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BOOK 196 PAGE 427

File for record and return to:
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Tacoma, WA 98401

FILED
SKAMIA
BY *Kielinski & Woodruff*

FEB 3 4 20 PM '00

Olson
GARY H. OLSON

RECORDING COVER SHEET

Grantor: PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA COUNTY
Grantee: NORTHWEST OPEN ACCESS NETWORK
Legal Description (abbreviated): N/A
Additional legal(s) on page N/A
Assessor's Tax Parcel ID#: N/A
Reference Nos. of Documents Released or Assigned: N/A
Title of Document: INTERLOCAL COOPERATION AGREEMENT

Supervised _____
Indexed _____
Recorded _____
Filed _____
Noted _____

INTERLOCAL COOPERATION AGREEMENT NORTHWEST OPEN ACCESS NETWORK

The parties named below (each, a "Member" or "party," and collectively, the "Members" or "parties") hereby enter into this Interlocal Cooperation Agreement (this "Agreement") pursuant to Revised Code of Washington ("RCW") 39.34.030.

1. **PARTIES.** The parties are as follows:

Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clallam County
Public Utility District No. 1 of Douglas County
Public Utility District No. 1 of Ferry County
Public Utility District No. 1 of Franklin County
Public Utility District No. 2 of Grant County
Public Utility District No. 1 of Kittitas County
Public Utility District No. 1 of Lewis County
Public Utility District No. 3 of Mason County
Public Utility District No. 1 of Okanogan County
Public Utility District No. 2 of Pacific County
Public Utility District No. 1 of Skamania County
Public Utility District No. 1 of Whatcom County
Energy Northwest

Each of the public utility districts is established and operated pursuant to RCW 54. Energy Northwest is a joint operating agency established and operated pursuant to RCW 43.52. Each of the parties is a "public agency" as defined by RCW 39.34.020, and they enter into this Agreement and mutually promise and agree to the terms and conditions described herein.

2. **PURPOSES.** The purpose of this Agreement is to create a Washington nonprofit mutual corporation in accordance with RCW 39.34.030, which corporation shall be a non-stock corporation, the members of which are all public agencies within the meaning of RCW 39.34.020, and such corporation to have the following purposes:

a. To assist in the efficient management of load, conservation, and acquisition of electrical energy, and other utility purposes, by participating in the development and efficient use of a communications network licensed or leased from or shared with the Bonneville Power Administration and/or any other source, or otherwise owned, acquired or used by the corporation for use by the Members and others as provided by law;

b. To assist the Members, including those in rural areas, in adapting high speed information technology systems to their needs;

c. Allow the sharing of resources to provide cost-effective high technology communications facilities and other services for use by the Members to this Agreement on an at-cost basis to those who make their networks available to all providers and users (i.e., who provide open access), and by others as provided by law, denying such access only due to a provider's or user's activity in connection with the use of the network that is prohibited by law or for failure to pay any compensation due for such access;

d. Through use of such network, improve the Members' ability to maximize the productivity of their assets and continue to provide efficient and economical service to customers including but not limited to making excess network capacity available to other parties where network capacity has been acquired in light of the Members' present and reasonably anticipated future needs;

e. To do any and all lawful activities that may be necessary, useful or desirable for the furtherance, accomplishment, fostering or attainment of the foregoing purposes, either directly or indirectly and either alone or in conjunction or cooperation with others, whether such others be natural persons or organizations of any kind or nature, such as corporations, municipal corporations, firms, partnerships, limited liability companies, all purpose entities (as and if such form of enterprise is available under applicable law), associations, trusts, institutions, foundations, or governmental bureaus, departments or agencies; and

f. To engage in any lawful activity for which a nonprofit mutual corporation may be organized under the Nonprofit Miscellaneous and Mutual Corporation Act and as otherwise permitted by law.

3. ORGANIZATION

a. The efforts contemplated by the parties to carry out the purposes of this Agreement shall be undertaken by the formation of a Washington nonprofit mutual corporation (the "corporation") pursuant to the provisions of Chapter 24.06 RCW and as contemplated by RCW 39.34.030(3)(b). The Articles of Incorporation and Bylaws of such nonprofit mutual corporation (referred to herein respectively as the "Articles of Incorporation" and the "Bylaws," and together as the "Charter Documents") shall be in the form of that attached hereto and incorporated herein by this reference, subject to change to reflect different composition of the initial Board of Directors, as provided in paragraph b below, and subject to amendment as provided therein and/or by applicable law. Capitalized terms used herein not otherwise defined herein shall have the meanings given them in the Charter Documents.

b. Article V of the Articles of Incorporation specifies the seven members of the initial Board of Directors, each of whom is an employee of an entity which is listed as a party to this Agreement. If any such entity does not execute this Agreement by January 31, 2000, that entity's employee shall not be a member of the initial Board of Directors, and his or her replacement shall be selected by a majority vote of the Management Committee established by the Washington Public Utility Districts' Association for the Joint Internet Project. Such

replacements for persons specified as members of the initial Board of Directors must be employees of an entity that signed this Agreement by January 31, 2000 other than any entity which already has an employee on the initial Board of Directors.

c. Article III of the Articles of Incorporation may not be amended to effect a material change to the purposes for which the corporation is to be formed without a prior identical amendment to Section 2 of this Agreement.

4. **FINANCING: BUDGET.** It is anticipated that the activities of the corporation will be financed by operating revenues and from the proceeds of loans borrowed from commercial lenders or other sources which may require guarantees from the Members. The Members agree to provide such guarantees (and new Members shall agree to provide such guarantees, or indemnities, with regard thereto) in the form or forms approved by the Board of Directors as provided in and subject to the provisions of the Charter Documents. Funds provided by other persons for the formation and organization expenses, initial operating expenses and equipment, facilities and similar requirements of the corporation shall be repaid from the proceeds of such loans. The officers of the corporation shall prepare periodic budgets, which budgets shall be presented to and subject to ratification by the Board of Directors.

5. **NEW MEMBERS.** New Members may be added in accordance with the Charter Documents, provided that each such new Member shall execute a counterpart of this Agreement.

6. **EFFECTIVENESS: DURATION.**

a. This Agreement shall become effective and commence upon its execution by parties which are designated on Schedule A to the Bylaws as holding Percentage Interests of at least 75% in the aggregate (which must occur not later than January 31, 2000) and the filing of this Agreement as required by law. Subject to the foregoing sentence, the parties executing this Agreement by January 31, 2000 hereby consent to an adjustment increasing the percentages and amounts in Schedule A to the Bylaws on a pro-rata basis (i.e., each such executing party's adjustment to be proportional to its share of the Percentage Interests specified for all such executing parties) for the purpose of allocating among such executing parties the percentages and amounts of any entity designated as a party which has not executed this Agreement by January 31, 2000. An entity designated as a party which has not signed this Agreement by January 31, 2000 may thereafter apply to become a Member of the corporation as provided in the Charter Documents.

b. This Agreement shall remain in full force and effect until such time as the corporation dissolves and is wound up pursuant to the Charter Documents and applicable law, provided that any Member may withdraw from this Agreement at any time by complying with the provisions of the Charter Documents with regard to withdrawal.

7. **TERMINATION: DISPOSITION OF PROPERTY.** This Agreement may not be terminated except as provided in Section 6 above. This Agreement shall terminate with respect to any Member upon termination of that Member's membership in the corporation in accordance with and subject to the applicable provisions of the Charter Documents. Distributions of property of the corporation to Members prior to dissolution and winding up of the corporation

shall be made in accordance with the applicable provisions of the Charter Documents and applicable law. Upon dissolution and winding up of the corporation, and termination of this Agreement with respect to all the parties, any property of the corporation remaining after satisfaction of the requirements of applicable law, shall be distributed to the Members in accordance with the provisions of the Charter Documents. Notwithstanding any other provision of this Agreement, no part of the earnings of this corporation may accrue to the benefit of any private person or corporation, but only to the Members.

8. **MODIFICATION.** This Agreement may only be modified or amended by written amendment and modification approved by each of the parties.

9. **DISPUTE RESOLUTION; ATTORNEYS' FEES AND COSTS.** The parties shall execute their rights and discharge their duties as set forth in this Agreement in good faith with the objective of acting to achieve the efficient and cost-effective operation of the network. The parties shall attempt to resolve any disputes arising from the terms of this Agreement. In the event of a dispute, the parties' designees shall consult and exercise reasonable efforts to arrive at an amicable resolution of the dispute. Failing that, in any suit, action or other proceeding at law or in equity to interpret, enforce, or implement any of the terms, covenants, or conditions of this Agreement, the party prevailing in such suit, action or proceeding shall be paid all of its reasonable attorneys' fees and costs, including on any appeal, by the losing party or parties. If there is no prevailing party, the parties to the dispute shall each bear their own attorneys' fees and costs.

10. **PRIOR AGREEMENTS.** This document embodies the entire Agreement among the Members. There are no promises, terms, conditions or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations or agreements, either verbal or written, among the Members relating to the subject matter of this Agreement.

11. **SEVERABILITY.** If a provision of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained in this Agreement.

12. **COUNTERPARTS.** For the convenience of the Members this Agreement may be executed in counterparts, and each shall be considered an original when the signature of each party has been obtained.

13. **GOVERNING LAW.** This Agreement shall be governed and interpreted under the laws of the State of Washington.

14. **JURISDICTION; VENUE.** The parties consent to the personal jurisdiction of the courts of the State of Washington with respect to any lawsuit to interpret or enforce this Agreement. The venue of any such lawsuit shall be King County, Washington unless otherwise agreed by the parties.

