

February 23, 2015

***VIA ELECTRONIC FILING***

Ms. Sandra Paske, Secretary to the Commission  
Public Service Commission of Wisconsin  
610 North Whitney Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**RE: Application of City of Waupun for Approval to Transfer Utility Assets**

Dear Ms. Paske:

On behalf of the City of Waupun, we hereby request permission to transfer specific assets from the City of Waupun ("City" or "Waupun") to the American Transmission Company LLC ("ATCLLC"). The assets primarily include 69 kV transmission facilities, including poles, towers, and fixtures, overhead conductors and a 69kV switcher, as well as associated land rights ("Assets"). The total purchase price, reflecting the net book value of the Assets, is currently estimated to be approximately \$160,000.

Waupun owns and operates a municipal public utility located at 817 S. Madison Street in Waupun, Wisconsin. It provides electric service to retail customers in and around the City of Waupun.

ATCLLC is a public utility within the meaning of Wis. Stat. §196.01(5)(a) and is a transmission company within the meaning of Wis. Stat. §196.485(1)(ge) and a transmission utility within the meaning of §196.485(1)(i).

This request is being made pursuant to Wis. Stat. §196.81 since the Assets do not constitute an operating unit or system under Wis. Stat. §196.80(1m)(e) and since the Assets are being transferred for cash only, meaning no ownership or equity interests will be exchanged.

Although this request is being made under §196.81, the Assets are not being abandoned or discontinued. Rather, they are being transferred to ATCLLC pursuant to an asset purchase agreement, the form of which is attached to this letter as Attachment A ("Agreement"). ATCLLC will assume ownership of the Assets when the transfer is complete and will continue to

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operate and maintain the Assets precisely as they are being operated now. Hence, there will be no disruption of service and absolutely no impact on retail customers with respect to rates, service or otherwise.

Indeed, the transfer of the assets to ATCLLC is in the public interest precisely because ATCLLC, as the state's only legislatively authorized independent transmission company, is in the best position to efficiently operate and maintain the Assets as part of its mandated function of planning, operating, constructing, maintaining and expanding an integrated transmission system for the benefit of Wisconsin's ratepayers.

For these reasons, Waupun respectfully requests that the Commission determine that the requested transfer of the Assets is in the public interest and approve this application accordingly.

Sincerely,

BOARDMAN & CLARK LLP

*/s/ Richard A. Heinemann*

Richard A. Heinemann

**ATTACHMENT A**  
**FORM ASSET PURCHASE AGREEMENT**  
**(See Attached)**

**ASSET PURCHASE AGREEMENT**

**between**

**American Transmission Company LLC**

**and**

**City of Waupun**

**Dated as of \_\_\_\_\_, 2014**

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## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT is executed as of \_\_\_\_\_, 2014 by and between American Transmission Company LLC, a Wisconsin limited liability company (ATCLLC) and City of Waupun, a Wisconsin municipality acting as an electric utility under Chapter 66 of the Wisconsin Statutes (Seller) (Collectively “Parties” or individually “Party”).

### **RECITALS**

- A. SELLER desires to divest its interest in certain Transmission facilities and associated land rights and to transfer ownership of such facilities and rights to ATCLLC, all upon the terms and conditions set forth in this agreement;
- B. ATCLLC desires to acquire such Transmission facilities and associated land rights from SELLER, all upon the terms and conditions set forth in this agreement.

**NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows**

### **Article I DEFINITIONS**

Capitalized terms used and not otherwise defined herein shall have the respective meanings assigned to such terms as set forth below.

“*Agreement*” means this Asset Purchase Agreement, together with all Schedules and Exhibits attached or incorporated into the Agreement.

“*Assumed Obligations*” has the meaning provided in Section 2.5(b).

“*ATCLLC*” means American Transmission Company LLC, a Wisconsin limited liability company.

“*Claims*” means administrative, regulatory, or judicial actions or causes of action, suits, petitions, proceedings (including arbitration proceedings), investigations, hearings, demands, demand letters, claims, or notices of noncompliance or violation delivered by any Governmental Authority or other Person.

“*Closing*” and “*Closing Date*” have the meanings provided in Article IX.

“*Contracts*” means agreements, contracts, leases, memoranda of understanding, joint ventures, letters of intent and any other form of agreement.

“*Distribution*” means (i) the distribution of electricity at nominal voltages that are lower than 50 kV, or (ii) the distribution of electricity regardless of the nominal voltage at which such

distribution facility is designed to operate or does operate, if the facilities are designated by the PSCW as used for distribution.

*“Encumbrance”* means any mortgage, pledge, lien, option, conditional sale agreement, encumbrance, security interest, claim or charge of any kind.

*“Environment”* means all or any of the following media: real property, soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings and the air within other natural or man-made structures above or below ground), plant and animal life, and any other natural resource.

*“Environmental Claim”* means any and all administrative, regulatory or judicial actions, actions arising under local, state or federal law including, without limitation, claims of trespass, public or private nuisance, waste, and breach of standards of care, suits, including citizen suits, demands, demand letters, claims, directives, proceedings or notices by any Governmental Authority or other Person alleging in writing violations of or liability under, or seeking to enjoin any activity as inconsistent with, or demanding remediation of conditions which, with notice, the passage of time, or both would constitute violations of, any Environmental Laws or any other local, state or federal law, statute, ordinance, rule, code, regulation, administrative interpretation, guidance document or memorandum, decree or order, contractual obligation or common-law doctrine including, without limitation, Chapters 59, 60, 61, 62, 66, and 87 of the Wisconsin Statutes, arising out of, based on or resulting from the presence, use, generation, treatment, storage, recycling, management, deposit, disposal, leakage, burial, discharge, emission, injection, spillage, seepage, leaching, escaping, emptying, dumping, pumping, pouring, placement or release of any Hazardous Substance from, at, in, on or under, or the transport to or from, any Contributed Asset, and by any Person, or any loss of or damage to any property, natural resource or the environment, or death of or injury to any person, resulting from or relating in any way to any Contributed Asset or to any Hazardous Substance that is or was present, used, generated, treated, stored, recycled, managed, transported, deposited, disposed of, buried, discharged, emitted, injected, emptied, dumped, pumped, poured, placed or Released, or that leaked, spilled, seeped, leached or escaped, at, on, in, under, to or from any Contributed Asset. Environmental Claim includes any environmental claim made against ATCLLC as a successor in interest to SELLER.

