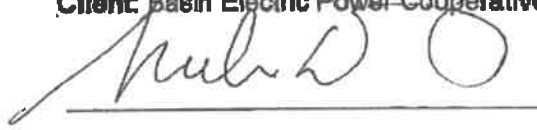
By: 
Client: Central Power Electric Cooperative, Inc.

Dated:

By:
Client:

Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Bash Electric Power Cooperative



Dated:

By: Paul R. Johnson, General Counsel,
Client: Crow Wing Cooperative Power and
Light Company



Dated:

By:
Client:

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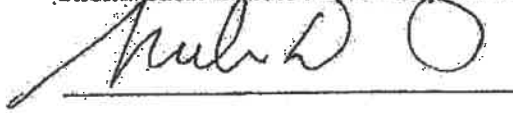
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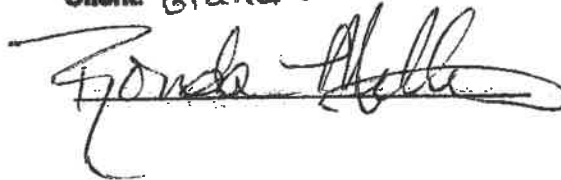
Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated:

By: Ronda Miller, Attorney
Client: Grand Electric



Dated:

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Client:

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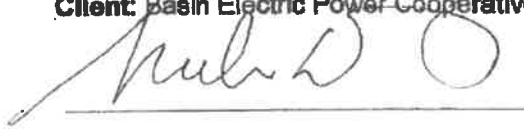
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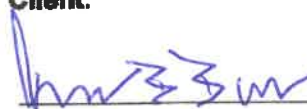
Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated:

By: THOMAS B BAIRE
Client: LEAN ELECTRIC Cooperative, Inc.



ATTORNEY

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By:
Client:

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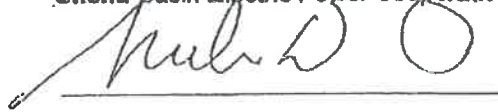
By:
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By:
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Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated: March 5, 2019

By: Jeffery A. Hunnes, Counsel for
Client: Members 1st Power Cooperative



Dated:

By:
Client:

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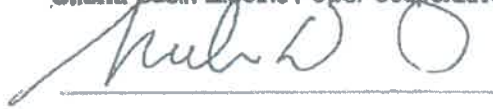
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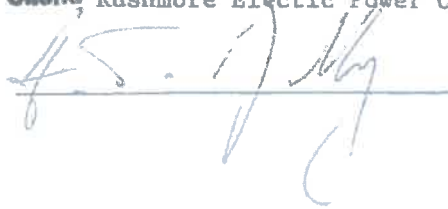
Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated: February 22, 2019

By: Aaron Galloway, General Counsel
Client: Rushmore Electric Power Cooperative



Dated: February 28, 2019

By: Matthew Haugen, Counsel
Client: Minnesota Valley Cooperative Light
and Power Association



Dated:

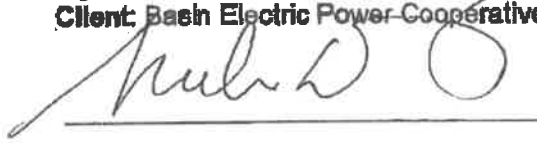
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Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Bash Electric Power Cooperative



Dated:

By:
Client:

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By: Paul R. Johnson, General Counsel
Client: Minnesota Valley Electric Cooperative



Dated:

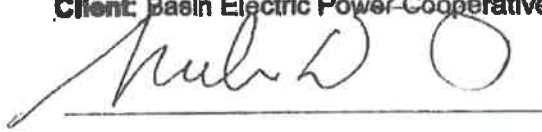
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Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated:

By: Rebecca S. Thiern, attorney
Client: Mor-Gran-Sou Electric Cooperative



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By:
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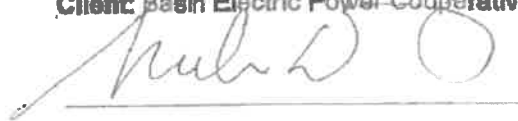
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Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Bash Electric Power Cooperative



Dated:

By: Dennis L. Puckett, Sullivan & Ward, P.C.
Client: Northwest Iowa Power Cooperative (NIPCO)



Dennis L. Puckett, attorney for NIPCO

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By:
Client:

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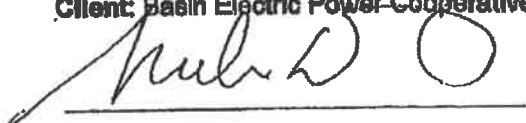
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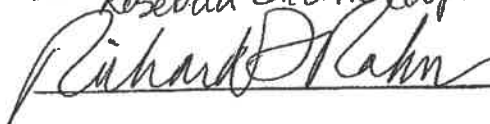
Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated: Feb. 25, 2019

By: Richard F. Rahn, Counsel
Client: Rosebud Electric Cooperative, Inc.



Dated:

By:
Client:

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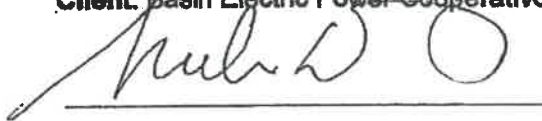
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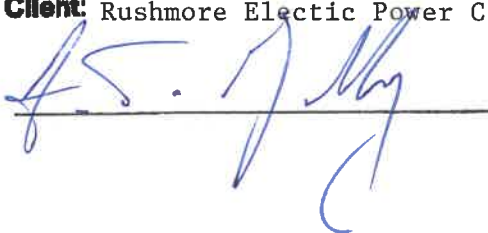
Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Bash Electric Power Cooperative



Dated: February 22, 2019

By: Aaron Galloway, General Counsel
Client: Rushmore Electric Power Cooperative



Dated: February 28, 2019

By: Matthew Haugen, Counsel
Client: Minnesota Valley Cooperative Light
and Power Association

Dated:

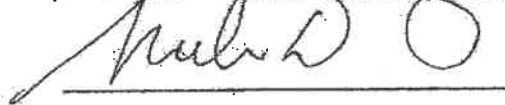
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Dated: January 8, 2019

By: Mark D. Foss, General Counsel and Sr. V.P.
Client: Basin Electric Power Cooperative



Dated:

By: Michael A. Monson, attorney
Client: Upper Missouri G. & T. Electric
Cooperative, Inc.



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By:
Client:

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