15. ASSIGNMENT; THIRD PARTIES. The parties shall not assign their interests or obligations under this Agreement without the prior written consent of the other parties, except as may otherwise be provided in the Bylaws. This Agreement shall inure to the benefit of and shall bind the respective assigns. There are no unspecified third party beneficiaries of this Agreement, and nothing contained in this Agreement is intended to confer any right or interest on anyone other than the parties, their respective successors, assigns and legal representatives.

16. WAIVER. No provision of this Agreement may be waived except as documented or confirmed in writing. Any waiver at any time by a party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter.

17. SIGNATURES. Each party to this Agreement represents that it has the authority to execute this Agreement and that it has been duly authorized to enter into this Agreement and that the person executing this Agreement on its behalf is authorized to do so.

(The remainder of this page has been intentionally left blank)

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON
COUNTY

By James W Sanders
Manager

Date: January 24, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN
COUNTY

By _____
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

Date: January __, 2000

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN
COUNTY

By *[Signature]*
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

Date: January __, 2000

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN
COUNTY

By _____
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM
COUNTY

By Michael McInnes
Manager

Date: January 19, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

Date: January __, 2000

BOOK 196 PAGE 436

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN
COUNTY

By _____
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS
COUNTY

By Wh C Oth
Manager

Date: January 11, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

Date: January __, 2000

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN
COUNTY

By _____
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN
COUNTY

By *[Signature]*
Manager

Date: January 28, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

Date: January __, 2000

IN WITNESS WHEREOF the Members hereto have executed this Agreement on the date noted adjacent to the signatures hereto.

PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

By _____
Manager/Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FERRY COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF FRANKLIN COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY

By [Signature]
Manager (Acting)

Date: January 31, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

By George F. Harmon
Manager

Date: January 31, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

By _____
Manager

Date: January __, 2000

ENERGY NORTHWEST

By _____
Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

Date: January 24, 2000

By David J. Muller
Manager

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

Date: January __, 2000

By _____
Manager

ENERGY NORTHWEST

Date: January __, 2000

By _____
Chief Executive Officer

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

Date: January 26, 2000

By Edwin E. Blakemore
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

Date: January __, 2000

By _____
Manager

ENERGY NORTHWEST

Date: January __, 2000

By _____
Chief Executive Officer

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

Date: January 18, 2000

By *Harlan Allen*
Manager

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

Date: January __, 2000

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

Date: January __, 2000

By _____
Manager

ENERGY NORTHWEST

Date: January __, 2000

By _____
Chief Executive Officer

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By *Donald L. Miller*
Manager

Date: January 21, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

By _____
Manager

Date: January __, 2000

ENERGY NORTHWEST

By _____
Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

By 
Manager

Date: January 18, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

By _____
Manager

Date: January __, 2000

ENERGY NORTHWEST

By _____
Chief Executive Officer

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

By _____
Manager

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

By Tom Arkinson
Manager

Date: January 25, 2000

ENERGY NORTHWEST

By _____
Chief Executive Officer

Date: January ___, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF KITTITAS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF LEWIS
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF SKAMANIA
COUNTY

By _____
Manager

Date: January __, 2000

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY

By _____
Manager

Date: January __, 2000

ENERGY NORTHWEST

By *[Signature]*
Chief Executive Officer

Date: January 27, 2000

**ARTICLES OF INCORPORATION
OF
NORTHWEST OPEN ACCESS NETWORK**

I, the undersigned, acting as the incorporator of a corporation under the provisions of the Nonprofit Miscellaneous and Mutual Corporation Act (RCW Chapter 24.06), hereby sign and verify the following Articles of Incorporation for such corporation.

**ARTICLE I
NAME**

The name of the corporation is Northwest Open Access Network.

**ARTICLE II
EXISTENCE**

The corporation shall have perpetual existence.

**ARTICLE III
PURPOSES**

All Members of the corporation are public agencies (within the meaning of the Washington State Interlocal Cooperation Act, RCW Chapter 39.34) that desire to form a nonprofit mutual corporation, in accordance with their authority under applicable law, for the following purposes:

- A. To assist in the efficient management of load, conservation, and acquisition of electrical energy, and other utility purposes, by participating in the development and efficient use of a communications network licensed or leased from or shared with the Bonneville Power Administration and/or any other source, or otherwise owned, acquired or used by the Corporation for use by the Members and others as provided by law;
- B. To assist the Members, including those in rural areas, in adapting high speed information technology systems to their needs;
- C. Allow the sharing of resources to provide cost-effective high technology communications facilities and other services for use by the Members of this corporation on an at-cost basis to those who make their networks available to all providers and users (i.e., who provide open access), and by others as provided by law, denying such access only due to a provider's or user's activity in connection with the use of the network that is prohibited by law or for failure to pay any compensation due for such access;

D. Through use of such network, improve the Members' ability to maximize the productivity of their assets and continue to provide efficient and economical service to customers, including but not limited to making excess network capacity available to other parties where network capacity has been acquired in light of the Members' present and reasonably anticipated future needs;

E. To do any and all lawful activities that may be necessary, useful or desirable for the furtherance, accomplishment, fostering or attainment of the foregoing purposes, either directly or indirectly and either alone or in conjunction or cooperation with others, whether such others be natural persons or organizations of any kind or nature, such as corporations, municipal corporations, firms, partnerships, limited liability companies, all purpose entities (as and if such form of enterprise is available under applicable law), associations, trusts, institutions, foundations, or governmental bureaus, departments or agencies; and

F. To engage in any lawful activity for which a nonprofit mutual corporation may be organized under the Nonprofit Miscellaneous and Mutual Corporation Act and as otherwise permitted by law.

ARTICLE IV MEMBERS

A. This corporation shall not have capital stock. This corporation shall have one class of Members. No entity shall be eligible for membership in the corporation unless, in addition to satisfying the other provisions of this paragraph, such entity is a "public agency," as such term is defined in the Washington State Interlocal Cooperation Act, RCW 39.34, as amended from time to time, and the provisions of succeeding law. Only a public agency of one of the following types, which has its principal place of business located within the Bonneville Power Administration service area as it exists on the day these Articles of Incorporation are filed in the office of the Secretary of State of the State of Washington, may be a Member: (1) a Public Utility District established under RCW 54; (2) a Joint Operating Agency established under RCW 43.52 or another public agency joint membership organization comprised partly or entirely of other Members of the corporation; (3) a city or town that owns and operates an electric generation, transmission or distribution system or facilities; (4) a People's Utility District established under Oregon state law; and (5) any other type of entity or agency the principal activity of which is the ownership and operation of an electric generation, transmission or distribution system or facilities and which is a State or any political subdivision thereof. No entity shall become a Member unless approved for membership by a majority vote of a duly constituted quorum of the Board of Directors. Notwithstanding the foregoing, any entity formed under the laws of any state other than Washington may be considered for membership only if the laws of that state permit it to participate jointly in the activities of the corporation.

B. Any Member may withdraw from the corporation at any time, subject to any applicable notice or other requirements provided in the corporation's Bylaws. Any Member may be expelled from membership in the corporation for good cause, upon a majority vote of a duly constituted quorum of the Board of Directors, after notice and, if any cure may reasonably be effected by that Member, a reasonable opportunity to cure. The Bylaws may also contain provision for the automatic expulsion of a Member (without vote of the Board of Directors, notice or opportunity to cure) upon the occurrence of particular events delineated in the Bylaws.

C. Members shall vote in accordance with their percentage interests. Percentage interests shall be determined in accordance with the applicable provisions of the corporation's Bylaws, and in the absence of any such provisions, then each Member shall be entitled to one vote on each matter which comes before the Members.

D. Members of the corporation shall not have preemptive rights to acquire additional membership interests issued by the corporation.

ARTICLE V DIRECTORS

A. The initial Board of Directors of the corporation shall consist of seven (7) Directors. The number of Directors constituting the Board of Directors of this corporation may be increased or decreased (but not below any statutorily required minimum number of directors) from time to time in the manner specified in the corporation's Bylaws. The manner in which such Directors are to be elected shall be as set forth in the corporation's Bylaws.

B. The names and addresses of the initial Directors are as follows:

Names:

Addresses:

William C. Dobbins

1151 Valley Mall Parkway
East Wenatchee, WA 98802

Don Godard

30 "C" Street SW
Ephrata, WA 98823

George Harmon

1400 East Vantage Highway
Ellensburg, WA 98926

Richard E. Johnson

300 George Washington Way
Mail Drop 1035
Richland, WA 99352

Patrick R. McGary

307 Cota Street
Shelton, WA 98584

Douglas L. Miller

405 Duryea Street
Raymond, WA 98577

James W. Sanders

2721 West Tenth Avenue
Kennewick, WA 99336

C. A Director of the corporation shall not be personally liable to the corporation or its Members for monetary damages for conduct as a Director, except for (1) acts or omissions involving intentional misconduct by the Director or a knowing violation of law by the Director; or (2) any transaction from which the Director will personally receive a benefit in money, property, or services to which the Director is not legally entitled. If the Nonprofit Miscellaneous and Mutual Corporation Act is amended to authorize action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the corporation shall be eliminated or limited to the fullest extent permitted by the Nonprofit Miscellaneous and Mutual Corporation Act, as so amended. Any repeal or modification of the foregoing paragraph by the Members of the corporation shall not adversely affect any right or protection of a Director of the corporation with respect to any acts or omissions of such Director occurring prior to such repeal or modification.