*“Environmental Laws”* means any existing or prior local, state, or federal law, statute, ordinance, rule, code, regulation, administrative interpretation, guidance document or memorandum, consent, decree, order, contractual obligation, judgment, permit, license, covenant, deed restriction, common law, treaty, convention, or to the extent international law is applicable in the United States, or other requirement relating to pollution, public health, safety or the Environment, including, without limitation, those governing, regulating or imposing liability or standards of conduct concerning the manufacture, use, treatment, generation, distribution, transportation, storage, labeling, testing, processing, discharge, disposal or other handling, Release or threatened Release, control, or cleanup of any Hazardous Substance, including, without limitation, the following: (i) the Clean Air Act, 42 U.S.C. §§ 7401 to 7671q; (ii) the Clean Water Act, also known as the Federal Water Pollution Act, 33 U.S.C. §§ 1251 to 1387, as amended by the Water Quality Act of 1987 Pub. L. No. 100-4 (Feb. 4, 1987); (iii) the Toxic



Substance Control Act of 1976 (“TSCA”), as amended, 15 U.S.C. §§ 2601 to 2692; (iv) the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 to 136y, (v) the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26; (vi) the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201 to 1211, 1231 to 1251, 1252 to 1328; (vii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 9601 to 9675, as amended by the Superfund Amendment and Reauthorization Act of 1986, (“SARA”), Public Law 99-499, 100 Stat. 1613; (viii) the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. §§ 11001 to 11050; (ix) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, (“RCRA”), 42 U.S.C. § 6901 to 6992k; (x) the Occupational Safety and Health Act, as amended, (“OSHA”), 29 U.S.C. § 655 and § 657; (xi) the National Historic Preservation Act (“NHPA”), 16 U.S.C. §§ 470 et seq.; (xii) the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 to 5127; (xiii) the National Environmental Policy Act of 1975, 42 U.S.C. §§ 4321-4370d; (xiv) the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 to 2761; (xv) any state statute or similar or implementing state law, including, without limitation, Chapters 30, 31, 59, 60, 61, 62, 66, 67, 160, 254, 280, 281, 283, 285, 287, 289, 291, 292, 293, 295, 299, and 823 of the Wisconsin Statutes; (xvi) any amendment of any of the above; and (xvii) any other statute, rule, regulation or order of any Governmental Authority having jurisdiction over public health, safety or the Environment or the control of Hazardous Substances, including, without limitation, the United States Environmental Protection Agency, the United States Nuclear Regulatory Commission, and the States of Wisconsin, Michigan, Minnesota, and Illinois, and their agencies or municipalities.

“*Environmental Losses*” means Losses resulting from an Environmental Claim, including, without limitation, the reasonable costs of investigation, testing, containment, removal, clean-up, restoration, abatement or remediation and attorneys fees and costs.

“*Excluded Obligations*” has the meaning provided in Section 2.5(a).

“*Good Utility Practice*” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“*Governmental Authority*” means any federal, state or local governmental or regulatory authority, administrative agency, commission, department, board or court that has jurisdiction over any of the Parties to this Agreement or any Contributed Asset.

“*Hazardous Substances*” means any pollutant, contaminant, waste, toxic or hazardous chemical, waste, material or substance, including, without limitation, (i) asbestos in any form that is or could become friable; (ii) urea formaldehyde; (iii) petroleum, including crude oil and manufactured gas waste, or any fraction thereof, and all petroleum products; (iv) polychlorinated biphenyls (PCBs) and any item, article, substance, waste, equipment, or container containing or

whose surfaces have been in direct contact with PCBs; (v) lead; (vi) flammable explosives; (vii) infectious materials; (viii) radioactive materials; (ix) other substances defined, listed or regulated as a hazardous, extremely hazardous, toxic, dangerous, restricted, nuisance, or otherwise harmful to human health or the Environment under any Environmental Law or rules or regulations promulgated under any Environmental Laws.

“*Losses*” means losses, liabilities, damages, obligations, payments, costs, and expenses, including the costs and expenses of any and all related actions, suits, proceedings, assessments, judgments, settlements, and compromises and all related reasonable attorneys’ fees and reasonable disbursements.

“*Organizational Documents*” means, with respect to any corporation, its articles of incorporation and bylaws; with respect to any limited liability company, its articles of organization and operating agreement; with respect to any cooperative, its articles of association and bylaws; with respect to any municipal electric utility, its utility formation ordinances; and with respect to any municipal electric company, its formation contract and bylaws.

“*Permitted Encumbrances*” means such imperfections of title as do not restrict or interfere with the intended use of any of the land rights conveyed under this Agreement in any material respect.

“*Person*” means an individual, corporation, general or limited partnership, joint venture, trust, unincorporated association, limited liability company, municipal electric utility, municipal electric company, wholesale electric cooperative, retail electric cooperative or any other legal or commercial entity.

“*PSCW*” means the Public Service Commission of Wisconsin.

“*Purchase Price*” has the meaning provided in Article III.

“*Release*” means any release, spill, emission, leaking, pumping, pouring, injection, deposit, disposal, discharge, dispersal, leaching, or migration of any Hazardous Substance at, into or onto the Environment, including movement or migration through or in the air, soil, surface water or groundwater, whether sudden or non-sudden and whether accidental or non-accidental, or any release, emission or discharge as those terms are defined in any applicable Environmental Law.

“*Tax*” or “*Taxes*” mean, with respect to the ownership or operation of the Contributed Assets, Contracts or Permits, any foreign, federal, state or local income, gross receipts, occupation, Environmental (including taxes under Section 59A of the Internal Revenue Code), customs, duties, registration, alternative or add-on minimum, estimated, withholding, payroll, employment, unemployment insurance, social security (or similar), excise, sales, use, value-added, franchise, real property, personal property, business and occupation, capital stock, stamp or documentary, transfer, workers’ compensation or other tax, governmental fee or imposition of any kind whatsoever, including any interest, penalties or additions.

“*Transferred Assets*” has the meaning provided in Section 2.1.

“*Transmission*” means (i) the transmission of electricity at nominal voltages that are greater than or equal to 50 kV or (ii) the transmission of electricity regardless of the nominal voltage at which such facility is designed to operate or does operate, if the facilities are designated by the PSCW as transmission.

## **Article II**

### **TRANSFER OF ASSETS**

#### Section 2.1      Transfer of Assets.

Subject to the terms and conditions of this Agreement, as of the Closing Date, SELLER shall assign, transfer, convey and deliver to ATCLLC free and clear of any Encumbrance of any kind (other than the Permitted Encumbrances identified in Schedule 2.1(a)), certain right, title and interest of Seller in and to the assets identified in Schedule 2.1 (b) (collectively, the “Transferred Assets” and each individually, a “Transferred Asset”), using the forms of transfer documents set forth in Exhibit 2.1(a) for real property rights and Exhibit 2.1(b) for personal property.

