SEATTLE CITY COUNCIL

Legislative Summary

CB 118514

Record No.: CB 118514 **Type:** Ordinance (Ord) 124878 **Status:** Passed

Version: 1 **In Control:** City Clerk

File Created: 07/29/2015

Final Action: 10/05/2015

Title: AN ORDINANCE relating to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute the Amended and Restated Agreement Limiting Liability Among Western Interconnected Electrical Systems, which enables City Light to manage and resolve inter-utility incidents with members of the Western Interconnected Electrical System and fosters the City Light Department's customer relations and participation in important regional programs; and further authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute amendments to such agreement that are consistent with the intent and authority set forth in this ordinance.

Notes:

Sponsors: Sawant

	Date
Filed with City Clerk:	
Mayor's Signature:	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Attachments: Att A - Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems

Drafter: Raman.Vishwanathan@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	08/11/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text:	The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk					
	Notes:						
1	City Clerk	08/11/2015	sent for review	Council President's Office			
	Action Text:	The Council Bill (CB) was sent for review. to the Council President's Office					
	Notes:						

1	Council President's Office	08/12/2015	sent for review	Energy Committee	
	Action Text:	The Council Bill (CB) was sent for review. to the Energy Committee			
	Notes:				
1	Full Council	09/21/2015	referred	Energy Committee	
1	Energy Committee	09/23/2015	pass		Pass
	Action Text:	The Committee recommends that Full Council pass the Council Bill (CB).			
	Notes:				
		In Favor:	3	Chair Sawant, Vice Chair Okamoto, Member O'Brien	
		Opposed:	0		
1	Full Council	09/28/2015	passed		Pass
	Action Text:	The Council Bill (CB) was passed by the following vote and the President signed the Bill:			
	Notes:				
		In Favor:	9	Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant	
		Opposed:	0		
1	City Clerk	09/29/2015	submitted for Mayor's signature	Mayor	
	Action Text:	The Council Bill (CB) was submitted for Mayor's signature. to the Mayor			
	Notes:				
1	Mayor	10/02/2015	Signed		
	Action Text:	The Council Bill (CB) was Signed.			
	Notes:				
1	Mayor	10/05/2015	returned	City Clerk	
	Action Text:	The Council Bill (CB) was returned. to the City Clerk			
	Notes:				
1	City Clerk	10/05/2015	attested by City Clerk		
	Action Text:	The Ordinance (Ord) was attested by City Clerk.			
	Notes:				

CITY OF SEATTLE

ORDINANCE 124878

COUNCIL BILL 118514

AN ORDINANCE relating to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute the Amended and Restated Agreement Limiting Liability Among Western Interconnected Electrical Systems, which enables City Light to manage and resolve inter-utility incidents with members of the Western Interconnected Electrical System and fosters the City Light Department's customer relations and participation in important regional programs; and further authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute amendments to such agreement that are consistent with the intent and authority set forth in this ordinance.

WHEREAS, in order to provide electricity to its customers reliably, the City Light Department is connected to a regional electric system on which many organizations exchange energy and cooperate for their mutual benefit; and

WHEREAS, there are four major Power Grids covering North America, namely: Hydro-Quebec System, Eastern Interconnection, Texas Interconnection, and Western Interconnection; and

WHEREAS, the City Light Department is in the Western Interconnect, and the Western Interconnected Electric Systems (WIES) program functions as a Joint Venture program providing a single mechanism to respond to inter-utility incidents, minimizing claim and legal expenses, and assists in the maintaining of utility customer goodwill; and

WHEREAS, while system design and operating criteria are intended to minimize creation of electric disturbances and to minimize damage from such disturbances, electric disturbances cannot be wholly avoided and human error cannot be entirely eliminated; and

WHEREAS, the members of the Western Interconnected Electric System have agreed to limit liability among themselves whereby each participant is released from liability for damage to each other's electric system by executing the Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems, distributed on March 11, 2013; and

WHEREAS, the City Light Department entered into the original such agreement in 1972, which included an excess liability policy shared by the membership to pay claims stemming from inter-utility incidents among Western Interconnected Electric Systems at a nominal shared premium; and

