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Cascade County, Rina Ft Moore - Clerk & Recorder



MORTGAGE

329813-67

This Mortgage ("**Mortgage**") is made as of February 26, 2010, by SME Electric Generation and Transmission Cooperative, Inc., a cooperative corporation organized under the laws of the State of Montana ("**Mortgagor**"), the mailing address of which is P.O. Box 80152, Billings, Montana 59108-0152 to the Bank of New York Mellon Trust Company, N.A., in its capacity as collateral agent (in such capacity, and together with its successors in such capacity, the "**Collateral Agent**") for the benefit of the secured parties under that certain Collateral Agency Agreement, dated as of the date hereof (the "**Collateral Agency Agreement**"), by and among Mortgagor, Southern Montana Electric Generation and Transmission Cooperative, Inc., a cooperative corporation organized under the laws of the State of Montana (the "**Company**"), the Collateral Agent and the Secured Parties (as defined below), as **Mortgagee**.

PRELIMINARY STATEMENTS:

I. The **Company** is entering into (a) the Indenture of Mortgage, Security Agreement and Financing Statement dated as of February 26, 2010 with U.S. Bank National Association, as Trustee (the "**Trustee**") (as amended by the First Supplemental Indenture (defined below), and as otherwise amended, modified or supplemented from time to time, the "**Indenture**"), (b) the First Supplemental Indenture ("**First Supplemental Indenture**") dated as of February 26, 2010 with the Trustee, and (c) a Note Purchase Agreement dated as of February 26, 2010 (as amended or otherwise modified from time to time, the "**Note Agreement**") with the institutions listed on the signature pages thereto (the "**Purchasers**") and the other holders of the Notes from time to time (the Purchasers and such other holders, being referred to collectively as the "**Holders**").

II. Pursuant to the Indenture, the First Supplemental Indenture and the Note Agreement, the Company proposes to issue and sell to the Purchasers \$75,000,000 aggregate principal amount of its 8.00% Senior First Mortgage Notes, Series 2010A, due February 26, 2040 (the "**Series A Notes**") and \$10,000,000 aggregate principal amount of its 7.25% Senior First Mortgage Notes, Series 2010B, due February 26, 2026 (the "**Series B Notes**" and, together with the Series A Notes, the "**Notes**").

III. It is a condition to the obligations of the **Purchasers** to purchase the Notes that the Mortgagor enter into a guaranty of the Company's payment obligations under and in connection with the Notes and that this Mortgage be executed and delivered by the Guarantor to secure its obligations under the Guaranty dated as of February 26, 2010, in favor of the **Holders** (the "**Guaranty**"). Capitalized terms used herein have the meanings specified in the Guaranty unless otherwise defined herein

NOW, THEREFORE, For good and valuable consideration and for the purpose of securing the performance by Mortgagor of its obligations under the Guaranty, not to exceed \$115,000,000, which equals the sum of \$85,000,000 in aggregate principal amount of the Notes plus make-whole amounts in an aggregate amount of \$30,000,000, with interest on such amounts as

provided in the First Supplemental Indenture and the Notes, plus all costs and other amounts advanced by the Collateral Agent or any other Secured Party as described below, all of which, if not paid or extended, are fully due and payable February 26, 2040, the Mortgagor agrees as follows:

As security for the purposes stated in this Mortgage, Mortgagor mortgages, warrants, and assigns to the Collateral Agent, as Mortgagee, for the benefit of the Holders and the Collateral Agent (the "**Secured Parties**"), and their successors and assigns, the real property in the County of Cascade, State of Montana, legally described as:

Parcel B of Certificate of Survey No. S-0004660, according to the plat thereof filed February 4, 2010 in the office of the Clerk and Recorder of Cascade County, Montana, including therein the W1/2SE1/4 of Section 24 and the N1/2NW1/4 and NW1/4NE1/4 of section 25, all in Township 21 North, Range 5 East, P.M.M., Cascade County;

Commonly Known As: 369 Salem Road, Great Falls, Montana 59405

together with: (a) all related water rights, easements, hereditaments, appurtenances, rights, licenses and privileges; (b) all right, title and interest of Mortgagor in or to buildings and improvements now or later situated under, upon or over any of the above described land; (c) all the rents, issues, profits, revenues, accounts and general intangibles arising from the above described land, or relating to any business conducted by Mortgagor on it, under present or future leases, licenses or otherwise; (d) all of Mortgagor's machinery, equipment, goods, fixtures, and articles of personal property of every kind and nature, if any (other than consumer goods, as defined in the Uniform Commercial Code, unless such goods were purchased with the proceeds of any loan specifically referenced as being secured by this Mortgage), now or later located upon the above described land and useable in connection with any present or future operation on the above-described land (individually and collectively the "**equipment**") and (e) all awards or payments, and interest on them, paid or payable to Mortgagor with respect to the above-described land as a result of (i) any eminent domain proceeding, (ii) any street grade alteration, (iii) any loss of or damage to any building or other improvement, (iv) any other injury to or decrease in the value of the above-described land, (v) any refund due on account of the payment of real estate taxes, assessments or other charges levied against the above-described land or (vi) any refund of utility deposits or right to any tenant deposit (all of the above individually and collectively, the "**Premises**"). Unless otherwise indicated, a reference to the "Premises" means all and/or any part of the Premises.