#### Section 2.2      Permits.

To the extent permitted by law, SELLER shall assign, substantially in the form of the assignment attached hereto as Exhibit 2.2 (unless another form of assignment is required by the other party to such agreement, e.g. railroads) or grant to ATCLLC, to the extent necessary for the operation of the Transferred Assets, all building permits, certificates of occupancy, utility reservations or allocations, certificates of compliance, railroad licenses, permits and crossing agreements and any other licenses, permits, authorizations or approvals, all as listed on Schedule 2.2 (collectively, the “Permits”), which Permits are listed on Schedule 2.2. Such assignment shall be non-exclusive to the extent that a Permit relates to other assets owned, leased or operated by SELLER.

#### Section 2.3      Contracts.

SELLER shall assign to ATCLLC, in substantially the form of the assignment attached hereto as Exhibit 2.3(a), all contracts necessary for the operation of the Transferred Assets to ATCLLC (excluding those being used by SELLER to continue to provide future goods or services to ATCLLC under an interconnection or other agreement), all as listed on Schedule 2.3 (collectively, the “Contracts”).

#### Section 2.4      Warranties.

Schedule 2.4 sets forth any warranties of third parties pertaining directly to the respective Transferred Assets. The Parties acknowledge that the Transferred Assets may also be covered by additional warranties of third parties not identified on Schedule 2.4. SELLER’s warranty assignment is intended to include all warranties applicable to the Transferred Assets, or any portion thereof, whether or not listed on Schedule 2.4. SELLER agrees to cooperate with any reasonable request of ATCLLC in the future to examine its warranty records in good faith as may be applicable to the Transferred Assets and, to the extent further applicable warranties of third parties are discovered, supplement Schedule 2.4 in the future to assign such discovered

warranties to ATCLLC. SELLER agrees to cooperate with any reasonable request of ATCLLC in presenting any warranty claims on Transferred Assets to ATCLLC, as appropriate, whether pursuant to this Section 2.4, future supplements hereto, or otherwise.

SELLER shall assign and transfer to ATCLLC in substantially the form of the assignment attached hereto as Exhibit 2.4 all of SELLER's right, title, and interest in the warranties listed in Schedule 2.4, effective as of the Closing Date. ATCLLC accepts the foregoing assignment from SELLER, subject in all cases to the terms and conditions of such warranties as herein assigned. The Parties agree that they shall do such further acts and execute such documents and instruments as may be reasonably required to make the assignment contemplated in this Agreement effective.

#### Section 2.5      Allocation of Liability.

Excluded Obligations. Except as otherwise expressly provided to the contrary in this Agreement, SELLER shall be responsible and liable for the ownership and operation of the Transferred Assets liabilities in respect of Taxes, and all Losses and Environmental Losses associated therewith, including those associated with third party actions for personal injury, death, property damage, tort or other Claims or Environmental Claims arising out of the ownership or operation of the Transferred Assets, in each case to the extent arising during or relating to the period prior to the Closing Date (the "Excluded Obligations").

##### (a) Assumed Obligations of ATCLLC.

- (i) With respect to the Transferred Assets transferred under the form attached as Exhibit 2.1(b), and except as otherwise expressly provided to the contrary in this Agreement, ATCLLC shall be responsible and liable for the ownership and operation of the Transferred Assets, liabilities in respect of Taxes, and all Losses and Environmental Losses associated therewith, including Claims and Environmental Claims associated with third party actions for personal injury, death, property damage, tort or other Claims or Environmental Claims arising out of the ownership or operation of the Transferred Assets, in each case to the extent arising during or relating to the period from and after the Closing Date (the "Assumed Obligations").
- (ii) With respect to the Transferred Assets transferred under the form attached as Exhibit 2.1(a), and except as otherwise expressly provided to the contrary in this Agreement, ATCLLC's responsibility and liability for Claims, Environmental Claims, Losses and Environmental Losses with respect to such Transferred Assets shall be as set forth in such transfer document, and shall also constitute "Assumed Obligations" under this Agreement. Any responsibilities or liabilities with respect to such Transferred Assets that are not Assumed Obligations shall remain as and be Excluded Obligations.

### **Article III PURCHASE PRICE**

The Purchase Price for the Transferred Assets will be their total net book value as of the month end prior to the Closing Date, as reflected on the books of the SELLER. In exchange for the Transferred Assets, ATCLLC shall pay SELLER the Purchase Price in cash on the Closing Date, by wire transfer of immediately available funds to an account designated by SELLER.

### **Article IV REPRESENTATIONS AND WARRANTIES OF SELLER**

SELLER represents and warrants to ATCLLC as follows:

#### **Section 4.1      Organization and Authority of SELLER.**

SELLER is a Wisconsin municipal utility organized and existing under the laws of the State of Wisconsin and has full power to carry on its business as it is now being conducted and to own, operate and hold its assets and properties as and where such properties and assets now are owned, operated or held. SELLER's execution, delivery and performance of this Agreement and of all of the other documents and instruments required under this Agreement are within the authority of SELLER. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by SELLER and no other proceedings on the part of SELLER are necessary to authorize this Agreement or to consummate the transactions contemplated herein.

#### **Section 4.2      Environmental Matters; No Violations.**

The Transferred Assets (i) have been operated and maintained in a manner that complies in all material respects with any and all applicable Environmental Laws; (ii) to SELLER's knowledge, have never contained nor currently contain any underground storage tanks; and (iii) have never been used by SELLER or, to SELLER's knowledge, by any previous owners, occupants or tenants, if any, to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substances, and, to SELLER's knowledge, no such Hazardous Substances exist on or within any soil or groundwater relating in any way to any Transferred Asset.

SELLER has not received nor does it have any knowledge of any summons, citation, directive, letter or other communication, oral or written, concerning (i) the existence of Hazardous Substances on or in the immediate vicinity of the Transferred Assets; and (ii) the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Hazardous Substances relating in any way to any Transferred Asset.

#### **Section 4.3      Consents and Approvals; No Violations.**

Except for any required filings with and approvals of applicable federal, state or local authority, no filing or registration with, and no permit, authorization, consent, order or approval of, any Governmental Authority is necessary or required in connection with the execution and delivery of this Agreement by SELLER or for the consummation by SELLER of the transactions

contemplated by this Agreement. Upon obtaining any required approvals, neither the execution, delivery or performance of this Agreement nor the consummation of the transactions contemplated hereby by SELLER will (i) conflict with or result in any breach of any provision of the Organizational Documents of SELLER, (ii) subject to obtaining the third party consents identified in Schedule 4.3 hereto, result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, acceleration or increased cost) under, or otherwise result in any diminution of any of the rights of SELLER with respect to, any of the terms, conditions or provisions of any security, note, bond, mortgage, indenture, license, contract or other instrument or obligation to which SELLER is a party or by which it or any of them or any of their properties or assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule, ordinance or regulation applicable to SELLER or any of its properties or assets except, in the case of clauses (ii) or (iii) above, for violations, breaches or defaults that, individually or in the aggregate, may not reasonably be expected to have a material adverse effect on the consummation of the transactions contemplated by this Agreement, ATCLLC or SELLER and that will not prevent or delay the consummation of the transactions contemplated hereby.