D. The corporation shall indemnify its Directors to the full extent permitted by RCW 24.06.043 and 24.06.030(15), and other applicable law, as now or hereafter in force. Such indemnity, however, shall not apply on account of: (1) acts or omissions of the Director finally adjudged to be intentional misconduct or a knowing violation of law, or which were not done or omitted in good faith, or were not within the scope of the Director's employment or duties with the Corporation; or (2) any transaction with respect to which it was finally adjudged that such Director personally received a benefit in money, property, or services to which the Director was not legally entitled. The corporation shall advance expenses for such persons pursuant to the terms set forth in the corporation's Bylaws, or in a separate Directors' resolution or contract. The Board of Directors may take such action as is necessary to carry out these indemnification and expense advancement provisions. The Board of Directors is expressly empowered to adopt, approve, and amend from time to time such Bylaws, resolutions, contracts, or further indemnification and expense advancement arrangements as may be permitted by law, implementing these provisions. Such Bylaws, resolutions, contracts, or further arrangements shall include but not be limited to implementing the manner in which determinations as to any indemnity or advancement of expenses shall be made. No amendment or repeal of this Article shall apply to or have any effect on any right to indemnification provided hereunder with respect to acts or omissions occurring prior to such amendment or repeal.

ARTICLE VI DISTRIBUTIONS

A. The corporation shall distribute any surplus to the Members from time to time, the amount and timing of the distribution of surplus funds to be as set forth in the corporation's Bylaws.

B. On dissolution or final liquidation of the corporation, assets remaining after payment of all creditors of the corporation shall be distributed to the Members, first in payment of their membership accounts (accounts maintained in accordance with the Bylaws) or in proportion to their respective membership accounts if there are not sufficient assets to fully pay all such accounts, and any remaining assets shall be distributed in proportion to their respective arithmetic mean percentage interests over the prior ten years (or such shorter period as the corporation has existed). The provisions governing the specific distribution of assets to and among the Members of the corporation upon dissolution or final liquidation of the corporation shall be as set forth in the corporation's Bylaws.

C. The return to which a Member of the corporation that exercises its right to dissent pursuant to RCW 24.06.245 is entitled shall be limited to the lesser of (i) the Member's membership account, maintained and adjusted as provided in the Bylaws or (ii) the fair value of the membership held by such Member. Such amount shall be payable to such Member when and in the manner provided in the corporation's Bylaws.

D. Notwithstanding any other provision of these Articles of Incorporation or any provision of the Bylaws, no part of the earnings of this corporation may accrue to the benefit of any private person or corporation, but only to the Members.

ARTICLE VII BYLAWS

A. Subject to the provisions of paragraphs B and C below, the Board of Directors is authorized to adopt, alter, amend, or repeal the Bylaws of the corporation by resolution approved by a majority of the Directors; provided, however that the Members also shall have the power to alter, amend, modify, or repeal the Bylaws of the corporation. The Bylaws shall make provision for assessments of Members, the maintenance of membership accounts and other provisions to give effect to the provisions of these Articles of Incorporation.

B. Any requirement of a two-thirds vote of Members or Directors (whether of all Members or Directors or merely of a quorum thereof), and any provisions of the Bylaws relating to:

- (1) the qualifications, election or term of office of the Directors;

- (2) the amount, allocation and time of distributions of any surplus funds;
- (3) membership assessments; or
- (4) the distribution of assets on dissolution or final liquidation;

may be altered, amended, modified or repealed only upon a two-thirds vote of all Members or of all the Directors, not merely a quorum thereof.

C. Any provision of the Bylaws relating to Members' guarantees of or similar commitments with regard to any contractual obligations of the corporation, indemnity among Members, and/or automatic expulsion of a Member may be altered, amended, modified or repealed only upon a unanimous vote of all the Members, and this paragraph C may only be altered, amended, modified or repealed only upon a unanimous vote of all the Members.

ARTICLE VIII REGISTERED OFFICE; REGISTERED AGENT

The street address of the initial registered office of the corporation in the State of Washington is Suite 2100, One Union Square, 600 University, Seattle, Washington 98101, and the name of the initial registered agent of the corporation at such address is Donald S. Cohen.

ARTICLE IX INCORPORATOR

The name and address of the incorporator is as follows:

Greg L. Marney

2327 Grand Avenue
East Wenatchee, WA 98802

Dated this ____ day of February, 2000.

Greg L. Marney

CONSENT TO SERVE AS REGISTERED AGENT

Donald S. Cohen hereby consents to serve as Registered Agent in the State of Washington for Northwest Open Access Network. I understand that as agent for the corporation it will be my responsibility to receive service of process in the name of the corporation; to forward all mail to the corporation; and to notify the Office of the Secretary of State immediately in the event of my resignation, or of any changes in the registered office of the corporation for which I am agent.

February __, 2000

Donald S. Cohen

2100 One Union Square
600 University
Seattle, Washington 98101

**BYLAWS
OF
NORTHWEST OPEN ACCESS NETWORK
(a Washington nonprofit mutual corporation)**

**ARTICLE I
Definitions**

For purposes of these Bylaws, the following terms shall be defined as follows:

"Act" means the Washington State Nonprofit Miscellaneous and Mutual Corporations Act, RCW Chapter 24.06, as amended from time to time, and the provisions of succeeding law.

"Affiliate" of a Person means any Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such Person. The term "control," as used in the immediately preceding sentence, shall mean with respect to a corporation or limited liability company the right to exercise, directly or indirectly, more than 50 percent of the voting rights attributable to the corporation or limited liability company, and, with respect to any individual, partnership, trust, or other entity or association, the possession, directly or indirectly, of voting control of such entity, or the power to direct or cause the direction of the management or policies of such entity.

"Articles of Incorporation" mean the Articles of Incorporation of the Corporation, as amended from time to time.

"Board of Directors" or **"Board"** means the Board of Directors of the Corporation, as described in Article IV and elsewhere in these Bylaws.

"Corporation" means Northwest Open Access Network, a Washington nonprofit mutual corporation.

"Customer" means any customer of the Corporation who is not also a Member.

"Director" means a member of the Board of Directors.

"Interlocal Cooperation Act" means the Washington State Interlocal Cooperation Act, RCW 39.34, as amended from time to time, and the provisions of succeeding law.

"JOA" means a Joint Operating Agency established under RCW 43.52 (e.g., Energy Northwest) or another public agency joint membership organization.

"Majority Interest" means Members collectively holding more than 50 percent of the total Percentage Interests of the Members.

"Majority Vote" means (i) in the case of Members, a vote of Members holding a Majority Interest of the Members, considering only the Percentage Interests of Members in attendance at a meeting at which a vote is conducted, and (ii) in the case of Directors, more than one-half of the Directors in attendance at a meeting at which a vote is conducted.

"Member" means any entity that has become a member of the Corporation under and in accordance with the provisions of Article II and that has not withdrawn or been expelled from membership in the Corporation, or ceased to be a Member for any other reason.

"Membership Account" means with respect to any Member the account that the Corporation establishes and maintains for such Member pursuant to Section 2 of Article III.

"Membership Assessment" means the total amount of cash or immediately available funds paid, or the fair market value of property contributed, to the Corporation by any Member, in accordance with the provisions of Section 1 of Article III.

"Membership Certificate" means a certificate evidencing membership in the Corporation.

"Membership Interest" means a Member's entire interest in the Corporation, including the right to vote on or participate in the Corporation's management, and the right to receive information concerning the business and affairs of the Corporation, as provided in these Bylaws.

"Net Surplus" and **"Net Deficit"** means any net income or net loss of the Corporation, as allocated separately to each Member in accordance with the provisions of Section 2 of Article III.

"Network" means any communications network licensed or leased from or shared with the Bonneville Power Administration and/or any other source, or otherwise owned, acquired or used by the Corporation for use by the Members and others as provided by law.

"Percentage Interest" means for each Member the percentage set forth opposite that Member's name on the attached Schedule A. Percentage Interests are subject to adjustment as provided in these Bylaws. Other than as provided in these Bylaws, Percentage Interests of Members may not be adjusted by the Members or the Board without the written consent of the affected Members. Each time an adjustment to Percentage Interests occurs, the Secretary shall date and endorse a new Schedule A which reflects the Percentage Interests after such adjustment and attach the new Schedule A to these Bylaws.

"Person" means an individual, partnership, limited partnership, limited liability partnership, limited liability company, business corporation, nonprofit corporation, Massachusetts business trust, mutual corporation, cooperative corporation, municipal corporation, joint stock company, all purpose entity, trust, estate, association, joint venture, unincorporated organization, government entity or political subdivision thereof or any other entity.

"RCW" means the Revised Code of the State of Washington.

ARTICLE II Members

Section 1. Rights and Obligations of Members. The Corporation shall have one class of Members. The rights and privileges of the Members shall be only those provided in these Bylaws or in the Articles of Incorporation.

Section 2. Qualification for Membership, and Admission and Percentage Interests of Members. No Person shall be entitled to be considered for membership in the Corporation unless such Person qualifies therefor in accordance with the provisions of the Articles of Incorporation. No private Person may hold an interest in the Corporation, whether as a Member or otherwise. Prospective Members may be elected to membership by a Majority Vote of a duly constituted quorum of the Board of Directors. The admission of a new Member shall not be complete until a copy of the Interlocal Cooperation Agreement is filed in the county where the principal office of such new Member is located, or if a copy of such Agreement has been previously filed in that county, then until the filing of an appropriate document in such county evidencing the admission of the new Member. At the time that the Board of Directors votes to admit a new Member, it shall also determine the new Member's Percentage Interest, and the Percentage Interests of all other Members shall be adjusted so that the Percentage Interest of each shall be such portion of the other Percentage Interests (i.e., 100% minus the Percentage Interest of the new Member) as its prior Percentage Interest bears to 100%.