WHEREAS, the City Light Department wishes to continue to pool its risk with its fellow Western Interconnected Electric Systems members, thereby minimizing claim and legal expenditures, assisting in the maintenance of utility customer goodwill, and fostering the City Light Department's participation in important regional planning and communication programs; and

WHEREAS, the City Light Department's largest power supplier, the Bonneville Power Administrator, although not a member of the Western Interconnected Electric Systems, shall hold harmless each other party of this agreement, its directors, officers, and employees, from any claim or action for any loss or damage to the Federal Columbia River Power System caused by or arising from negligent, grossly negligent, or wrongful acts or omissions of such parties; and

WHEREAS, the original agreement was updated by the Western Interconnected Energy System Membership on March 11, 2013, and the restated and amended agreement no longer includes the excess liability policy because of overlap with individual companies' other

insurance coverages and therefore each party insures its own electric system against aforementioned loss or damage, either by carrying insurance or self-insurance; and

WHEREAS, currently the City Light Department carries a self-insurance program that has been determined to adequately cover the aforementioned loss or damage; and

WHEREAS, more than three quarters of the Western Interconnected Electric Systems members have signed this agreement as of May 30, 2014, with the City Light Department among those remaining to execute it; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The General Manager and Chief Executive Office of City Light, or his or her designee, is hereby authorized to execute for and on behalf of The City of Seattle (the "City") the Amended and Restated Agreement Limiting Liability among Western Interconnected Systems substantially in the form attached hereto as Attachment A.

Section 2. In light of evolving regulatory requirements, the General Manager and Chief Executive Officer of City Light, or his or her designee, is further authorized to execute for and on behalf of the City such amendments to the Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems that are consistent with the intent and authority set forth in this ordinance, as are necessary, convenient, and in the best interests of the City, in order to enable the City Light Department to manage and resolve inter-utility incidents with members of the Western Interconnected Electric System that are not governed by superseding agreements.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 28th day of September, 2015, and signed by me in open session in authentication of its passage this 28th day of September, 2015.

President _____ of the City Council

Approved by me this 2nd day of October, 2015.

Edward B. Murray, Mayor

Filed by me this 2nd day of OCTOBER, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment A: Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems

AMENDED AND RESTATED AGREEMENT LIMITING LIABILITY

AMONG

WESTERN INTERCONNECTED SYSTEMS

The Parties, by execution of a counterpart of this Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems ("Agreement"), agree as follows:

RECITALS

1. The Parties hereto are electric utility systems each of which is interconnected with one or more other systems so that all Parties are interconnected directly or indirectly with all other Parties in a system termed the Western Interconnected Systems.

2. Parties who are members or affiliate members of WECC exchange information and develop design and operating criteria for the reliable and economic operation of the Western Interconnected Systems.

3. Parties are also members of regional power pools which have developed electric utility practices which differ in some respects from each other. It is not the intention of the Parties that this Agreement be made the vehicle for resolving such differences.

4. System design and operating criteria are intended to minimize creation of electric disturbances, and to minimize damage from electric disturbances that do occur. However, electric disturbances cannot be wholly avoided, and human error cannot be entirely eliminated.

5. Interconnection of properly designed and operated electric systems provides greater continuity and reliability of service to customers, and enables more economic provision for reserves and power interchanges. Electric disturbances, whether originating on a small or

large system, could travel through the interconnected systems with risk of damage to all systems' facilities.

6. Each system is best able to provide the level of design protection desired by it to avoid damage to its system facilities from electric disturbances originating on either its own or interconnected systems but is unable to control the extent of damage on other systems resulting from an electric disturbance originating on its own system.

7. Interconnected and coordinated operation requires interchange of information and signals, interaction of automatic control devices, and rapid cooperation of system dispatchers. Such operations cannot be effectively carried out if the operators must simultaneously weigh the possible threat of indefinite and uncertain legal liability for accidental harm to electric systems of the Parties.

8. Each Party insures its own electric system against loss or damage either by carrying insurance or by self-insuring. Assertion of liability between Parties merely transfers payment from one insurer to another. Potential liabilities for damage to large, remote systems which insure themselves at an appropriate level might require a small system to maintain insurance of inappropriate size, or else forego the general benefits of interconnection.