#### Section 4.4      Legal Proceedings.

Except as specifically disclosed in Schedule 4.4, there are no complaints, claims, suits, actions, mediations, arbitrations, proceedings or investigations pending or, to the knowledge of SELLER, threatened against or affecting SELLER that relate to any Transferred Asset or would, if adversely determined, have a material adverse effect on SELLER's ability to perform its obligations hereunder, or on the validity or enforceability of this Agreement.

#### Section 4.5      Title; Interests In Certain Assets.

SELLER owns the Transferred Assets free and clear of all Encumbrances other than Permitted Encumbrances, and had good right and title to sell the same. Except for ATCLLC pursuant to the terms of this Agreement and the parties to contracts for pole attachment and fiber optic cable attachments, as identified in Schedule 4.5, no Person has any rights to acquire or lease all or any portion of the Transferred Assets, or otherwise to obtain any interest therein, and there are no outstanding options, rights of first refusal or negotiation, rights of reverter or rights of first offer relating to the Transferred Assets or any interest therein.

#### Section 4.6      Adequacy of Assets.

The Transferred Assets have been maintained in accordance with Good Utility Practice, and will be so maintained through the Closing Date. All of the Transferred Assets are suitable for electric Transmission as currently owned or used, and for interconnection with all other Transmission lines, Transmission facilities, Distribution facilities, generation facilities and other electrical equipment to which such Transmission lines are currently interconnected.

**EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE IV AND THE INDEMNITIES AND OTHER TERMS OF THIS AGREEMENT, THE TRANSFERRED ASSETS ARE BEING SOLD AND TRANSFERRED "AS IS, WHERE IS," AND SELLER IS NOT MAKING ANY OTHER**

**REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH TRANSFERRED ASSETS, INCLUDING, IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.**

**Article V**  
**REPRESENTATIONS AND WARRANTIES OF ATCLLC**

ATCLLC represents and warrants to SELLER as follows:

Section 5.1      Organization and Authority of ATCLLC.

ATCLLC is a Wisconsin limited liability company duly organized and validly existing under the laws of Wisconsin. The execution, delivery and performance of this Agreement, and of all of the other documents and instruments required hereby by ATCLLC are within the limited liability company power of ATCLLC. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by ATCLLC, its managing member, and by ATC Management Inc.'s board of directors, if necessary, and no other corporate proceedings on the part of ATCLLC or ATC Management Inc. are necessary to authorize this Agreement or to consummate the transactions contemplated herein.

Section 5.2      Legal Proceedings.

There are no complaints, claims, suits, actions, mediations, arbitrations or proceedings or investigations pending or, to the knowledge of ATCLLC, threatened against or affecting ATCLLC that would, if adversely determined, have a material adverse effect on ATCLLC's ability to perform its obligations hereunder, or on the validity or enforceability of this Agreement.

Section 5.3      Consents and Approvals; No Violations

Except for any required filings with and approvals of the applicable federal, state or local authority, no filing or registration with, and no permit, authorization, consent, order or approval of any Governmental Authority is necessary or required in connection with the execution and delivery of this Agreement by ATCLLC or for the consummation by ATCLLC of the transactions contemplated by this Agreement. Upon obtaining any required approvals, neither the execution, delivery or performance of this Agreement nor the consummation of the transactions contemplated hereby by ATCLLC will (i) conflict with or result in any breach of any provision of the Organizational Documents of ATCLLC, (ii) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, acceleration or increased cost) under, or otherwise result in any diminution of any of the rights of ATCLLC with respect to, any of the terms, conditions or provisions of any security, note, bond, mortgage, indenture, license, contract or other instrument or obligation to which ATCLLC is a party or by which it or any of its properties or assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to ATCLLC or any of its properties or assets except, in the case of clauses (ii) or (iii) above, for

violations, breaches or defaults that, individually or in the aggregate, may not reasonably be expected to have a material adverse effect on the closing of the transactions contemplated by this Agreement, SELLER, or ATCLLC and that will not prevent or delay the consummation of the transactions contemplated hereby.

**EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE IV AND THE INDEMNITIES AND OTHER TERMS OF THIS AGREEMENT, THE TRANSFERRED ASSETS ARE BEING SOLD AND TRANSFERRED “AS IS, WHERE IS,” AND IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH TRANSFERRED ASSETS, INCLUDING, IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.**

## **Article VI COVENANTS**

### **Section 6.1      Conduct of Business.**

(a) During the period from the date of this Agreement to the Closing Date, the Parties shall conduct all of their operations that concern any of the Transferred Assets in the ordinary and usual course of business consistent with Good Utility Practice.

(b) The Parties agree that, during the period from the date of this Agreement to the Closing Date: (i) the Parties will confer and coordinate on a regular and frequent basis with one or more representatives of each other to discuss the general status of the Transferred Assets and the operation of same; and (ii), the Parties will promptly notify each other of any significant changes in the Transferred Assets or the operation of same.

(c) Subject to the terms of this Agreement, the Parties will use their reasonable efforts to take, or cause to be taken, all action to do, or cause to be done, all things or execute any documents necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.

### **Section 6.2      Consents and Approvals.**

(a) The Parties shall cooperate and use all commercially reasonable efforts to promptly prepare and file all necessary documentation to effect all necessary applications, notices, petitions, filings and other documents, and to use all commercially reasonable efforts to obtain (and will cooperate with each other in obtaining) any consent, acquiescence, authorization, order or approval of, or any exemption or non-opposition by, any Governmental Authority required to be obtained or made by either Party in connection with this Agreement or the taking of any action contemplated by this Agreement. Each Party shall have the right to review and approve in advance all characterizations of the information relating it which appear in any filing made in connection with the transactions contemplated by this Agreement, such approvals not to be unreasonably withheld. The Parties shall consult with each other with respect to the obtaining of



all such necessary approvals of Governmental Authorities and shall keep each other informed of the status thereof.

(b) The Parties will use all commercially reasonable efforts to obtain consents of all other third parties necessary to the consummation of the transactions contemplated by this Agreement. The Parties shall promptly notify each other of any failure or anticipated failure to obtain any such consents and, if requested, shall provide copies of all such consents.

Section 6.3      Casualty.

SELLER shall bear the risk of all loss or damage to the Transferred Assets from all causes until the Closing Date. If any of the Transferred Assets are damaged by fire or other casualty prior to the Closing Date, then the Parties shall proceed to Closing without a reduction in the Purchase Price; provided that ATCLLC shall receive an assignment of all rights, title and interest in and to any insurance proceeds relating to such casualty, and provided further that SELLER shall remain liable to pay ATCLLC the amount of cash necessary to complete restoration to the extent the insurance proceeds are not sufficient.