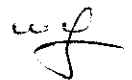
This Mortgage is made to secure payment and performance when due, of the Guaranteed Obligations under and as defined in the Guaranty; all costs, including attorneys' fees, incurred by



the Collateral Agent or any of the other Secured Parties in establishing, determining, continuing, or defending the validity or priority of its or their lien or security interest, or to protect the value of the Premises, or for any appraisal, environmental audit, title examination or title insurance policy reasonably required by the Collateral Agent or any of the other Secured Parties relating to the Premises in pursuing its or their rights and remedies under the Guaranty or this Mortgage; all costs, including attorneys' fees, incurred by the Collateral Agent or any of the other Secured Parties in connection with any suit or claim in any way related to the Premises, the Guaranty or this Mortgage; and all costs, including attorney's fees, of collecting the Guaranteed Obligations or any of the foregoing costs (collectively, the "**Mortgage Obligations**"). In the event of default in payment of the Guaranteed Obligations or under the Guaranty, Mortgagor agrees to pay the Collateral Agent for the benefit of the Secured Parties, upon demand, all Mortgage Obligations, including interest thereon at the interest rate then applicable to the Guaranteed Obligations. Any reference in this Mortgage to attorney fees shall be deemed a reference to all reasonable fees, charges, costs and expenses of both in-house and outside counsel and paralegals, whether or not a suit or action is instituted, and to court costs if a suit or action is instituted, and whether attorney fees or court costs are incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding or otherwise. Notwithstanding the foregoing, this Mortgage shall not secure that part of the Mortgage Obligations, if any, which constitutes a consumer loan, other than a consumer loan made at the same time as this Mortgage and specifically referenced as being secured by this Mortgage (and all extensions, renewals, modifications or replacements thereof).

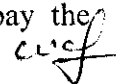
Mortgagor, on a continuing basis, warrants, covenants and agrees to and with the Collateral Agent (for the benefit of the Secured Parties), which covenants, warranties and agreements, to the extent permitted by law, shall be deemed to run with the land, as follows:

1. Mortgagor, pursuant to its Guaranty and subject to the limitations set forth therein and herein, will pay to the Secured Parties or the Collateral Agent (on behalf of the Secured Parties) all Mortgage Obligations according to the terms of Mortgagor's Guaranty, and Mortgagor agrees that this Mortgage is a continuing mortgage securing Mortgagor's Guaranty of the Mortgage Obligations.
2. Mortgagor has good and indefeasible title to the entire Premises in fee simple and with full power to sell, mortgage and convey it; the Premises are free of all easements, restrictions, liens, leases and encumbrances whether now existing or later created, except those matters listed on attached Schedule A to which this Mortgage is expressly subject, and Mortgagor will warrant and defend the Premises against all other claims. The Collateral Agent (on behalf of the Secured Parties) shall have the right, at the option and direction of the Secured Parties pursuant to the Collateral Agency Agreement, and at such times as the Secured Parties, in their sole discretion deems necessary, to take whatever action the Collateral Agent (on behalf of the Secured Parties) may deem necessary to defend or uphold the lien of this Mortgage or otherwise enforce any of its rights under this Mortgage or any obligation secured by this Mortgage including the right to institute appropriate legal proceedings for these purposes. With respect to the right, title, or lien of any person or entity which is superior to the lien of this Mortgage, the Secured Parties and the Collateral Agent (on behalf of the Secured Parties) each have the right, but not the obligation, to acquire and/or pay off the holder of such right, title, or lien and add the amount so paid to the Mortgage Obligations.



3. Mortgagor shall not mortgage or pledge the Premises as security for any other indebtedness or obligations. Mortgagor shall pay when due, and before any interest, collection fees or penalties accrue or default occurs, all taxes, assessments, and other charges and impositions levied, assessed or existing with respect to (i) the Premises or (ii) the execution, delivery or recordation of this Mortgage or any note or other instrument evidencing or securing repayment of the Mortgage Obligations or the interest of the Collateral Agent (on behalf of the Secured Parties) in the Premises, and will deliver to the Collateral Agent (on behalf of the Secured Parties) without demand official receipts showing these payments; provided that nothing herein shall prevent or preclude Mortgagor from requiring payment or reimbursement of payment of taxes, assessments, charges or impositions upon the Premises by the Company as Lessee (the "**Lessee**") pursuant to the Ground Lease. If Mortgagor fails to pay these taxes, assessments, other charges or impositions when due, or if Mortgagor fails to pay all interest, collection fees and penalties accrued on them, the Secured Parties or the Collateral Agent (on behalf of the Secured Parties), at their sole option, may (but are not obligated to) pay them and the monies paid shall be added to the Mortgage Obligations. Mortgagor shall pay (before the same become liens or encumbrances against the Premises) any and all obligations or liabilities for repairs or improvements to the Premises or for any other goods, services, or utilities furnished to the Premises; provided that nothing herein shall prevent or preclude Mortgagor from requiring in accordance with the Ground Lease that the Lessee provide and pay for all obligations or liabilities for repairs or improvements to the Premises or for any other goods, services or utilities furnished to the Premises. No lienholder junior to this Mortgage may exercise any rights with respect to the Premises, and all rents and other proceeds from the Premises shall be held in trust by the junior lienholder as the property of the Collateral Agent (for the benefit of the Secured Parties), until satisfaction in full of the Mortgage Obligations. Nothing in this paragraph shall be considered a consent by the Collateral Agent (on behalf of the Secured Parties) to any lien, mortgage or encumbrance on the Premises unless set forth on attached Schedule A, if any.