9. This Agreement is entered into to limit liability for system damage and establish responsibility for interconnected system design and operation between the Parties hereto.

10. Pursuant to the Bonneville Project Act, 16 U.S.C §832a(f) and the Pacific Northwest Power Act, 16 USC §839f(a), Bonneville's Administrator has extensive authority to enter into contracts, agreements, and arrangements, and make expenditures to accomplish Bonneville's objectives "in such manner as he may deem necessary."

11. Pursuant to the Energy Policy Act, 16 U.S.C 839d-1, the Bonneville Power Administration and the Corps of Engineers have entered into the Memorandum of Agreement (MOA) for Direct Funding of Power Operations and Maintenance Costs at the Corps Projects (Contract No. 98-PB-10211), and the Capital Costs MOA (Contract No. DE-MS79-94BP94655).

12. Pursuant to the Energy Policy Act, 16 U.S.C 839d-1, the Bonneville Power Administration and the Bureau of Reclamation have entered into the MOA for Direct Funding of Power Operations and Maintenance Costs at Reclamation Projects (Contract No. 96MS-95129), and the Capital Costs MOA (Contract No. DE-MS79-92-BP93660).

13. The Parties intend this Agreement to, as between and among the Parties, replace and supersede all prior versions of the Agreement Limiting Liability Among Western Interconnect Systems in their entirety.

1. LIABILITY - INTERCONNECTED SYSTEM OPERATION

1.1 No Party (First Party), its directors, officers and employees, shall be liable to any other Party (Second Party) for any loss or damage to the electric system of any Second Party caused by or arising out of an electric disturbance, whether or not such electric disturbance resulted from the negligent, grossly negligent or wrongful act or omission of any Party, its directors, officers or employees, whether its or their own or imputed, in the design, construction, operation, maintenance, use or ownership of First Party's electric system, or the performance or nonperformance of the obligation of any Party under Section 2 of this Agreement. Each Second Party releases each other First Party, its directors, officers and employees, from any such liability.

1.2 The Bonneville Power Administrator shall hold harmless each other Party, its directors, officers and employees, from any claim or action for any loss or damage to the Federal

Columbia River Power System caused by or arising out of an electric disturbance, whether or not such electric disturbance resulted from the negligent, grossly negligent, or wrongful act or omission of such Party, its directors, officers or employees, whether its own or their own or imputed, in the design, construction, operation, maintenance, use or ownership of such Party's electric system, or the performance or nonperformance of the obligation of such Party under Section 2 of this Agreement.

1.3 Each Party represents to the other Parties that the provisions of subsections 1.1 and 1.2 are not inconsistent with any insurance policy that such Party now holds, and each Party agrees that any insurance contract that it may hereafter enter into shall not be inconsistent with the provisions of said subsections 1.1 and 1.2.

1.4 The provisions of subsections 1.1 and 1.2 do not apply to loss or damage resulting from Willful Action. The term "Willful Action" as used herein is defined as an action taken or not taken by a Party, which action is knowingly or intentionally taken or failed to be taken, with intent that injury or damage would result therefrom or which action is wantonly reckless. Willful Action does not include any act or failure to act which is involuntary, accidental, negligent or grossly negligent.

1.5 The provisions of subsections 1.1 and 1.2 do not apply to loss or damage resulting from action taken or not taken by a Party which action or non-action has previously been determined by arbitration award to be a default under subsection 2.1 of this Agreement and which occurs or continues beyond the time specified in such arbitration award for curing such default or, if no time to cure is specified, which, after the date of the award, occurs or continues beyond a reasonable time to cure such default. Such Party agrees to pay for such loss or damage which occurs while such Party is a party to this Agreement.

An action or non-action under this subsection 1.5 is one taken by a director or officer, or any employee who has management or administrative responsibility affecting the Party's performance under this Agreement, namely an employee who is responsible for one or more of the functions of planning, organizing, coordinating, directing or supervising the Party's performance under this Agreement.

1.6 The provisions of subsections 1.1 and 1.2 do not apply to any Party's firm contractual obligation to purchase, exchange or sell power.