Section 6.4      Continued Conveyance.

The Parties intend that the Transferred Assets are all of the assets that the Parties are intending to convey to each other. To the extent a Party retains any assets intended to be conveyed or required to be conveyed under regulatory orders, that Party shall convey such assets to the other Party, and to the extent a Party receives any assets not intended or required to be transferred, that Party shall re-convey such assets to the other Party.

Section 6.5      Access to Assets.

The Parties shall, from the date of the execution of this Agreement, until the Closing Date, allow each other and their designees access at reasonable times and places to any and all of the Transferred Assets for the purpose of inspecting same.

**Article VII**  
**CONDITIONS PRECEDENT**

Section 7.1      Mutual Conditions Precedent.

Each Party's obligation to consummate the Closing of this Agreement is conditioned upon each of the following:

(a) No action, suit, proceeding or investigation by or before any Governmental Authority shall have been instituted or threatened which may restrain, prohibit or invalidate any of the transactions contemplated by this Agreement or which may affect the rights of a Party to operate or control the Transferred Assets or any part thereof on and after the Closing Date.

(b) All required consents or approvals relating to any Contract or Permit of the Parties shall have been obtained, other than those which if not obtained, would not, in the aggregate, have a material adverse effect on ATCLLC, SELLER or any of the Transferred Assets.

(c) SELLER and ATCLLC shall have received all necessary approvals from the appropriate Governmental Authorities.

Section 7.2      Conditions Precedent to Obligations of ATCLLC.

All obligations of ATCLLC under this Agreement to be performed on and after the Closing Date are, at the option of ATCLLC, subject to the satisfaction of the following conditions precedent on or before the Closing Date, as indicated below:

(a) Proceedings Satisfactory. All actions, proceedings, instruments, opinions and documents required to carry out this Agreement or incidental hereto, and all other related legal matters, shall be reasonably satisfactory to ATCLLC. SELLER shall have delivered to ATCLLC on or before the Closing Date such documents and other evidence as it may reasonably request in order to establish the consummation of transactions relating to the execution, delivery and performance by SELLER of this Agreement, the transfer and conveyance of the Transferred Assets, the execution of all other documents or instruments required hereby, and the compliance with the conditions set forth in this Section 7.2 in form and substance reasonably satisfactory to ATCLLC.

(b) Instruments of Transfer and Other Instruments. SELLER shall have delivered to ATCLLC, on or prior to the Closing Date, the following:

- (i) the documents and instruments required by Article II and Article IV; and
- (ii) such other documents as may reasonably be requested to consummate the transfer of the Transferred Assets.

(c) Representations and Warranties of the Seller Correct. The representations and warranties made by SELLER in Article IV shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as though all such representations and warranties had been made on and as of the Closing Date. In addition, tender by SELLER of any documents required to be delivered as of the Closing Date shall constitute a representation by SELLER as of the Closing Date that, except as otherwise specifically approved in writing by ATCLLC, such representations and warranties of SELLER are true and correct in all material respects on and as of the Closing Date with the same force and effect as though all such representations and warranties had been made on and as of the Closing Date.

(d) Compliance with Terms and Conditions. All the terms, covenants, agreements and conditions of this Agreement to be complied with and performed by SELLER on or before the Closing Date shall have been (and tender by SELLER of any documents required to be delivered at the Closing by SELLER shall constitute a representation by SELLER as of the Closing Date that, except as otherwise specifically approved in writing by ATCLLC, they have been) complied with and performed in all material respects.

(e) Certificates. SELLER shall have delivered or caused to be delivered to ATCLLC all such certificates, dated as of the Closing Date, as ATCLLC shall reasonably request to evidence the fulfillment by SELLER as of the Closing Date, of the terms and conditions of this

Agreement, including the Foreign Investment in Real Property Tax Act certification and affidavit, if applicable, substantially in the form of Exhibit 7.2(e) hereto

(f) Legal Opinion of SELLER's Counsel. ATCLLC shall receive the favorable opinion of counsel for SELLER, addressed to ATCLLC and dated as of the Closing Date, in form and substance satisfactory to ATCLLC and substantially in the form of Exhibit 7.2(f) hereto.

(g) Project Map: SELLER shall prepare a map showing the location of all Transferred Assets (a "Project Map") and attach it as Schedule 7.2.

(h) Environmental Information. No later than fifteen business days before the Closing, SELLER will provide ATCLLC with any written material or communications in any form or medium whatsoever, including, without limitation, internal memorandum, investigations, audits, reviews, studies or other analyses (including Phase I or Phase II reports), in its possession or under its control concerning the status of the Transferred Assets under Environmental Laws. Any propriety or confidential information contained in such Environmental Information will be conveyed pursuant to a joint defense or other confidentiality agreement to be entered into between ATCLLC and SELLER.

(i) The Transferred Assets will be subject to ATCLLC's final inspection and approval, which will not be unreasonably withheld or delayed.

### Section 7.3      Conditions Precedent to Obligations of SELLER.

All obligations of SELLER hereunder to be performed on or after the Closing Date are, at the option of SELLER, subject to the satisfaction of the following conditions on or before the Closing Date, as indicated below:

(a) Proceedings Satisfactory. All actions, proceedings, instruments, opinions and documents required to carry out this Agreement or incidental hereto and all other related legal matters shall be reasonably satisfactory to SELLER and counsel for SELLER. ATCLLC shall have delivered to SELLER on the Closing Date such documents and other evidence as SELLER may reasonably request in order to establish the consummation of transactions relating to the execution, delivery and performance by ATCLLC of this Agreement, in form and substance reasonably satisfactory to SELLER.

(b) Compliance with Terms and Conditions. All the terms, covenants and conditions of this Agreement to be complied with and performed by ATCLLC on or before the Closing Date shall have been (and the issuance by ATCLLC of ATCLLC member units or any documents required to be delivered at the Closing by ATCLLC shall constitute a representation by ATCLLC as of the Closing Date that, except as otherwise specifically approved in writing by SELLER, they have been) complied with and performed in all material respects.

(c) Representations and Warranties of ATCLLC Correct. All the representations and warranties made by ATCLLC in Article V hereinabove shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as though all such representations and warranties had been made on and as of the Closing Date. In addition, the execution by ATCLLC of any documents required to be delivered at the Closing shall constitute

a representation by ATCLLC as of the Closing that, except as otherwise specifically approved in writing by SELLER, such representations and warranties of ATCLLC are true and correct in all material respects on and as of the Closing Date with the same force and effect as though all such representations and warranties had been made on and as of the Closing Date.

