10 Force Majeure And Indemnification

10.1 Force Majeure:

An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. Neither the Transmission Provider nor the Transmission Customer will be considered in default as to any obligation under this Tariff if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Tariff is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Tariff.

Except for the obligation to make any payments under this Tariff, each Party shall be excused from performing any obligation under this Tariff and shall not be liable in damages or otherwise if and to the extent that it is unable to perform or is prevented from performing such obligation by a Force Majeure; provided, that:

(a) The non-performing Party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than five (5) days thereafter, gives the other Party written notice describing the particulars of the occurrence;

 (b) The suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure;

(c) The non-performing Party uses Due Diligence to perform and/or remedy its inability to perform;

(d) As soon as the non-performing Party is able to resume performance of its obligations excused as a result of the occurrence, it gives prompt written notification thereof to the other Party; and

(e) Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest, it being understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party having such dispute.

10.2 Indemnification:

The Transmission Customer shall at all times indemnify, defend, and save the Transmission Provider harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Transmission Provider’s performance of its obligations under this Tariff on behalf of the Transmission Customer, except in cases of negligence or intentional wrongdoing by the Transmission Provider. Provided, however, that the standard of liability for the actions of the NV Energy EIM Entity performed consistent with Attachment P of this Tariff shall be gross negligence or intentional wrongdoing.