1.7 The words "loss or damage" mean physical damage to an electric system; loss or damage resulting from making an electric system or any portion thereof inoperable; and loss or damage consequential to either such loss or damage, including loss of use.

The word "Party" means any person, firm or association, or any nonprofit, private or municipal corporation, or any governmental agency, which operates an electric system within any of the states of Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Texas, Utah, Washington, or Wyoming or the Provinces of British Columbia or Alberta, the system of which is interconnected with the Western Interconnected Systems, and who has executed a counterpart of this Agreement.

The words "electric system" mean (1) electric distribution facilities or (2) generation facilities or (3) transmission facilities, or any combination of the three, and include transmission lines, distribution lines, substations, switching stations, generating plants and all associated equipment for generating, transmitting, distributing or controlling flow of power. The electric system of a Party includes the facilities of another entity operated or controlled by such Party. The words "electric system" include any devices or equipment (1) by which information is originated on an electric system or by the person operating such system, (2) by which such

information is transmitted, and (3) by which such information is received either for information or for operation of a system, whether by the originating system or by another system.

The words "electric disturbance" means any sudden, unexpected, changed or abnormal electric condition originating in an electric system which causes damage.

The words "Federal Columbia River Power System" mean the integrated federal power system in the Pacific Northwest, as defined in Public Law 88-552, comprising the: (1) power generating facilities, and substations and transmission facilities adjacent thereto, of the Corps of Engineers (civil functions), Department of the Army, and of the Bureau of Reclamation, Department of the Interior, and (2) electric power lines and substations, and facilities and structures appurtenant thereto, of the Bonneville Power Administration. For purposes of this Agreement, the FCRPS includes only the facilities that the Bonneville Power Administration is statutorily required to fund.

"WECC" means the Western Electricity Coordinating Council or its successor.

2. RESPONSIBILITY - INTERCONNECTED SYSTEM DESIGN AND OPERATION

2.1 Each Party shall design, construct, operate, maintain and use its electric system in conformance with accepted electric utility practices:

(a) To minimize electric disturbances, such as, but not limited to, the abnormal flow of power, which may damage or interfere with the electric system of any other Party or any electric system connected with such other Party's electric system, and

(b) To minimize the effect on its electric system, and on its customers, of electric disturbances originating on its own or another electric system.

2.2 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party.

2.3 Should differences arise between Parties regarding the implementation of subsection 2.1, they will seek an equitable solution and will perform necessary technical studies which will not be unreasonably delayed. In the event agreement cannot be reached, and if in the judgment of any Party to the disagreement the necessary technical studies have been performed, such Party may demand the matter be arbitrated. "Differences" as used herein shall not include differences of opinion on any subject which is in controversy between regional pools, and this provision shall not be used to resolve any such differences.

The Party demanding arbitration shall give notice in writing of such demand to all other Parties. The Parties desiring to participate shall meet within ten (10) days thereafter to select an arbitrator by mutual agreement. The arbitrator shall be an individual of national reputation having demonstrated expertise in the field of the matter or item to be arbitrated. In the event such Parties cannot agree upon an arbitrator, the Chief Judge of the United States Court of Appeals, Ninth Circuit, or such tribunal as may at the time be the successor of such Court may, upon request of a Party, appoint the arbitrator. If, pending any arbitration under this Agreement, the arbitrator or successor or substitute arbitrator, shall die or for any reason be unable or unwilling to act, his successor shall be appointed as he was appointed, and such successor or substitute arbitrator, as to all matters then pending, shall act the same as if he had been originally appointed as an arbitrator. The award of the arbitrator so chosen shall be final as to all Parties to this Agreement. Each Party to the arbitration shall bear the expense of preparing and presenting its own case; and the expense of the arbitrator, including the expense of any technical studies required by the arbitrator, shall be equitably apportioned among Parties to the arbitration by the arbitrator.

2.4 The mutual covenants of Section 1 are independent of and divisible from the covenants of subsection 2.1 and are not affected by nonperformance under subsection 2.1. It is the intent of this Agreement that the obligations of subsection 2.1 shall be enforceable only indirectly by the risk of liability for loss or damage resulting from failure to comply with an arbitration award as provided in subsection 1.5. Accordingly, the obligation to arbitrate may be enforced by appropriate judicial action, and loss or damage resulting from failure to comply with an arbitration award may be recovered as and to the extent provided in subsection 1.5, but otherwise no action or suit shall be brought to enforce the obligations of this Section 2.