(d) Certificates. ATCLLC shall have delivered to SELLER all such certificates, dated as of the Closing Date, as SELLER shall reasonably request to evidence the fulfillment by ATCLLC, as of the Closing Date, of the terms and conditions of this Agreement.

(e) Legal Opinion of ATCLLC's Counsel. SELLER shall receive the favorable opinion of Counsel for ATCLLC, addressed to SELLER and dated the Closing Date, in form and substance reasonably satisfactory to SELLER, substantially in the form set forth in Exhibit 7.3(e) hereto.

## **Article VIII INDEMNIFICATION**

### **Section 8.1        Indemnification.**

(a) General. Except as otherwise provided in Section 8.1 (b),(c), (d), or (e) each Party shall indemnify and hold the other harmless for any liabilities, losses, damages and expenses (including attorneys fees and expenses) (together, a "Claim") relating to such Party's breach of any representation or warranty or failure to fulfill any covenant or agreement contained herein; *provided, however*, that neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory for any indirect, consequential, incidental, punitive or exemplary damages.

(b) Environmental. SELLER agrees to indemnify ATCLLC and each Person potentially liable through ATCLLC, including its officers, directors, shareholders, employees and agents harmless from and against Losses, Environmental Claims, liabilities, losses, damages, and expenses (including, without limitation, the reasonable costs of investigation, testing, containment, removal, clean-up, restoration, abatement, remediation and attorneys fees and costs), arising or incurred by any of them which arise out of an alleged contamination of water, land or air that is reasonably attributable to the acts of Seller.

(c) The environmental indemnification shall exclude those Environmental Claims, liabilities, losses, damages, and expenses arising from action, inaction or a condition first existing after the Closing Date or arising out of an action, inaction or condition occurring after the Closing Date. In the event that any Environmental Claims, liabilities, losses, damages, and expenses are aggravated or exacerbated by action, inaction or condition occurring after the Closing Date, SELLER will still indemnify ATCLLC, but ATCLLC will contribute to any Environmental Claims, liabilities, losses, damages, and expenses in proportion to the actual harm caused by events occurring after the Closing Date.

(d) Land Rights. SELLER agrees to indemnify ATCLLC and with respect to any bona fide dispute regarding (i) SELLER's right to assign or convey any right or interest therein; (ii) the validity or assignability of any easement or lease; in each case where it would be reasonable and prudent for ATCLLC to exercise its condemnation power and where such defect has not

previously been resolved through the exercise of prescriptive rights or other action. The indemnification obligation hereunder shall be limited to the reasonable costs incurred by ATCLLC to condemn the applicable parcel, including, without limitation, the condemnation award, attorneys fees and other costs incurred relative to such condemnation award and shall include reasonable internal costs (e.g., ATCLLC staff or internal ATCLLC counsel expense).

(e) Additional Limitations. NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE IN THIS AGREEMENT OR PROVIDED FOR UNDER ANY LAW, NO PARTY WILL, IN ANY EVENT, BE LIABLE TO THE OTHER PARTY, EITHER IN CONTRACT OR IN TORT, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OF THE OTHER PARTY, INCLUDING LOSS OF FUTURE REVENUE, INCOME, OR PROFITS, DIMINUTION OF VALUE, OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY, RELATING TO THE BREACH OR ALLEGED BREACH OF THIS AGREEMENT OR OTHERWISE, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED TO THE OTHER PARTY IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN BY SUCH OTHER PARTY.

(f) Notice of Discovery, Loss, Damage, or Proceedings: Each Party shall promptly notify the other Party of any discovery of any Claim or Environmental Claim in respect of which such notifying Party is or may be entitled to indemnification pursuant to Section 8.1. Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of the Claim or Environmental Claim and that such claim may give rise to an indemnification obligation. The delay or failure of such indemnified Party to provide the notice required pursuant to this Section 8.1 shall not release the other Party from any indemnification obligation which it may have to such indemnified Party except (i) to the extent that such failure or delay materially and adversely affected the indemnifying Party's ability to defend such action or increased the amount of the claim, and (ii) that the indemnifying Party shall not be liable for any costs or expenses of the indemnified Party in the defense of the Claim or Environmental Claim during such period of failure or delay.

## Section 8.2      Defense of Claims

(a) Unless and until the indemnifying Party acknowledges in writing its obligation to indemnify the indemnified Party to the extent required pursuant to this Article VIII, and assumes control of the defense of a claim, suit, action or proceeding in accordance with Section 8.2(b), the indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with counsel of its own selection, any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof shall be subject to the indemnification obligations of the indemnifying Party hereunder.

(b) Upon acknowledging in writing its obligation to indemnify an indemnified Party to the extent required pursuant to this Article VIII and paying all reasonable costs incurred by an indemnified Party in its defense, including, without limitation, legal fees, the indemnifying Party shall be entitled, at its option (subject to Section 8.2(d)), to assume and control the defense of

such claim, action, suit or proceeding at its expense with counsel of its selection, subject to the prior reasonable approval of the indemnified Party.

(c) Neither the indemnifying Party nor the indemnified Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other; *provided, however*, that after agreeing in writing to indemnify the indemnified Party, the indemnifying Party may, subject to Section 8.2(d), settle or compromise any claim without the approval of the indemnified Party. Except where such consent is unreasonably withheld, if a Party settles or compromises any claim, action, suit or proceeding in respect of which it would otherwise be entitled to be indemnified by the other Party, without the prior written consent of the other Party, the other Party shall be excused from any obligation to indemnify the Party making such settlement or compromise in respect of such settlement or compromise.

(d) Following the acknowledgment of the indemnification and the assumption of the defense by the indemnifying Party pursuant to Section 8.2(b), the indemnified Party shall have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such indemnified Party, when and as incurred, unless: (i) the employment of counsel by such indemnified Party has been authorized in writing by the indemnifying Party; (ii) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party that there may be a conflict of interest between the indemnifying Party and the indemnified Party in the conduct of the defense of such action; (iii) the indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the indemnified Party to assume the defense of such action and shall have been so notified by the indemnified Party; or (iv) the indemnified Party shall have reasonably concluded and specifically notified the indemnifying Party that there may be specific defenses available to it which are different from or additional to those available to the indemnifying Party or that such claim, action, suit or proceeding involves or could have a material adverse effect upon the indemnified Party beyond the scope of this Agreement. If clause (ii), (iii) or (iv) of the preceding sentence shall be applicable, then counsel for the indemnified Party shall have the right to direct the defense of such claim, action, suit or proceeding on behalf of the indemnified Party and the reasonable fees and disbursements of such counsel shall constitute reimbursable legal or other expenses hereunder.