Section 3. Membership Certificates. The Corporation shall issue to each Member a Membership Certificate evidencing such Member's membership interest in the Corporation. The Secretary of the Corporation shall maintain a register of each Membership Certificate and its registered holder. The exact form and contents of each Membership Certificate may be determined by the Members, but such certificates shall be issued substantially in conformity with the following requirements. The Membership Certificates shall be numbered serially as they are issued, shall be impressed with the Corporation's seal or a facsimile thereof, if any, and shall be signed by the President and Secretary of the Corporation. Each Membership Certificate shall state the name of the Corporation, the fact that the Corporation is organized under the laws of the State of Washington as a nonprofit mutual corporation, the name of the Member to which the certificate is issued and the date of issue. Each certificate shall also state that the designations, preferences, qualifications, limitations, restrictions, and special or relative rights of the Membership Interest represented by the certificate are subject to the terms and conditions of these Bylaws.

Section 4. Annual Meeting of Members. The annual meeting of the Members shall be held during the fourth quarter of each year on a date to be set each year by the Directors. The failure to hold an annual meeting at the time stated in these Bylaws shall not affect the validity of any corporate action.

Section 5. Special Meetings of Members. Except as otherwise provided by law, special meetings of Members shall be held whenever called by the presiding officer of the Board of Directors or by a majority of the Board of Directors.

Section 6. Place of Members' Meetings. Meetings of Members shall be held at such place within or without the State of Washington as determined by the Board of Directors, pursuant to proper notice, and if none is so designated, then at the offices of the Washington Public Utility Districts' Association.

Section 7. Notice of Members' Meetings. Written notice of each Members' meeting stating the date, time, and place and, in case of a special meeting, the purpose(s) for which such meeting is called, shall be given by the Corporation not less than 10 (unless a greater period of notice is required by law in a particular case) nor more than 50 days prior to the date of the meeting, to each Member of record as of the record date for such meeting (see Section 11), to the Member's address as it appears on the current record of Members. Written notice may be transmitted by mail, private carrier, or by personal delivery, telegraph or teletype, or by telephone, wire or wireless equipment that transmits a facsimile of the notice. Written notice is effective at the earliest of the following: (a) when received; (b) five days after its deposit in the U. S. mail if mailed with first-class postage prepaid; (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Section 8. Waiver of Notice. A Member may waive any notice required to be given by these Bylaws, the Articles of Incorporation, or the Act, before or after the meeting that is the subject of such notice. A valid waiver is created by any of the following two methods: (a) in writing, signed by the Member entitled to the notice and delivered to the Corporation for inclusion in its corporate records; or (b) attendance at the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

Section 9. Quorum of Members; Participation by Telephone or Other Communications Device.

(a) At any meeting of the Members, a Majority Interest of the Members entitled to vote on a matter, represented by Members of record present in person, shall constitute a quorum of the Members for action on that matter. Regular and special meetings may be conducted by telephone or conference call (including without limitation, by video conference) that enables all meeting participants to hear each other during the meeting. Participation by such means shall constitute presence in person at a meeting and such person shall be considered to be "in attendance" at such meeting. The same notice requirements applicable to in-person meetings of

the Members shall apply to meetings that are conducted by, or include, telephone or conference call attendance.

(b) Once a Member is represented at a meeting, other than to object to holding the meeting or transacting business, it is deemed to be present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for the adjourned meeting. At such reconvened meeting, any business may be transacted that might have been transacted at the meeting as originally notified.

(c) If a quorum exists, action on a matter is approved if a Majority Vote favors the action, unless the question is one upon which by express provision of law or of the Articles of Incorporation or these Bylaws a different vote is required.

Section 10. Voting. Except as otherwise provided in the Articles of Incorporation or these Bylaws, each Member shall have a vote equal to its Percentage Interest.

Section 11. Record Date. For the purpose of determining Members who are entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Directors may fix in advance a record date for any such determination of Members, such date in any case to be not more than 50 days and, in case of a meeting of Members, not less than 10 days prior to the date on which the particular action, requiring such determination of Members, is to be taken. If no record date is fixed for such purposes, the date on which notice of the meeting is mailed shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date, which it must do if the meeting is adjourned more than 120 days after the date is fixed for the original meeting.

Section 12. Adjournment. A majority of the Members present at a meeting who are entitled to vote, even if less than a quorum, may adjourn the meeting from time to time. At such reconvened meeting at which a quorum is present any business may be transacted at the meeting as originally notified. If a meeting is adjourned to a different date, time, or place, notice must be given as required for a special meeting.

Section 13. Inspection Rights. The Corporation shall permit each Member, at such Member's own expense, to visit and inspect the Corporation's properties, to examine its books of account and records and to discuss the Corporation's affairs, finances and accounts with its officers, all at such reasonable times as may be requested and as necessary to permit such Member to evaluate Membership Interest in the Member. The rights provided hereunder shall be exercised in a manner so as not to jeopardize the Corporation's claim to protection of the confidentiality of its proprietary information.

Section 14. Record of Members. The Secretary shall maintain at all times a current list of the name and address of each Member, along with the name, address, phone number, fax number,

email address and other identifiers for means of communication of the designated representative of each such Member. In the absence of another designee by a Member, such Member's duly appointed general manager who is then in office shall act for and may bind the Member respecting the internal affairs of the Corporation. Each Member may assume that the designated general manager (or other designee, as the case may be) of each of the other Members has, at all times, full authority to carry out his or her duties as such representative and to bind the Member for which he or she acts. Use of "general manager" means the chief administrative officer of a Member, however designated, whether as general manager, chief executive officer, manager, managing director or otherwise. Any Member may at any time, effective upon notice to the other Members and the Secretary of the Corporation, change the individual who is authorized to represent such entity, vote its interest in all matters which come before the Members, and to whom notices shall be sent; provided, however, that unless and until such time as a Member notifies the other Members and the Secretary of the Corporation of any change in the individual serving as such Member's representative, in accordance with the foregoing requirements, such other Members and the Corporation shall be entitled to rely upon the authority of such individual to represent and act on behalf of such Member in accordance with the provisions of these Bylaws, and neither the Corporation nor any such other Member will be required to determine any fact or circumstance bearing upon the existence of the authority of such individual, or be responsible for the application or distribution of proceeds paid or credited to such individual.

Section 15. Competing Activities. Any one or more of the Members and its or their Affiliates may engage or invest in any activity, including without limitation those that might be in direct or indirect competition with the Corporation. Neither the Corporation nor any other Member shall have any right to participate in or to engage in such other activities or to share in the income or proceeds derived therefrom. No Member shall be obligated to present any investment opportunity to the Corporation, even if the opportunity is of a character that, if presented to the Corporation, could be taken by the Corporation. Each Member shall have the right to hold any investment opportunity for its own account or to recommend such opportunity to Persons other than the Corporation. The Members acknowledge that they and their Affiliates own or manage other businesses, including businesses that may compete with the Corporation and for the Members' time. Each Member hereby waives any and all claims to any right, title or interest in or to any such investment opportunities or activities. Nothing in this Section 15 shall be deemed to limit or modify to any extent or in any manner whatsoever any confidentiality or nondisclosure obligations that any of the Members or any of their Affiliates may have to the Corporation under any agreement or applicable law.

Section 16. Transactions Between the Corporation and Members, Officers or Employees. The Members and their Affiliates may engage in any transaction with the Corporation so long as such transaction is not expressly prohibited by these Bylaws and so long as (a) the terms and conditions of such transaction, on an overall basis, are fair and reasonable to the Corporation and are at least as favorable to the Corporation as those that are generally available from non-Members similarly capable of performing them, (b) a majority in number of the Directors having no interest in such transaction approves the transaction in writing, or (c) it is a contract of the type entered into in the ordinary course of the Corporation's business to acquire goods or

services or to provide access to the Network or other goods or services that the Corporation provides in the ordinary course of business, on such terms and conditions as have been generally approved by the Board of Directors.

Section 17. Remuneration to Members. Except as otherwise agreed by the Members, no Member is entitled to remuneration for acting in the Corporation business.

Section 18. Expulsion of a Member. Any Member may be expelled from membership in the Corporation at any time for good cause (including but not limited to failure to comply substantially with any material provision of these Bylaws) upon a Majority Vote of the Board of Directors and where any cure may reasonably be effected by such Member, a reasonable opportunity to cure. Failure to timely pay a Membership Assessment shall constitute good cause for expulsion and the only possible timely cure of such a failure shall be to pay the Membership Assessment in full together with interest at 12% per annum from the due date for that Assessment within ten days after receipt of written demand for such payment. The failure of a Member to provide access to the Network to all providers and users shall constitute good cause for expulsion (unless denial of access was effected due to a user's prohibited activity in connection with use of the Network or for failure to pay any compensation due for such access). A Member may be automatically expelled pursuant to the provisions of Section 3 of Article IX. Upon expulsion of a Member, the Percentage Interests shall be adjusted, the expelled Member's Percentage Interest being apportioned among all the other Members in such proportion as their prior Percentage Interests bear to 100% minus the expelled Member's Percentage Interest. Upon expulsion of a Member, that Member's Membership Account (after adjustment at the end of the year of expulsion, as provided in Section 3 of Article III) shall be returned in a maximum of one hundred twenty (120) equal monthly payments, without interest, commencing not later than twelve (12) months after the action taken to expel the Member. The expelled Member's Membership Account shall be subject to setoff for the full amount of any damages caused by any action of such Member which resulted in or was related in any way to such Member's expulsion, which setoff shall not be an exclusive remedy. Except as provided above, an expelled Member shall have no rights or entitlement to any assets of the Corporation.