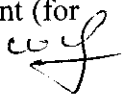
4. Mortgagor shall require that the Lessee, in accordance with the Ground Lease, at all times keep the buildings and all other improvements now or later existing on the Premises constantly insured for the benefit of the Collateral Agent (for the benefit of the Secured Parties) against fire and other hazards and risks, including vandalism and malicious mischief, as the Collateral Agent (on behalf of the Secured Parties) may require and shall further provide flood insurance (if the Premises are situated in a special flood hazard area as determined by the Director of the Federal Emergency Management Agency or other governing agency), public liability insurance and any other insurance as the Collateral Agent (on behalf of the Secured Parties) may require from time to time, all in amounts and in forms and with companies as are satisfactory to the Secured Parties. Mortgagor shall deliver to the Collateral Agent (on behalf of the Secured Parties) the policies evidencing the required insurance with standard mortgagee clauses satisfactory to the Secured Parties. Renewals of the required insurance shall be delivered to the Collateral Agent (on behalf of the Secured Parties) at least 30 days before the expiration of any existing policies. All policies and renewals shall provide that they may not be canceled or amended without giving the Collateral Agent (on behalf of the Secured Parties) 30 days prior written notice of cancellation or amendment. Should the Mortgagor or the Lessee fail to insure or fail to pay the premiums on any required insurance or fail to deliver the policies or renewals of them as provided above, then the Collateral Agent (on behalf of the Secured Parties) may (but is not obligated to) have the insurance issued or renewed (and the Secured Parties may pay the



premiums on it for the account of Mortgagor) in amounts and with companies and at premiums as the Secured Parties deem appropriate. If the Collateral Agent (on behalf of the Secured Parties) elects to have insurance issued or renewed to insure the interest of the Collateral Agent (for the benefit of the Secured Parties), the Collateral Agent shall have no obligation to also insure Mortgagor's interest or to notify Mortgagor of actions by the Collateral Agent (on behalf of the Secured Parties). Any sums paid by the Secured Parties, or by the Collateral Agent on behalf of the Secured Parties for insurance as provided above shall be added to the Mortgage Obligations. In the event of loss or damage, the proceeds of all required insurance shall be paid to the Collateral Agent (for the benefit of the Secured Parties) for application to the Mortgage Obligations. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Secured Parties (directly or through the Collateral Agent) in collecting the proceeds (including their respective attorneys' fees), and then toward payment of the Mortgage Obligations or any portion of it, whether or not then due or payable and in whatever order of maturity as the Secured Parties may elect, or the Secured Parties, at their option, may apply any or all the insurance proceeds to the repair or rebuilding of the Premises. In the event of a foreclosure of this Mortgage, or the giving of a deed in lieu of foreclosure, the purchaser or grantee of the Premises shall succeed to all of the rights of Mortgagor under said insurance policies.

5. Mortgagor shall abstain from commission of waste upon the Premises, and promptly comply with all laws, regulations and requirements of all governmental bodies affecting the Premises. If the Collateral Agent determines that the Premises requires inspection, testing, appraisal, repair, care, alteration or attention of any kind, the Collateral Agent or its representatives may (but is not obligated to) enter upon the Premises, and inspect, test, appraise, repair, alter or maintain the Premises as the Collateral Agent or any of the other Secured Parties may deem necessary, and Mortgagor shall reimburse the Secured Parties upon demand for all resulting costs and expenses incurred by the Secured Parties or the Collateral Agent (on behalf of the Secured Parties); provided that nothing herein shall prevent or preclude Mortgagor from requiring direct payment or reimbursement of each and all such costs or expenses by the Company as Lessee of the Premises. Any inspection, audit, appraisal or examination by the Collateral Agent (on behalf of the Secured Parties) or its representatives of the Premises or of information or documents pertaining to the Premises is for the sole purpose of protecting the interests of the Collateral Agent (on behalf of the Secured Parties) under this Mortgage and is not for the benefit or protection of Mortgagor or any third party. The Collateral Agent has no obligation to provide Mortgagor or any third party with information concerning, or results of, any inspection, audit, appraisal or examination by the Collateral Agent or its representatives. If the Collateral Agent, in its sole discretion, discloses information to Mortgagor this disclosure is for the sole protection of the Collateral Agent, does not constitute an agreement to further disclosure and does not create a warranty by the Collateral Agent as to the accuracy, sufficiency or any other aspect of the disclosure. The Secured Parties may spend money as the Secured Parties deem necessary to protect the value of the Premises. If any action is threatened or commenced which affects the Collateral Agent's interest in the Premises, including building, environmental or zoning proceedings, the Collateral Agent may take such action as it deems necessary to protect its interest and the costs shall be added to the Mortgage Obligations.