### Section 8.3      Subrogation.

Upon payment of any indemnification by a Party pursuant to Section 8.1, the indemnifying Party, without any further action, shall be subrogated to any and all claims that the indemnified Party may have relating thereto, and such indemnified Party shall at the request and expense of the indemnifying Party cooperate with the indemnifying Party and give at the request and expense of the indemnifying Party such further assurances as are necessary or advisable to enable the indemnifying Party vigorously to pursue such claims.

## **Article IX CLOSING**

The closing (the “Closing”) shall occur on a mutually agreeable date within ten business days of obtaining the last governmental approval or third party consent, or at such other time

thereafter as is mutually agreed to by the Parties (the "Closing Date"). The effective date of the purchase and transfer of the Contributed Assets shall be 12:01 a.m. Central Time on the next business day following the Closing Date. On the Closing Date, the Parties agree to take the actions required by this Agreement and all such actions shall be deemed to have occurred simultaneously.

Section 9.1      Closing Costs.

(a) ATCLLC shall pay the cost of recording the deeds and other instruments conveying any real property to ATCLLC in relation to the Transferred Assets.

(b) SELLER shall pay all state, county and, if applicable, municipal transfer Taxes levied on the Transferred Assets to ATCLLC; the costs and expenses of any title commitment, title insurance and surveys required hereunder, if any; and all costs and expenses of releasing liens and security interests (except those constituting Permitted Encumbrances) on any of the Transferred Assets.

(c) Title company fees for document handling and closing shall be shared equally by the Parties.

(d) Except as otherwise provided in this Agreement, each Party shall pay the fees and expenses of its own legal counsel.

Section 9.2      Prorations.

The following items shall be prorated and adjusted between the Parties or paid at Closing:

- (i) Taxes on real property shall be prorated on a calendar year basis to the Closing Date;
- (ii) Taxes on personal property, if any, shall be prorated on a calendar year basis to the Closing Date; and
- (iii) rents and other charges due under any leased property that is a Contributed Asset shall be prorated to the Closing Date.

If the Closing shall occur before the Tax rates are fixed for any Taxes to be prorated hereunder, the apportionment of such Taxes shall be upon the basis of the most recent ascertainable Taxes.

Section 9.3      Default and Remedies.

In the event that SELLER fails to consummate the transactions described in this Agreement for any reason other than ATCLLC's default, SELLER shall be in default and ATCLLC may obtain specific performance of this Agreement.

**Article X**  
**POST CLOSING**

Section 10.1      Further Assurances.

Subject to the terms of this Agreement, the Parties will use its reasonable efforts to take, or cause to be taken, all action to do, or cause to be done, all things or execute any documents necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement. On and after the Closing Date SELLER and ATCLLC will take all

reasonably appropriate action and execute any documents, instruments or conveyances of any kind which may be reasonably necessary to carry out any of the provisions hereof and correct patent errors and omissions.

Section 10.2      Survival of Representations, Warranties and Covenants.

The Parties' representations and warranties contained in this Agreement shall survive the Closing Date for a period of three years; provided, *however*, that the representations and warranties under Sections 4.1, 4.2, 4.4, 5.1 and 5.2 shall survive the Closing indefinitely. The covenants of the Parties shall survive indefinitely unless a shorter period of survival is provided for in this Agreement. Any indemnification obligation pursuant to Article VIII associated with the Parties' representations and warranties or pursuant to Article IX associated with the Parties' covenants shall survive for the corresponding survival period.

Section 10.3      Access to Records.

(a) SELLER shall provide ATCLLC all originals and/or copies of all design drawings, electrical diagrams, maps, operations and maintenance records, materials standards, and manuals regarding employee safety and equipment operation in its possession and necessary or useful to operate and maintain the Contributed Assets consistent with Good Utility Practice.

(b) ATCLLC may review other information and records relating to the Contributed Assets in SELLER's possession at the business locations where such other information is normally located, during normal business hours, and upon reasonable notice. In the alternative, such other information and records may be provided in electronic form or hard copy, as the Parties may agree.

(c) Neither Party shall charge the other for any costs associated with complying with this Section 10.3 during the first four years following the Closing Date except as the Parties may otherwise agree. Thereafter, the Party seeking information and records of the other Party shall pay the reasonable costs of the other Party for providing such information and records or access thereto.

**Article XI**  
**MISCELLANEOUS**

Section 11.1      Notices.

All notices, consents, requests, demands, offers, reports or other communications required or permitted to be given pursuant to this Agreement shall be in writing and considered properly given or made when personally delivered to the Person entitled thereto, when sent by certified or registered United States mail in a sealed envelope, with postage prepaid, or when sent by overnight courier, addressed as set forth below. Any Party may change its address by giving notice to the other Party as aforesaid.



If to ATCLLC:

**AMERICAN TRANSMISSION COMPANY LLC**  
**c/o ATC MANAGEMENT INC.**  
W234 N2000 Ridgeview Parkway Court  
Waukesha, WI 53188  
Attention: Corporate Secretary

If SELLER:

Randy Posthuma, General Manager  
Waupun Utilities  
817 Madison Street  
PO Box 431  
Waupun, WI 53963-0431

Section 11.2      Entire Agreement.

This Agreement embodies the entire understanding and agreement between the Parties concerning the Contributed Assets, and supersedes any and all prior negotiations, understandings or agreements with respect thereto.

Section 11.3      Interpretation and Construction.

The headings and captions in this Agreement are inserted for convenience and identification only and are in no way intended to define, limit or expand the scope and intent of this Agreement or any provision hereof. The references to Sections or Articles in this Agreement are to Sections and Articles of this Agreement, except where otherwise indicated. Where the context so requires, the masculine shall include the feminine and the neuter, and singular shall include the plural.

Section 11.4      Counterparts.

This Agreement may be executed in multiple counterpart copies, each of which shall be considered an original and all of which shall constitute one and the same instrument.

Section 11.5      Binding on Successors; Assignment.

This Agreement and all of the terms and provisions hereof shall be binding upon, and inure to the benefit of, the Parties and their respective successors and assigns. ATCLLC shall be entitled to assign this Agreement to any Person that acquires the Transferred Assets to ATCLLC.

Section 11.6      Governing Law.

This Agreement, and the rights and obligations of the Parties hereto shall be governed by and construed in accordance with the Laws of the State of Wisconsin, except insofar as the laws

of another jurisdiction require the application of such jurisdiction's laws with respect to in such other jurisdiction.

Section 11.7      Severability.

If any provision of this Agreement or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable in any jurisdiction, the validity and enforceability of the Agreement or the application of such provision to any other Persons or circumstances shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the extent permitted by law in every jurisdiction.

Section 11.8      Amendments and Waivers.