Section 19. Withdrawal of a Member. A Member may withdraw from the Corporation at any time effective upon sixty (60) days' written notice to the Chief Executive Officer of the Corporation, with or without the approval of the other Members. Upon withdrawal of a Member, the Percentage Interests shall be adjusted, the withdrawing Member's Percentage Interest being apportioned among all the other Members in such proportion as their prior Percentage Interests bear to 100% minus the withdrawing Member's Percentage Interest. Effective upon the withdrawal of a Member from membership in the Corporation, the Corporation shall pay to such Member its Membership Account (after adjustment at the end of the year of withdrawal, as provided in Section 3 of Article III) in a maximum of one hundred twenty (120) equal monthly payments, without interest, commencing not later than twelve months after the effective date of such withdrawal. Except as provided above, a withdrawing Member shall have no rights or entitlement to any assets of the Corporation.

Section 20. No Release. Except to the extent otherwise expressly agreed, no expulsion or withdrawal of a Member shall result in the release of the former Member from any liability incurred by it to the Corporation, any Member, or any other Person, which liability was incurred prior to or in connection with the expulsion or withdrawal.

Section 21. JOAs. Any Member which is also a member of a JOA shall elect whether to have a separate Percentage Interest, pay a separate Membership Assessment, have a separate Membership Account, etc., or instead, only with the prior written consent of said JOA, have all such items attributed to the JOA. Such election shall be made upon admission as a Member (and if a Member does not so elect in writing to the Chief Executive Officer within 30 days after admission, shall be deemed to have elected not to have such items attributed to the JOA). A Member may change such election by so informing the Chief Executive Officer in writing before the December 1 preceding the year for which it is to be first effective. As to any Member which elects, with the JOA's prior written consent, to have its items attributed to a JOA, it shall be the JOA's responsibility to pay such Membership Assessments, vote such Percentage Interests, etc. and the Corporation need not take any action to assure that such votes and payments are made or collected by the JOA in accordance with its understandings with its members, but instead may rely with acquittance on the actions of the JOA's representatives.

ARTICLE III

Membership Assessments; Allocations of Surplus Funds; Distributions

Section 1. Membership Assessments. The Members shall pay to the Corporation, as Membership Assessments, only such amounts as are determined from time to time by a two-thirds vote of all the Directors (not merely a quorum thereof). Each Member shall pay a portion of each such Membership Assessment equal to its Percentage Interest as determined on the date the Membership Assessment is approved. Unless otherwise specified by the Board of Directors, all Membership Assessments shall be paid in cash or immediately available funds. Membership Assessments shall be paid on the date specified in the notice of assessment issued by the Corporation (pursuant to Board action) which date shall not be less than thirty days after the date the notice is mailed.

Section 2. Membership Accounts. The Corporation shall establish an individual membership account (each such account, a "Membership Account") for each Member, and maintain the Membership Accounts in accordance with the provisions of these Bylaws. If a Member transfers all or part of its Membership Interest in accordance with these Bylaws, such Member's Membership Account attributable to the transferred Membership Interest shall carry over to the new owner of such Membership Interest. No Member shall be entitled to receive any interest on any Membership Account. Membership Accounts shall not be credited for Membership Assessments paid in accordance with Section 1 above.

Section 3. Allocations of Net Surplus and Net Deficit.

(a) Allocations of Net Surplus and Net Deficit. For each fiscal year of the Corporation, any Net Surplus or Net Deficit shall be allocated immediately among the Members

in accordance with their respective Percentage Interests for such fiscal year as follows: Each Member's share of a Net Surplus or a Net Deficit shall be the sum of the amounts determined with respect to the Member by assigning an equal portion of the Net Surplus or Net Deficit to each day of the Corporation's fiscal year, and then dividing that portion pro rata among the Percentage Interests on that day. Adjustments to Percentage Interests occurring by reason of the expulsion or withdrawal of a Member or the admission of a new Member shall be treated as occurring at the end of the day on which such expulsion, withdrawal or admission is effective.

(b) Adjustments to Membership Accounts. Any Net Surplus and Net Deficit shall be credited or charged to the Membership Accounts of the Members as allocated in accordance with paragraph (a) above. The Membership Account of each Member shall from time to time be increased by such Member's share of the Net Surplus for each fiscal year, whether or not distributed. The Membership Account of each Member shall from time to time be decreased by the sum of (i) all distributions to or for the account of such Member, and (ii) such Member's share of the Net Deficit for each fiscal year. If a distribution will be made in accordance with either Section 6 or Section 7 below, then Net Surplus or Net Deficit shall be calculated (and Membership Accounts adjusted) as if the fiscal year consisted of two short years, the first of which ends on the date of the transaction or other event creating dissenters' rights (but immediately before such occurrence), or liquidation of the Corporation, as applicable.

Section 4. Determination of Net Surplus: Non-Liquidating Distributions by the Corporation. Subject to applicable law, the Board of Directors shall determine whether the Corporation has Net Surplus as of the end of each fiscal year, after examining the Corporation's annual report and accounting reports. In calculating the amount of any Net Surplus, the Directors shall take into account all debts, liabilities, and obligations of the Corporation then due, as well as the establishment and replenishment of appropriate working capital and other reserves. Each Member shall have the right to withdraw its share of any Net Surplus, or leave such Net Surplus with the Corporation for continued use by the Corporation in accordance with its purposes. Each Member shall retain the right to withdraw at any future time any such Net Surplus that it decides to leave with the Corporation, subject to reduction for its share of any subsequent Net Deficit. The obligation to pay any such Net Surplus to the Members will be accounted for as a liability of the Corporation and an asset of each such Member. If one or more Members ("Surplus-Withdrawing Members") decide to withdraw all or part of their share of Net Surplus for any year(s), the Board of Directors may approve distributions to each Member equal to the proportion of its share of the Net Surpluses of the years for which Surplus-Withdrawing Members have withdrawn all or part of their shares. The Board of Directors may otherwise authorize distributions to be allocated to and distributed among the Members in proportion to their respective Membership Assessments until each Member has received an amount equal to the total of its Membership Assessments, and then in proportion to their Membership Accounts until such accounts have been paid in full, and then in proportion to their respective mean average Percentage Interests over the prior ten years (or such shorter period as the Corporation has then existed).

Section 5. No Accrual of Earnings to Non-Members. Notwithstanding any other provision of these Bylaws, no part of the earnings of the Corporation may accrue to the benefit of any private person or corporation but only to the Members.

Section 6. Distributions in Liquidation of the Corporation. On dissolution or final liquidation of the Corporation, assets remaining after payment of all creditors of the Corporation shall be distributed to the Members, first in payment of their Membership Accounts (after the adjustment provided in Section 3 above) or in proportion to their respective Membership Accounts (as so adjusted) if there are not sufficient assets to fully pay all such accounts, and any remaining assets shall be distributed in proportion to their respective average Percentage Interests (calculated as an arithmetic mean) over the prior ten years or such shorter period as the Corporation has then existed. Distributions in-kind must be approved by a Majority Vote of the Members.

Section 7. Distributions to Dissenters. The amount distributable to a dissenter pursuant to paragraph C of Article VI of the Articles of Incorporation shall be (a) determined after the adjustment to Membership Accounts provided in Section 3 above, and (b) paid in cash promptly after completion of the transaction or other action the authorization of which the dissenter voted against.

ARTICLE IV Board of Directors

Section 1. Powers of Directors. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors, except as otherwise provided by the Articles of Incorporation.

Section 2. Number and Terms of Directors. There shall be seven (7) Directors. The initial Directors are named in the Articles of Incorporation. The terms of the initial Directors expire at the first Members' meeting at which Directors are elected. Of the Directors elected at the first Members' meeting at which Directors are elected, the three nominees receiving the largest votes shall serve three year terms, the two nominees receiving the two next largest votes shall serve two year terms, and the others shall serve one year terms. Thereafter, all Directors shall serve for three year terms or until their successors are elected and qualified.

Section 3. Nomination and Election of Directors. At least two months prior to each annual Members' meeting, the President shall appoint a nominating committee consisting of three persons, each of whom is an employee of a Member or a Customer. The nominating committee shall provide for the annual meeting a slate of nominees equal in number to the number of positions on the Board which are open for election at that meeting, which slate shall satisfy the provisions of Section 4. The slate of nominees shall be submitted to the Secretary in sufficient time to be included with the notice of the meeting. Further nominations may be made by Members at the meeting. Each Member shall be entitled to cast the number of votes, for one or more of the nominees, as are equal in the aggregate to its Percentage Interest multiplied by the number of positions on the Board that are open for election. For example, if a Member's

Percentage Interest is 9.2% and there are two positions to fill at a meeting, then that Member may cast in the aggregate 18.4 votes for one nominee or divide those 18.4 votes among any two or more nominees. If, for any reason, the Directors shall not have been elected at any annual meeting, they may be elected at a special meeting of Members called for that purpose in the manner provided by these Bylaws, and the Directors whose terms were to expire at such annual meeting shall continue until their respective successors are elected and qualified. Except as otherwise provided in Section 4, the candidates receiving the largest number of votes shall be elected to the Board.