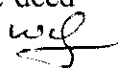
6. In the event any of the Premises is taken under power of eminent domain, or by condemnation, the entire proceeds of the award shall be paid directly to the Collateral Agent (for



the benefit of the Secured Parties) and applied toward reimbursement of all costs and expenses incurred by the Collateral Agent or any of the other Secured Parties in connection with collecting the award (including attorney fees), and the balance applied upon the other Mortgage Obligations whether or not then due or payable in whatever manner the Secured Parties deem advisable. Application by the Secured Parties of any condemnation award or portion of it toward the last maturing installments of the Mortgage Obligations shall not excuse the Company from making the regularly scheduled payments nor extend the due date or reduce the amount of these payments.

7. Except with respect to the transfer to the Company (in accordance with Section 4.22 of the Indenture), pursuant to the option provisions set forth in the Ground Lease, Mortgagor covenants and agrees that it shall not convey, assign or transfer the Premises by deed, land contract or other instrument, allow title to the Premises to become vested in any other person or party in any manner whatsoever or allow any disposition (through one or more transactions) of legal or beneficial title to a controlling interest of Mortgagor (any of the foregoing, a **"Transfer"**).

8. As additional security for the payment and performance of the Mortgage Obligations, Mortgagor assigns to the Collateral Agent for the benefit of the Secured Parties all its right, title and interest in all written and oral leases and occupancy agreements, now or later existing, including the Ground Lease, covering the Premises (but without an assumption by the Collateral Agent of liabilities of Mortgagor under any of these leases or occupancy agreements by virtue of this assignment), and Mortgagor assigns to the Collateral Agent (for the benefit of the Secured Parties) the rents, issues and profits of the Premises. If an Event of Default (as defined below) occurs under this Mortgage, the Collateral Agent (on behalf of the Secured Parties) may receive and collect the rents, issues and profits personally or through a receiver so long as the Event of Default exists and during the pendency of any foreclosure proceedings and during any redemption period. Mortgagor agrees to consent to the appointment of a receiver if this is believed necessary or desirable by the Collateral Agent to enforce its rights under this Mortgage. The Collateral Agent shall at no time have any obligation to attempt to collect rent or other amounts from any tenant or occupier of the Premises. The Collateral Agent shall at no time have any obligation to enforce any other obligations owed by tenants or occupiers of the Premises to Mortgagor. No action taken by the Collateral Agent under this Mortgage shall make the Collateral Agent a "mortgagee in possession." Mortgagor shall at no time collect advance rent under any lease or occupancy agreement pertaining to the Premises in excess of one month (other than as a security deposit) and the Collateral Agent shall not be bound in any respect by any rent prepayment in violation of this prohibition. The assignment of licenses and permits under this Mortgage shall not be construed as a consent by the Collateral Agent to any license or permit so assigned, or to impose upon the Collateral Agent any obligations with respect to them. Mortgagor shall not cancel or amend any of the licenses and permits assigned (nor permit any of them to terminate if they are necessary or desirable for the operation of the Premises) without first obtaining the written approval of the Collateral Agent (on behalf of the Secured Parties). This paragraph shall not be applicable to any license or permit that terminates if it is assigned without the consent of another party (other than Mortgagor), unless this consent has been obtained nor shall this paragraph be construed as a present assignment of any license or permit that Mortgagor is required by law to hold. Mortgagor shall comply with and perform as required all obligations and restrictions imposed upon Mortgagor or the Premises under applicable deed



restrictions, restrictive covenants, easements, leases, land contracts, condominium or planned unit development documents, or other agreements affecting the Premises, but this is not a consent by the Collateral Agent to take subject to any of these agreements unless specifically set forth on attached Schedule A, if any, and the Collateral Agent does not assume any obligations under these agreements. Mortgagor shall promptly provide the Collateral Agent (on behalf of the Secured Parties) with certificates of occupancy, licenses, rent rolls, income and expense statements and other documents and information pertaining to the Premises and its operations as the Collateral Agent (on behalf of the Secured Parties), from time to time, may request.