2.5 Except as otherwise herein provided, arbitration shall be in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect.

3. EXECUTION, EFFECTIVE DATE AND ADDITIONAL PARTIES

3.1 This Agreement may be executed in any number of counterparts, in which case all such counterparts shall be deemed to constitute a single document with the same force and effect as if all Parties hereto having signed a counterpart had signed all the other counterparts.

3.2 This Agreement shall be effective upon the deposit of two or more signed counterparts with the Secretary, WECC. As between and among the Parties, this Agreement supersedes and replaces all prior versions of the Agreement Limiting Liability Among Western Interconnected Systems in their entirety.

3.3 Any entity operating an electric system within one or more of the states or the province cited in subsection 1.7 and whose electric system is interconnected directly or through the facilities of another entity with the Western Interconnected Systems may become a Party hereto at any time by (1) execution of a counterpart of this Agreement and (2) deposit of such counterpart with the Secretary, WECC. The name and address of the person to whom notices

under the Agreement are to be sent shall be furnished at the same time. A Party may change such name or address at any time on written notice to the Secretary.

3.4 Any Party may terminate this Agreement as to itself by written notice to all other entities listed as Parties on a list furnished for such purpose by the Secretary, WECC, sent by registered mail to the address set forth for such Party on such list. The termination shall be effective thirty days after the date the notice was mailed. Termination shall not affect any liability arising hereunder prior to the effective date of such termination.

3.5 Any undertaking by a Party under any provisions of this Agreement shall not constitute the dedication of the system or any portion thereof of any Party to the public or to any Party.

3.6 This Agreement is subject to the approval of regulatory agencies having jurisdiction.

Signature Pages Follow

Each Party represents that it has caused this Amended and Restated Agreement Limiting Liability Among Western Interconnected Systems to be executed by its duly authorized representative as of the date shown in its signature block below.

[[ENTITY NAME]]

_____

By: [[insert name]]
Its: [[Insert title]]
Date: [[insert date]]

STATE OF WASHINGTON -- KING COUNTY

--ss.

329500 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

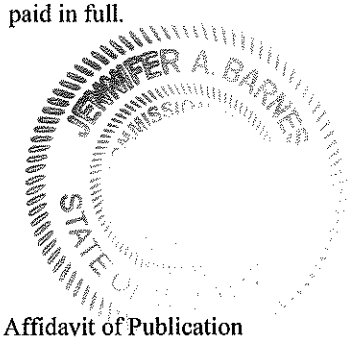
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:124875-878 TITLE ONLY

was published on

10/15/15

The amount of the fee charged for the foregoing publication is the sum of $77.50 which amount has been paid in full.



Subscribed and sworn to before me on

10/15/2015

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on September 28, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124875

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 124876

AN ORDINANCE related to the Cheasty Greenspace Trails and Bike Park Pilot Project and amending Section 5 of Ordinance 124546.

Ordinance 124877

AN ORDINANCE relating to the Multifamily Housing Property Tax Exemption Program; amending Sections 5.73.010, 5.73.020, 5.73.030, 5.73.040, 5.73.050, 5.73.060, 5.73.070, 5.73.080, 5.73.090, 5.73.100, and 5.73.110, adding Section 5.73.105, and repealing Section 5.73.120 of the Seattle Municipal Code to renew and modify the Multifamily Housing Property Tax Exemption program.

Ordinance 124878

AN ORDINANCE relating to the City Light Department; authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute the Amended and Restated Agreement Limiting Liability Among Western Interconnected Electrical Systems, which enables City Light to manage and resolve inter-utility incidents with members of the Western Interconnected Electrical System and fosters the City Light Department's customer relations and participation in important regional programs; and further authorizing the General Manager and Chief Executive Officer of City Light, or his or her designee, to execute amendments to such agreement that are consistent with the intent and authority set forth in this ordinance.

Date of publication in the Seattle Daily Journal of Commerce, October 15, 2015.

10/15(329500)