Section 4. Qualifications of Directors. Directors need not be Members or residents of the State of Washington, but must have reached the age of majority. Directors must be an employee of a Member or of a Customer, provided that in no event may more than two Directors be representatives of Customers.

(a) **Rural Representation.** If there are not continuing Directors (i.e., Directors whose terms have at least one more year remaining) constituting at least a majority of all Directors, each of whom is an employee of a Member or of a Customer whose principal office is located in a county which has a population density of less than 100 people per square mile (and at least one of whom is an employee of a Member or of a Customer whose principal office is located in a county which has a population density of 15 or fewer people per square mile), then the nominating committee's slate shall include at least enough nominees such that, if each is elected, the Board will then have such a rural representation composition. For the purposes of determining population densities, the nominating committee may use any reliable source of statistics selected by it from time to time.

(b) **Determination of Winning Director Candidates.** If the election does not result in a Board with a composition anticipated by paragraph (a), then the elected nominee with the smallest number of votes among those whose election would prevent such composition shall not be qualified and instead that position shall be filled by the non-elected nominee who had the largest number of votes whose membership on the Board would contribute to satisfaction of such a composition, and the same shall be done with each position voted on at such meeting which was won by a nominee who does not contribute to such a composition of the Board, in order of increasing number of votes received, until the result is a Board with as near such a composition as is possible. If a Director's situation at the time of his election contributes to such a composition of the Board, a subsequent change in his or her situation will not affect his or her status as a Director who contributes to such composition for these purposes until his or her present term of office ends.

Section 5. Regular Meetings of the Directors. Regular meetings of the Board of Directors shall be held at such places, and at such times as the Board by vote may determine, and, if so determined, no notice thereof need be given.

Section 6. Special Meetings of the Directors. Special meetings of the Board of Directors may be held at any time or place whenever called by the President or by a majority of the Board

of Directors, notice thereof being given to each Director by the officer calling or by the officer directed to call the meeting.

Section 7. Notice. No notice is required for regular meetings of the Board of Directors. Written notice of special meetings of the Board of Directors, stating the date, time, place and general business expected to be transacted at the meeting thereof, shall be given at least twenty-four hours in advance of the meeting. Such notice may be delivered personally, by fax or any other means of written communication available to a Director.

Section 8. Waiver of Notice. A Director may waive notice of a special meeting of the Board either before or at the meeting, and such waiver shall be deemed to be the equivalent of giving notice. The waiver must be in writing, signed by the Director entitled to the notice and delivered to the Corporation for inclusion in its corporate records; provided, however, that attendance of a Director at a meeting shall constitute waiver of notice of that meeting unless said Director attends for the express purpose of objecting to the transaction of business because the meeting has not been lawfully called or convened.

Section 9. Quorum of Directors; Participation by Telephone. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business. When a quorum is present at any meeting, a majority of the members present thereat shall decide any question brought before such meeting, except as otherwise provided by the Articles of Incorporation or by these Bylaws. Regular and special meetings may be conducted by telephone or conference call that enables all meeting participants to hear each other during the meeting. Participation by such means shall constitute presence in person at a meeting and such person shall be considered to be "in attendance" at such meeting. The same notice requirements applicable to in-person meetings of the Members shall apply to meetings that are conducted by, or include, telephone or conference call attendance.

Section 10. Adjournment. A majority of the Directors present, even if less than a quorum, may adjourn a meeting and continue it to a later time. Notice of the adjourned meeting and of the business to be transacted thereat must be given as required for a special meeting, shall not be necessary. At any adjourned meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting as originally called.

Section 11. Resignation, Removal and Other Vacancies. Any Director of this Corporation may resign at any time by giving written notice to the Board of Directors, the President, or Secretary of this Corporation. Any such resignation is effective when the notice is delivered, unless the notice specifies a later effective date. Without in any way limiting the other provisions of this Article IV, the Members, at a special meeting called expressly for such purpose, may remove a Director from office for cause or if the Director is no longer employed by a Member or a Customer. If a Director resigns or is removed, or if a vacancy on the Board occurs by any other means (such as due to the death of a Director or an increase in the number of Directors), the vacancy shall be filled by election by the Board of Directors at a meeting called for such purpose, to be conducted as provided in Sections 3 and 4, except that the President of the Board shall present the slate of nominees as soon as reasonably practicable.

Section 12. Compensation. No Director may be paid by the Corporation any compensation of any kind incurred in fulfilling the duties of a Director.

Section 13. Presumption of Assent.

(a) A Director of this Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless:

(1) The Director objects at the beginning of the meeting, or promptly upon the Director's arrival, to holding it or transacting business at the meeting;

(2) The Director's dissent or abstention from the action taken is entered in the minutes of the meeting; or

(3) The Director shall file written dissent or abstention with the presiding officer of the meeting before its adjournment or to the Corporation within a reasonable time after adjournment of the meeting.

(b) The right of dissent or abstention is not available to a Director who votes in favor of the action taken.

Section 14. Standard of Care.

(a) 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, with such care as an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner that such Director reasonably believes to be in the best interests of the Corporation.

(b) In performing the duties of 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:

(1) Any advisory committee established by the Board of Directors;

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

(3) Legal counsel, independent accountants or other persons as to matters that the Director believes to be within such person's professional or expert competence; or

(4) A committee of the Board of Directors upon which the Director does not serve but that the Director believes to merit confidence, as to matters within such committee's designated authority, 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.

Section 15. Loans and Self-Dealing Transactions.

(a) Loans. The Corporation shall not make any loan of money or property to or guarantee the obligation of any Director; provided, however, that the Corporation may advance money to a Director for expenses reasonably anticipated to be incurred in performance of the duties of such Director so long as such individual would be entitled to reimbursement for such expenses absent such advance.

(b) 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 has a material financial interest, unless the transaction meets the requirements of Section 15(c) below.

(c) Exempt Transactions. The following transactions are exempted from the provisions of Section 15(b) above:

(1) 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.

(2) A transaction with respect to which the Director having a material financial interest has no actual knowledge of the financial interest prior to the consummation of the transaction.

(3) A transaction that the Board of Directors, having knowledge of the material facts concerning the transaction and the Director's interest therein, and at a regularly scheduled meeting of the Board of Directors, 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 (a) the transaction will be entered into by the Corporation for its own benefit, (b) the transaction is fair and reasonable as to the Corporation and (c) the Corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Section 16. Inspection Rights. Every 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 information (other than any information regarding a violation of laws) 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 or to the detriment of the Corporation.

ARTICLE V Officers

Section 1. Positions. The officers of this Corporation shall consist of a President of the Board, a Vice President of the Board, a Secretary of the Board, a Chief Executive Officer, and a Treasurer, as appointed by the Board. Such other officers and assistant officers as may be necessary may be appointed by the Board of Directors or by a duly appointed officer to whom such authority has been delegated by Board resolution. Neither the Chief Executive Officer nor the Treasurer need be a Director of this Corporation. Any two or more offices may be held by the same person, except that neither the President nor the Chief Executive Officer may be Treasurer and the same person may not hold the offices of President and Secretary. Officers of the Corporation may be employees or elected or appointed officials of the Members, provided that the President of the Board, the Vice President of the Board and the Secretary of the Board shall each be elected from among the members of the Board of Directors. Any reference in these Bylaws to the "President," or any "Vice President," or the "Secretary" shall mean, respectively, the President of the Board, any Vice President of the Board or the Secretary of the Board.

Section 2. Appointment and Term of Office. The officers of this Corporation shall be elected by, and serve at the pleasure of, the Board of Directors, but not for terms in excess of three years. Each officer shall hold office until a successor shall have been elected and qualified or until said officer's earlier death, resignation, or removal.

Section 3. Powers and Duties. If the Board appoints persons to fill the following officer positions, such officer shall have the powers and duties set forth below:

- (a) President. The President shall preside at meetings of the Board of Directors.
- (b) Vice President. During the absence or disability of the President, the Vice President (or in the event that there be more than one Vice President, the Vice Presidents in the order designated by the Board of Directors) shall exercise all functions of the President, except as limited by resolution of the Board of Directors. Each Vice President shall have such powers and discharge such duties as may be assigned from time to time to such Vice President by the President or by the Board of Directors.
- (c) Secretary. The Secretary shall authenticate records of the Corporation and have such powers and discharge such duties as may be assigned from time to time to such Secretary by the President or by the Board of Directors.
- (d) Chief Executive Officer.
 - (1) The Chief Executive Officer (CEO) shall be the chief administrative officer of this Corporation and, subject to the direction and control of the Board of Directors, shall have general supervision of the business of this Corporation.

(2) The CEO or such other person(s) as are specifically authorized by vote of the Board of Directors, shall sign all bonds, deeds, mortgages, and any other agreements and other documents, and any one or more such signature(s) shall be sufficient to bind this Corporation. The CEO shall perform (or delegate and supervise the performance of) such other duties as the Board of Directors shall designate, including but not limited to:

(i) Prepare minutes of the Directors' and Members' meetings and keep them in one or more books provided for that purpose;

(ii) See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law;

(iii) Be custodian of the corporate records and of the seal of the Corporation (if any), and affix the seal of the Corporation to all documents as may be required;

(iv) Keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member;

(v) Sign with the President, or a Vice President, Membership Certificates, the issuance of which shall have been authorized by resolution of the Board of Directors;

(vi) Have general charge of the Membership Certificate transfer books of the Corporation; and

(vii) In general, perform all the duties commonly incident to the office of a corporate secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

(c) Treasurer. The Treasurer shall have the care and custody of the money, funds, and securities of the Corporation, shall account for the same, and shall have and exercise all the powers and duties commonly incident to this office.