9. (a) Mortgagor represents and covenants that Mortgagor has not used Hazardous Materials (as defined below) on or affecting the Premises in any manner which violates Environmental Laws (as defined below), that there is no condition concerning the Premises which could require remediation pursuant to Environmental Laws, and that, to the best of Mortgagor's knowledge, no prior owner of the Premises or any current or prior occupant has used Hazardous Materials on or affecting the Premises in any manner which violates Environmental Laws. Mortgagor covenants and agrees that neither it nor any occupant shall use, introduce or maintain Hazardous Materials on the Premises unless done in strict compliance with all Environmental Laws;

(b) Mortgagor shall conduct and complete all investigations, environmental audits, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on or affecting the Premises, whether caused by Mortgagor or a third party, in accordance with all Environmental Laws to the satisfaction of the Secured Parties, and in accordance with the orders and directives of all federal, state and local governmental authorities, and Mortgagor shall notify the Secured Parties in writing prior to taking, and continually after that of the status of, all such actions. Mortgagor shall, promptly upon the Secured Parties' request, provide the Secured Parties with copies of the results of all such actions and all related documents and information. Any remedial, removal or other action by Mortgagor shall not be deemed a cure or waiver of any breach of this paragraph 10 due to the presence or use of Hazardous Materials on or affecting the Premises. Additionally, Mortgagor shall defend, indemnify and hold harmless the Collateral Agent and each of the Secured Parties, and each such Person's employees, agents, shareholders, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including attorney fees) of whatever kind arising out of or related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the Premises or the soil, water, air, vegetation, buildings, personal property, persons or animals on the Premises, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to these Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order related to these Hazardous Materials, (iv) the cost of removal of Hazardous Materials from any portion of the Premises, (v) taking necessary precautions to protect against the release of Hazardous Materials on or affecting the Premises, (vi) complying with all Environmental Laws and/or (vii) any violation of Environmental Laws or requirements of the Collateral Agent or any Secured Party, which are in any way related to Hazardous Materials including attorneys and consultants' fees (the attorneys and consultants to be selected by the Secured Parties), investigation and laboratory fees and environmental studies required by the Collateral Agent or any Secured Party (whether prior to foreclosure, or otherwise). Nothing set forth above or elsewhere in this Mortgage shall prevent Mortgagor from requiring the Lessee,

pursuant to the Ground Lease, or any other person or entity in occupancy or possession of the Premises, to indemnify Mortgagor and hold Mortgagor harmless against investigations, audits, studies, testing, remediation or other actions with respect to the use, storage, discharge or disposal of Hazardous Materials on the Premises;

(c) Mortgagor has never received any notice ("**Environmental Complaint**") of any potential violation of Environmental Laws with respect to Mortgagor or the Premises (and, within five (5) days of receipt of any Environmental Complaint, Mortgagor shall give the Collateral Agent and the Secured Parties a copy of it), and to the best of Mortgagor's knowledge, there have been no actions commenced or threatened by any party with respect to Mortgagor or the Premises for noncompliance with any Environmental Laws;

(d) In the event this Mortgage is foreclosed or Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Premises to the Collateral Agent and the Secured Parties, or a purchaser or grantee, as the case may be, free of Hazardous Materials so that the condition of the Premises shall not be a violation of any Environmental Laws;

(e) Upon ten (10) days notice to Mortgagor (except in an emergency or where not practical under applicable law, in which case notice is waived), and without limitation of the other rights of the Collateral Agent and the Secured Parties under this Mortgage or elsewhere, the Collateral Agent and the Secured Parties have the right, but not the obligation, to enter on the Premises and to take those actions as it or they deem appropriate to investigate or test for, clean up, remove, resolve, minimize the impact of or advise governmental agencies of the possible existence of any Hazardous Materials upon receipt by the Collateral Agent and the Secured Parties of any notice from any source asserting the existence of any Hazardous Materials or an Environmental Complaint pertaining to the Premises which, if true, could result in an order, suit or other action against Mortgagor or any part of the Premises which, in the sole opinion of the Collateral Agent or any other Secured Party, could jeopardize its security under this Mortgage. Any such actions conducted by the Collateral Agent and the Secured Parties shall be solely for the benefit of and to protect the interests of the Collateral Agent and the Secured Parties and shall not be relied upon by Mortgagor or any third party for any purpose. By conducting any such actions, the Collateral Agent and the Secured Parties do not assume control over the environmental affairs or operations of Mortgagor nor assume any liability of Mortgagor or any third party;

(f) The provisions of this Section 9 shall be in addition to all other obligations and liabilities Mortgagor may have to the Collateral Agent and the Secured Parties at common law or pursuant to any other agreement, and shall survive (i) the repayment of the Mortgage Obligations, (ii) the satisfaction of all other obligations of Mortgagor under this Mortgage and under the other loan documents, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure;

(g) For purposes of this Mortgage, (i) "Hazardous Materials" means each and all of the following: hazardous materials and/or substances as defined in any Environmental Law, asbestos, petroleum, petroleum by-products, natural gas, flammable explosives, radioactive materials, and toxic materials, and (ii) "Environmental Laws" mean any and all federal, state, local or other laws (whether under common law, by legislative action or otherwise), rules, policies, ordinances, directives, orders, statutes, or regulations an object of which is to regulate

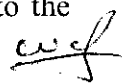
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or improve health, safety, or the environment; and

(h) Notwithstanding any of the foregoing subparagraphs or provisions of Section 9, or any other provisions of this Mortgage, and expressly except with respect to any use, storage, discharge or disposal of Hazardous Materials on the Premises by Mortgagor, its agents, employees or contractors, any responsibility, liability, warranty or obligation of Mortgagor to indemnify, hold harmless or protect the Collateral Agent or Secured Parties with respect to Environmental Matters or Hazardous Materials under the foregoing Section, shall terminate upon indefeasible transfer of fee title to the Premises to the Lessee in accordance with the Ground Lease; and such obligations to indemnify and hold the Secured Parties harmless shall thereupon become obligations solely of the Lessee.

10. Upon the occurrence of any of the following events (each an “**Event of Default**”), Mortgagor shall be in default under this Mortgage: (a) any failure to pay or perform when due any of the Guaranteed Obligations, whether due by acceleration or otherwise; (b) any failure to comply with, or perform, any term of this Mortgage, or any failure of the Mortgagor, as guarantor under the Guaranty, to comply with, or perform, any term of the Guaranty; (c) any material inaccuracy or omission in or from warranty, representation, or other information when made, given or furnished to the Collateral Agent or any Secured Party by or on behalf of the Mortgagor; (d) any loss, theft, substantial damage or destruction to or of any of the Premises, or any issuance or filing of any attachment, levy, garnishment or the commencement of any proceeding in connection with any of the Premises or of any other judicial process of, upon or in respect of the Mortgagor; (e) or any “Event of Default” under the Indenture or any mortgage or security agreement against any of the Premises.

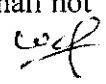
11. Immediately upon the occurrence of any Event of Default, the Collateral Agent shall have the option to do any or all of the following: (a) Declare the entire unpaid amount of the Mortgage Obligations to be immediately due and payable and, at the option of the Secured Parties, bring suit to enforce payment of the Mortgage Obligations and performance under this Mortgage and to protect the lien of this Mortgage; or (b) Commence foreclosure proceedings against the Premises through judicial proceedings or by advertisement, at the option of the Secured Parties. The commencement by the Collateral Agent (for the benefit of the Secured Parties) of foreclosure proceedings shall be deemed an exercise by the Secured Parties of their option to accelerate the Guaranteed Obligations, unless such proceedings on their face specifically indicate otherwise. Mortgagor grants power to the Collateral Agent (for the benefit of the Secured Parties) to sell the Premises or to cause the same to be sold at public sale, and to convey the same to the purchaser, in a single parcel or in several parcels at the option of the Secured Parties; (c) Procure new or cause to be updated abstracts, tax histories, title insurance, or title reports; (d) Obtain a receiver to manage the Premises and collect the rents, profits and income from it; (e) Contest the amount or validity of any taxes applicable to the Premises by appropriate proceedings either in the name of the Collateral Agent (for the benefit of the Secured Parties), Mortgagor's name or jointly with Mortgagor. Mortgagor shall execute and deliver to the Collateral Agent, upon demand, whatever documents and information the Secured Parties determine may be necessary or proper to so contest the taxes or to secure payment of any resulting refund. Mortgagor shall reimburse the Collateral Agent (for the benefit of the Secured Parties) for all costs and expenses, including attorney fees, incurred in connection with each tax contest proceeding. All refunds resulting from each tax contest proceeding shall belong to the



Collateral Agent (for the benefit of the Secured Parties) to be applied against the Mortgage Obligations with the surplus, if any, to be paid to Mortgagor. The Collateral Agent (for the benefit of the Secured Parties) and any of its employees is each irrevocably appointed attorney-in-fact for Mortgagor and is authorized to execute and deliver in the name of Mortgagor those documents deemed necessary or proper to carry out any tax contest proceeding or receive any resulting refunds; and/or (f) In the event of any sale of the Premises by foreclosure, through judicial proceedings, by advertisement or otherwise, apply the proceeds of any such sale in the following order or such other order as the Secured Parties may elect: to (i) all expenses incurred for the collection of the Mortgage Obligations and the foreclosure of this Mortgage including attorney fees; (ii) all sums expended or incurred by the Secured Parties (or the Collateral Agent, on behalf of the Secured Parties) directly or indirectly in carrying out terms, covenants and agreements of or under this Mortgage or any related document, together with interest as provided in this Mortgage; (iii) all accrued and unpaid interest and late payment charges upon the Mortgage Obligations; (iv) any applicable make-whole amounts or any prepayment premium or formula; (v) the unpaid principal amount of the Mortgage Obligations; and (vi) the surplus, if any, paid to Mortgagor unless a court of competent jurisdiction decrees otherwise. Notwithstanding any of the foregoing provisions, or anything else set forth in this Mortgage, Mortgagor's liability under its Guaranty and hereunder shall be limited to the Premises, and recourse of the Collateral Agent and/or the Secured Parties shall be limited to the right, title and interest of Mortgagor in and to the Premises. Under no circumstances, unless the Premises shall have become entirely valueless due to no fault of the Collateral Agent or Secured Parties, shall the Collateral Agent or Secured Parties be entitled to a deficiency judgment against Mortgagor or to levy, lien or execute upon any property of Mortgagor other than the Premises.