Section 4. Compensation and Contract Rights. The compensation of the Chief Executive Officer shall be fixed from time to time by the Board of Directors. The appointment of an officer shall be at will and shall not of itself create contract rights.

Section 5. Resignation or Removal.

(a) Any officer of this Corporation may resign at any time by giving written notice to the Board of Directors. Any such resignation is effective when the notice is delivered, unless the notice specifies a later date, and shall be without prejudice to the contract rights, if any, of such officer or the Corporation.

(b) The Board of Directors, by majority vote of the entire Board, may remove any officer or agent appointed by it, with or without cause. The removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 6. Vacancies. If any office becomes vacant by any reason, the Board may appoint a successor or successors who shall hold office for the unexpired term.

Section 7. Staffing. The Chief Executive Officer may, within such budgetary authority and subject to such other restrictions and requirements as the Board of Directors may establish from time to time, hire or contract with such staff as is necessary to fulfill the purposes of the Corporation.

ARTICLE VI

Books and Records; Funds and Accounts; Pricing

Section 1. Books of Accounts, Minutes and Record of Members. The Corporation:

(a) Shall keep as permanent records minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors exercising the authority of the Board of Directors on behalf of the Corporation;

(b) Shall maintain appropriate accounting records;

(c) Shall, without limiting the provisions of Section 15 of Article II, maintain a record of the Members, in a form that permits preparation of a list of the names and addresses of all Members, in alphabetical order; and

(d) Shall keep a copy of the following records at its principal office:

(1) The Articles or Restated Articles of Incorporation and all amendments to them currently in effect;

(2) The Bylaws or Restated Bylaws and all amendments to them currently in effect;

(3) The minutes of all Members' and Directors' meetings, and records of all actions taken by Members and Directors without a meeting, for the past three years;

(4) Its financial statements for the past three years, including balance sheets showing in reasonable detail the financial condition of the Corporation as of the close of each fiscal year, and an income statement showing the results of its operations during each fiscal year prepared on the basis of generally accepted accounting principles or, if not, prepared on a basis explained therein;

- (5) All written communications to Members generally within the past three years;
- (6) A list of the names and business addresses of its current Directors and officers; and
- (7) Its most recent annual report delivered to the Secretary of State of Washington.

Section 2. Copies of Resolutions. Any person dealing with the Corporation may rely upon a copy of any of the records of the proceedings, resolutions, or votes of the Board of Directors or Members, when certified by the President or Secretary.

Section 3. Funds and Accounts. The Corporation shall maintain such funds and accounts as are authorized by action of the Board of Directors. Corporation funds shall be invested subject to the same restrictions as public funds under the laws of the state of Washington. The financial records of the Corporation shall be subject to audit in the manner provided by law for the auditing of public funds.

Section 4. Pricing. The Corporation will charge all Members on the same "at cost" basis. Other customers may be charged on any basis that the directors or officers determine.

ARTICLE VII

Indemnification of Officers, Directors, Employees and Agents

Section 1. Definitions. As used in this Article:

- (a) "Agent" means an individual who is or was an agent of the Corporation or an individual who, while an agent of the Corporation, is or was serving at the Corporation's request as a Director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. "Agent" includes, unless the context requires otherwise, the estate or personal representative of an agent.
- (b) "Corporation" means this Corporation, and any domestic or foreign predecessor entity which, in a merger or other transaction, ceased to exist.
- (c) "Director" means an individual who is or was a Director of the Corporation or an individual who, while a Director of the Corporation, is or was serving Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. "Director" includes, unless the context requires otherwise, the estate or personal representative of a Director.
- (d) "Employee" means an individual who is or was an employee of the Corporation or an individual, while an employee of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic

corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. "Employee" includes, unless the context requires otherwise, the estate or personal representative of an employee.

(e) "Expenses" include counsel fees.

(f) "Indemnatee" means an individual made a party to a proceeding because the individual is or was a Director, Officer, Employee, or Agent of the Corporation, and who possesses indemnification rights pursuant to the Articles, these Bylaws, or other corporate action. "Indemnatee" shall also include the heirs, executors, and other successors in interest of such individuals.

(g) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(h) "Officer" means an individual who is or was an officer of the Corporation or an individual who, while an officer of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. "Officer" includes, unless the context requires otherwise, the estate or personal representative of an officer.

(i) "Party" includes an individual who was, is, or is threatened to be named a defendant or respondent in a proceeding.

(j) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal.

Section 2. Indemnification Rights of Directors, Officers, Employees and Agents. The Corporation shall indemnify its Directors, Officers, Employees and Agents to the full extent permitted by applicable law as then in effect against liability arising out of a proceeding to which such individual was made a party because the individual is or was a Director, Officer, Employee or Agent of the Corporation. The Corporation shall advance expenses incurred by such persons who are parties to a proceeding in advance of final disposition of the proceeding, as provided herein.

Section 3. Procedure for Seeking Indemnification or Advancement of Expenses.

(a) Notification and Defense of Claim. Indemnatee shall promptly notify the Corporation in writing of any proceeding for which indemnification could be sought under this Article. In addition, Indemnatee shall give the Corporation such information and cooperation as it may reasonably require and as shall be within Indemnatee's power.

With respect to any such proceeding as to which Indemnatee has notified the Corporation:

and (1) The Corporation will be entitled to participate therein at its own expense;

(2) Except as otherwise provided below, to the extent that it may wish, the Corporation, jointly with any other indemnifying party similarly notified, will be entitled to assume the defense thereof, with counsel satisfactory to Indemnatee. Indemnatee's consent to such counsel may not be unreasonably withheld.

After notice from the Corporation to Indemnatee of its election to assume the defense, the Corporation will not be liable to Indemnatee under this Article for any legal or other expenses subsequently incurred by Indemnatee in connection with such defense. However, Indemnatee shall continue to have the right to employ its counsel in such proceeding, at Indemnatee's expense; and if:

(i) The employment of counsel by Indemnatee has been authorized by the Corporation;

(ii) Indemnatee shall have reasonably concluded that there may be a conflict of interest between the Corporation and Indemnatee in the conduct of such defense; or

(iii) The Corporation shall not in fact have employed counsel to assume the defense of such proceeding, the fees and expenses of Indemnatee's counsel shall be at the expense of the Corporation.

The Corporation shall not be entitled to assume the defense of any proceeding brought by or on behalf of the Corporation or as to which Indemnatee shall reasonably have made the conclusion that a conflict of interest may exist between the Corporation and the Indemnatee in the conduct of the defense.

(b) Information to be Submitted and Method of Determination and Authorization of Indemnification. For the purpose of pursuing rights to indemnification under this Article, the Indemnatee shall submit to the Board a sworn statement requesting indemnification and reasonable evidence of all amounts for which such indemnification is requested (together, the sworn statement and the evidence constitutes an "Indemnification Statement").

Submission of an Indemnification Statement to the Board shall create a presumption that the Indemnatee is entitled to indemnification hereunder, and the Corporation shall, within 60 calendar days thereafter, make the payments requested in the Indemnification Statement to or for the benefit of the Indemnatee, unless: (1) within such 60 calendar day period it shall be determined by the Corporation that the Indemnatee is not entitled to indemnification under this Article; (2) such vote shall be based upon clear and convincing evidence (sufficient to rebut the foregoing presumption); and (3) the Indemnatee shall receive notice in writing of such

determination, which notice shall disclose with particularity the evidence upon which the determination is based.

At the election of the President, the foregoing determination may be made by either: (1) the written consent of a majority of the Members; (2) a committee chosen by written consent of a majority of the Directors of the Corporation, and consisting solely of two or more Directors not at the time parties to the proceeding; or (3) as provided by RCW 23B.08.550, as amended, as referred to in RCW 24.06.043.

Any determination that the Indemnitee is not entitled to indemnification, and any failure to make the payments requested in the Indemnification Statement, shall be subject to judicial review by any court of competent jurisdiction.

(c) Special Procedure Regarding Advance for Expenses. An Indemnitee seeking payment of expenses in advance of a final disposition of the proceeding must furnish the Corporation, as part of the Indemnification Statement:

(1) A written affirmation of the Indemnitee's good faith belief that the Indemnitee has met the standard of conduct required to be eligible for indemnification; and

(2) A written undertaking, constituting an unlimited general obligation of the Indemnitee, to repay the advance if it is ultimately determined that the Indemnitee did not meet the required standard of conduct.

If the Corporation determines that indemnification is authorized, the Indemnitee's request for advance of expenses shall be granted.

(d) Settlement. The Corporation is not liable to indemnify Indemnitee for any amounts paid in settlement of any proceeding without Corporation's written consent. The Corporation shall not settle any proceeding in any manner which would impose any penalty or limitation on Indemnitee without Indemnitee's written consent. Neither the Corporation nor Indemnitee may unreasonably withhold its consent to a proposed settlement.

Section 4. Contract and Related Rights

(a) Contract Rights. The right of an Indemnitee to indemnification and advancement of expenses is a contract right upon which the Indemnitee shall be presumed to have relied in determining to serve or to continue to serve in his or her capacity with the Corporation. Such right shall continue as long as the Indemnitee shall be subject to any possible proceeding. Any amendment to or repeal of this Article shall not adversely affect any right or protection of an Indemnitee with respect to any acts or omissions of such Indemnitee occurring prior to such amendment or repeal.