WARNING: THIS MORTGAGE CONTAINS A POWER OF SALE AND UPON DEFAULT MAY BE FORECLOSED BY ADVERTISEMENT. IN FORECLOSURE BY ADVERTISEMENT AND THE RELATED SALE OF THE PREMISES, NO HEARING IS REQUIRED AND THE ONLY NOTICE REQUIRED IS TO PUBLISH AND POST NOTICE UNDER THE PROCEDURES OF SECTION 71-1-224, MCA. MORTGAGOR WAIVES ALL RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES AND THE STATE OF MONTANA TO A HEARING PRIOR TO SALE IN CONNECTION WITH FORECLOSURE BY ADVERTISEMENT AND ALL NOTICE REQUIREMENTS EXCEPT AS SET FORTH IN THE MONTANA STATUTE PROVIDING FOR FORECLOSURE BY ADVERTISEMENT.

12. No single or partial exercise, or delay in the exercise, of any right or power under this Mortgage, shall preclude other or further exercise of the rights and powers under this Mortgage. The unenforceability of any provision of this Mortgage shall not affect the enforceability of the remainder. This Mortgage and the Guaranty constitute the entire agreement of Mortgagor and the Collateral Agent (for the benefit of the Secured Parties) with respect to the subject matter of this Mortgage. No amendment of this Mortgage shall be effective unless the same shall be in writing and signed by Mortgagor and an authorized officer of the Collateral Agent. If there is more than one Mortgagor, all undertakings, warranties and covenants made by Mortgagor and all rights and powers given to the Collateral Agent (for the benefit of the Secured Parties) are made or given jointly and severally. This Mortgage shall be binding on Mortgagor and the Collateral Agent and on Mortgagor's and the Collateral Agent's heirs, legal representatives, successors and assigns including any debtor in possession or trustee in bankruptcy for Mortgagor. This shall not



be deemed a consent by the Collateral Agent (or the Secured Parties) to a conveyance by Mortgagor of all or part of the Premises or of any ownership interest in Mortgagor. Each of the Secured Parties may sell, assign or grant participations in any of the Mortgage Obligations and any related obligations, including this Mortgage. The Collateral Agent and each of the other Secured Parties may provide information relating to this Mortgage or relating to Mortgagor to such Person's parent, affiliates, subsidiaries, service providers, assignees and participants. In the event of foreclosure of this Mortgage or the enforcement by the Collateral Agent (for the benefit of the Secured Parties) of any other remedies under this Mortgage, Mortgagor waives any right otherwise available in respect to marshalling of assets which secure the Mortgage Obligations or to require the Collateral Agent or any Secured Party to pursue its remedies against any other assets or any other party. Upon full and final payment of the Guaranteed Obligations and performance by Mortgagor of all its other obligations under this Mortgage, except as otherwise provided in paragraphs 9(f) and 20, the parties shall automatically each fully and finally release and discharge the other from any claim, liability or obligation in connection with this Mortgage and the Guaranty; provided that all liabilities and obligations of Mortgagor under this Mortgage, including liabilities and obligations under paragraph 9(f) to the extent provided in paragraph 9(h), shall be fully released and discharged upon Mortgagor's transfer of indefeasible fee title in the Premises to the Lessee in accordance with the Ground Lease. This Mortgage shall in all respects be governed by and construed in accordance with the laws of the State of Montana.

13. Promptly upon the request of the Collateral Agent or any other Secured Party, Mortgagor shall execute, acknowledge and deliver all further documents, and do all further acts as the Collateral Agent or the Secured Party may require in its sole discretion to confirm and protect the lien of this Mortgage or otherwise to accomplish the purposes of this Mortgage.

14. Nothing in this Mortgage shall be construed to preclude the Collateral Agent or the Secured Parties from pursuing with respect to the Company any available remedy provided by law for the collection of the Mortgage Obligations or enforcement of its rights upon an Event of Default. Nothing in this Mortgage shall reduce or release any rights or security interests of the Collateral Agent contained in any existing agreement between the Company and the Collateral Agent or the Secured Parties. No waiver of default or consent to any act by Mortgagor shall be effective unless in writing and signed by an authorized officer of the Collateral Agent. No waiver of any default or forbearance on the part of Collateral Agent in enforcing any of its rights under this Mortgage shall operate as a waiver of any other default or of the same default on a future occasion or of any rights.