(b) Optional Insurance, Contracts, and Funding. The Corporation may:

(1) Maintain insurance, at its expense, to protect itself and any Indemnitee against any liability, whether or not the Corporation would have power to indemnify the individual against the same liability under RCW 23B.08.510 or .520, or a successor statute, as referred to in RCW 24.06.043;

(2) Enter into contracts with any Indemnitee in furtherance of this Article and consistent with applicable law; and

(3) Create a trust fund, grant a security interest, 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 in this Article.

(c) Severability. If any provision or application of this Article shall be invalid or unenforceable, the remainder of this Article and its remaining applications shall not be affected thereby, and shall continue in full force and effect.

(d) Right of Indemnitee to Bring Suit. If (1) a claim under this Article for indemnification is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation; or (2) a claim under this Article for advancement of expenses is not paid in full by the Corporation within 20 days after a written claim has been received by the Corporation, then the Indemnitee may, but need not, at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. To the extent successful in whole or in part, the Indemnitee shall be entitled to also be paid the expense (to be proportionately prorated if the Indemnitee is only partially successful) of prosecuting such claim.

Neither: (1) the failure of the Corporation (including its Board of Directors, its Members, or independent legal counsel) to have made a determination prior to the commencement of such proceeding that indemnification or reimbursement or advancement of expenses to the Indemnitee is proper in the circumstances; nor (2) an actual determination by the Corporation (including its Board of Directors, its Members, or independent legal counsel) that the Indemnitee is not entitled to indemnification or to the reimbursement or advancement of expenses, shall be a defense to the proceeding or create a presumption that the Indemnitee is not so entitled.

Section 5. Exceptions. Any other provision herein to the contrary notwithstanding, the Corporation shall not be obligated pursuant to the terms of these Bylaws to indemnify or advance expenses to Indemnitee with respect to any proceeding:

(a) Claims Initiated by Indemnitee. Initiated or brought voluntarily by Indemnitee and not by way of defense, except with respect to proceedings brought to establish or enforce a right to indemnification under these Bylaws or any other statute or law or as otherwise required under the statute; but such indemnification or advancement of expenses may be provided by the Corporation in specific cases if the Board of Directors finds it to be appropriate,

(b) Lack of Good Faith; Scope of Employment or Duties. In which the court finds that the Indemnitee was either not acting in good faith or not acting within the scope of his or her

employment or duties with the Corporation, or in a proceeding instituted by Indemnitee to enforce or interpret this Agreement, if a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous.

(c) Insured Claims. For which any of the expenses or liabilities for indemnification is being sought have been paid directly to Indemnitee by an insurance carrier under a policy of officers' and directors' liability insurance maintained by the Corporation.

(d) Prohibited by Law or Articles of Incorporation. If the Corporation is prohibited by applicable law as then in effect, or by its Articles of Incorporation, from paying such indemnification or advancement of expenses.

ARTICLE VIII Transfers of Membership Interests

Section 1. Restrictions on Transfer of Membership Interests. A transfer of a Membership Interest may be made and a substitute Member may be admitted only in accordance with the provisions of Section 2 of this Article.

Section 2. Transfer and Assignment of Membership Interests.

(a) Transfers of Membership Interests Not Permitted Without Consent. Subject to the provisions of Section 2(b) of this Article, no Member shall be entitled to transfer, assign, convey, sell, encumber, grant a lien or security interest in, mortgage, pledge, hypothecate or in any way alienate (collectively, "transfer") all or any part of its Membership Interest except with the prior approval by a Supermajority Vote of the Members, which consent may be given or withheld, conditioned or delayed by such Members in their sole and absolute discretion. After the consummation of any transfer of all or any part of a Membership Interest, the Membership Interest so transferred shall continue to be subject to the terms and provisions of these Bylaws and any further transfers shall be required to comply with all the terms and provisions of these Bylaws.

(b) Additional Transfer Requirements. In addition to the requirements of Section 2(a) of this Article, a Membership Interest may be transferred only if (i) the substitute Member meets the membership qualifications and admission requirements of Section 2 of Article II and (ii) the transferee pays any reasonable expenses incurred by the Corporation and the other Members in connection with the transferee's admission as a new Member. The admission of a substitute Member shall not result in the release of the Member that transferred the Membership Interest to such transferee from any liability that such Member may have incurred to the Corporation, any other Member, or any third party prior to such transfer. Any transferee of a Membership Interest shall take such Membership Interest subject to the restrictions on transfer imposed by the Articles of Incorporation and these Bylaws.

ARTICLE IX
Guarantees; Indemnity

Section 1. Guarantee; Indemnity. The Board shall give each Member at least 60 days' written notice before it takes action on a proposal which contemplates a written guarantee or similar commitment (referred to herein individually as a "Guarantee" and more than one as "Guarantees") by each Member of its share (as provided in Section 2 below) of any contractual obligations of the Corporation. The notice shall include a summary of the material terms of the contractual obligation and of the Guarantee to be executed and delivered by Members. Within such 60 day period, each Member may, by such means as applies to it, authorize the execution and delivery of such Guaranty. If requested by a two-thirds vote of all the Directors (not merely a quorum thereof), each Member who authorized the execution and delivery of the Guarantee shall do so, and in such event Members who fail to execute and deliver the Guarantee shall immediately and automatically be expelled for cause, as provided in Section 18 of Article II, without a vote of the Board of Directors and the only cure that may reasonably be effected is the authorization of and execution and delivery of the Guarantee by the effective date of the contract creating the Corporation's obligation. Each new Member agrees that, upon admission or at any time thereafter as it is requested by the Board of Directors (by a simple majority of a quorum thereof), it will execute and deliver such a Guarantee or, at the Board's election, its written indemnification of existing Members which have provided Guarantees, either such type of documentation to be in such form as the Board of Directors approves in like manner and is also referred to herein singly as a "Guarantee" and collectively as "Guarantees". Notwithstanding the foregoing, the provisions of this Section 1 shall not apply (although the provisions of the remainder of this Article IX shall apply) to (i) the initial Ten Million Dollar line of credit financing obtained by the Corporation, each Member being bound to execute and deliver the Repayment Agreement in connection therewith as a condition to becoming a Member, and (ii) any extension or renewal of the Corporation's initial Ten Million Dollar line of credit financing or any refinance or other replacement thereof, so long as the principal amount thereof does not exceed Ten Million Dollars, and each Member shall execute and deliver its Guarantee thereof (in the form approved by a two-thirds vote of all the Directors, not merely a quorum thereof).

Section 2. Shares. Unless a Member expressly agrees in writing to a greater share of a contractual obligation of the Corporation specified in Section 1 above, each Member's share of such an obligation shall be the Member's Percentage Interest on the effective date of the contract creating the Corporation's obligation. A Member's share of such an obligation may subsequently be adjusted as the result of the addition of new Members if the party contracting with the Corporation consents as provided in the agreement between it and the Corporation. If the Board of Directors so requests, based on the two-thirds vote required in Section 1 above, the Guarantee shall provide that a Member's share of such an obligation may be increased by as much as, but no more than, twenty-five percent (25%) if one or more of the other Members fail to pay all or part of their shares of that obligation. For example, the share of a Member whose Percentage Interest is 10% could be increased to a maximum of 12.5% under such a provision.

Section 3. Failure to Pay. Failure to make a full, timely payment pursuant to the provisions of any Guarantee shall result in immediate automatic expulsion of a Member without a vote of the Board of Directors, with all attendant consequences pursuant to Section 18 of Article II (including without limitation Percentage Interest adjustments). All or part of such Member's Membership Account may be paid to the other Members that pay an additional amount due to the failure of that Member to make payment. A Member that pays an additional amount due to the failure of another Member to pay all or part of its share, shall be entitled to reimbursement from that Member to the extent not repaid from that Member's Membership Account. A Member that pays an additional amount for which it is not able to obtain full reimbursement thereof from the Member who failed to pay all or part of its share (directly or from its Membership Account), shall be entitled to receive a portion of the unreimbursed amount from each other Member, each such Member to pay an amount thereof proportional to its share of the shares of all such Members, subject to the limitations contained in Section 2. Such payment shall be due within 30 days after receipt of written demand therefore. Failure to make a timely payment pursuant to the previous sentence shall result in immediate automatic expulsion of a Member without a vote of the Board of Directors, with all attendant consequences pursuant to Section 18 of Article II (including without limitation Percentage Interest adjustments), and all or part of such Member's Membership Account may be paid to the other Members that pay an additional amount due to such failure. Each Member who makes such a payment shall be entitled to reimbursement of such amount from the Member who failed to pay all or part of its share. Nothing in this Article IX shall be interpreted to deny a Member the right to make any payment under protest, reserving its right to seek repayment of all or part thereof to which it is entitled. Automatic expulsions provided in this Section 3 shall not constitute the exclusive remedy of the Corporation or of any other Member.

Section 4. Limitation. The provisions of this Article IX apply only to contractual obligations of the Corporation and only to the extent that the Board of Directors has approved in the manner provided above.

[Certificate of Secretary of the Corporation]

Schedule A

Member	Percentage Interest
Benton	15.15
Chelan	10.91
Clallam	7.73
Douglas	4.49
Energy Northwest	7.95
Ferry	1.23
Franklin	6.89
Grant	15.15
Kittitas	0.84
Lewis	8.21
Mason #3	8.48
Okanogan	5.87
Pacific	4.65
Skamania	1.57
Whatcom	0.88
Totals	100.00