15. At the sole option of the Collateral Agent (but at the direction of the other Secured Parties), this Mortgage shall become subordinate, in whole or in part (but not with respect to priority as to insurance proceeds or any eminent domain award) to any or all leases and/or occupancy agreements of the Premises upon the execution by the Collateral Agent, and recording in the appropriate official county records where the premises are located, of a unilateral declaration to that effect.

16. All notices and demands required or permitted to be given to Mortgagor shall be deemed given when delivered to Mortgagor or when placed in an envelope addressed to Mortgagor at the address above, or at such other address as the Collateral Agent may have on its records, and deposited, with postage, in a depository under the custody of the United States Postal Service or

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delivered to an overnight delivery courier. The mailing may be certified, first class or overnight delivery mail.

17. To the extent that any of the Guaranteed Obligations are or become payable upon demand, nothing contained in this Mortgage shall modify the terms and conditions of that obligation nor prevent the Collateral Agent from making demand, without notice and with or without reason, for immediate payment of any or all of that obligation at any time(s), whether or not an Event of Default has occurred.

18. Notwithstanding any prior revocation, termination or discharge of this Mortgage, (except as to the rights of subsequent intervening bona fide purchasers or lienholders) the effectiveness of this Mortgage shall automatically continue or be reinstated in the event that (a) any payment received or credit given by the Collateral Agent or any of the Secured Parties in respect of the Mortgage Obligations is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable law, in which case this Mortgage shall be enforceable as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Collateral Agent or such Secured Party relied upon this payment or credit or changed its position as a consequence of it; or (b) subject to paragraph 9(h) above, any liability is sought to be imposed against the Collateral Agent or any Secured Party relating to any matter as to which Mortgagor agreed to indemnify the Collateral Agent and the Secured Parties under this Mortgage, including as to the presence of Hazardous Materials on, in or about the Premises, whether this matter is known or unknown, now or later exists (excluding only matters which arise after any acquisition by the Collateral Agent of the Premises, by foreclosure, deed in lieu of foreclosure or otherwise, to the extent due to the wrongful act or omission of the Collateral Agent), in which case this Mortgage shall be enforceable to the extent of all liability, costs and expenses (including attorney fees) incurred by the Collateral Agent and any Secured Party as the direct or indirect result thereof. In the event of continuation or reinstatement of this Mortgage, Mortgagor agrees upon demand by the Collateral Agent (on behalf of the Secured Parties) to execute and deliver to the Collateral Agent and the Secured Parties those documents which the Collateral Agent or any Secured Party determines are appropriate to further evidence (in the public records or otherwise) this continuation or reinstatement, although the failure of Mortgagor to do so shall not affect in any way the reinstatement or continuation.

19. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS MORTGAGE OR THE INDEBTEDNESS.

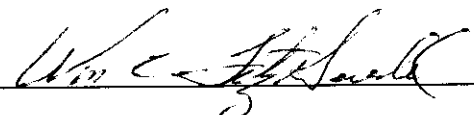
20. Any action or decision to be taken hereunder by the Collateral Agent (including any enforcement action and any release of the lien created hereby), shall be taken as directed by and in accordance with the consent requirements set forth in the Collateral Agency Agreement. Notwithstanding anything to the contrary contained herein, the Collateral Agent's rights and duties hereunder shall be subject to and carried out in accordance with the terms and conditions of the Collateral Agency Agreement.



IN WITNESS WHEREOF, Mortgagor has signed and delivered this Mortgage the day and year first written above.

MORTGAGOR

**SME ELECTRIC GENERATION AND
TRANSMISSION COOPERATIVE, INC.**

By: 

SIGNATURE OF

Its: President

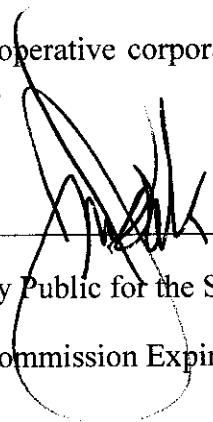
TITLE (IF APPLICABLE)

STATE OF MONTANA

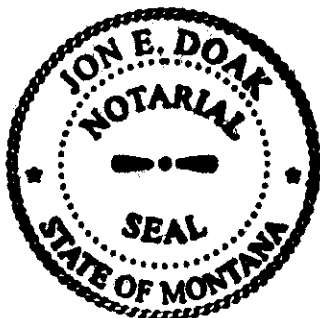
COUNTY OF YELLOWSTONE

The foregoing instrument was acknowledged before me on FEBRUARY 25, 2010 by
WILLIAM C. FITZGERALD, the PRESIDENT of SME ELECTRIC
GENERATION AND TRANSMISSION COOPERATIVE, INC.

, a cooperative corporation organized under the laws of the State of Montana on behalf of said
entity.

 Jon E. Doak
Notary Public for the State of MONTANA Residing at BILLINGS

My Commission Expires: Nov. 21, 2010



21. Additional provisions, if any:

Subject to the limitations stated in this Mortgage on transfer of Mortgagor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.

Time is of the essence in the performance of this Mortgage.

The use of the term "including" in this Mortgage shall not be limiting.