This Agreement may be amended only by a written instrument executed by ATCLLC and the SELLER. Either Party may extend the time for or waive the performance of any obligation of the other Party, waive any inaccuracies in the representations or warranties of such Party, or waive compliance by such Party with any of the terms and conditions contained in this Agreement. Any such extension or waiver shall be in writing and executed by the Party granting the waiver. Notwithstanding the foregoing, the failure of any Party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way to affect the validity of this Agreement or any part of such provision or the right of that Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, ATCLLC has caused this Agreement to be executed by its duly authorized representative as of the date first set forth above.

**AMERICAN TRANSMISSION COMPANY LLC,  
a Wisconsin limited liability company  
By: ATC Management Inc., its corporate manager**

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, SELLER has caused this Agreement to be executed by its duly authorized representative as of the date first set forth above.

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 2.1(a)**

**PERMITTED ENCUMBRANCES**

None.

**SCHEDULE 2.1(b)**

**PURCHASED ASSETS**

**Waupun Utilities**

69kV Transmission Line

Book Value as of 2/7/2014

***Key Analysis Points:***

Based on individual pole locations.

Total cost includes pole, applicable assembly units, conductors and static wire.

Half year convention employed for depreciation purposes.

Assets depreciated through 2014

**Useful life:**

Account 364 - 23.5 years

Account 365 - 31 years

Account 362 - 32 years

Account	Description	Plant Balance	Accumulated Depreciation	Book Value
364-00-0000	Poles, Towers & Fixtures	\$ 257,833	\$ (217,160)	\$ 40,673
365-00-0000	Overhead Conductors	174,964	(118,526)	56,438
362-00-0000	69kV Circuit Switcher	78,553	(10,958)	67,595
	TOTAL	<u>511,350</u>	<u>(346,645)</u>	<u>164,706</u>

## **SCHEDULE 2.2**

### **PERMITS**

None.

## **SCHEDULE 2.3**

### **CONTRACTS**

None.



## **SCHEDULE 2.4**

### **WARRANTIES**

This schedule identifies certain warranties covering certain of the Transferred Assets to ATCLLC. The Parties acknowledge that the Contributed Assets may also be covered by additional warranties not identified on the schedule; however, SELLER's warranty assignment is intended to include all warranties applicable to the Transferred Assets to ATCLLC, or any portion thereof, whether or not listed below. SELLER will continue, in good faith, to examine its warranty records as may be applicable to the Transferred Assets to ATCLLC and, to the extent further applicable warranties are discovered, supplement this schedule in the future to assign such discovered warranties to ATCLLC. SELLER agrees to cooperate with ATCLLC in presenting any warranty claims on Transferred Assets to ATCLLC, as appropriate, whether pursuant to this schedule, future supplements thereto, or otherwise.

## **SCHEDULE 4.3**

### **THIRD PARTY CONSENTS**

None.

## **SCHEDULE 4.4**

### **LITIGATION**

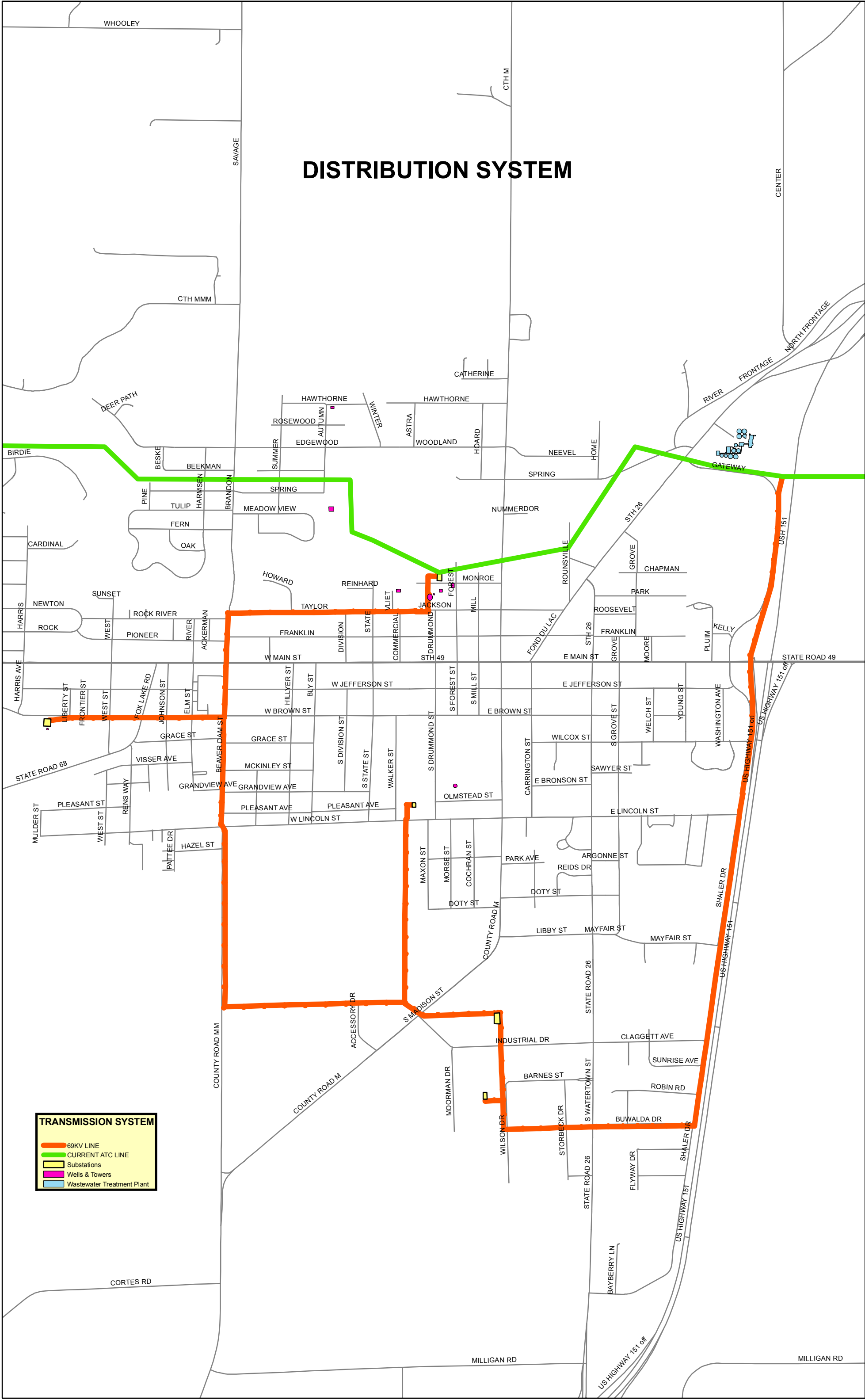
None.

**SCHEDULE 4.5**  
**INTEREST IN CONTRIBUTED ASSETS**

None.

**SCHEDULE 7.2**

**PROJECT MAP**



# DISTRIBUTION SYSTEM

**EXHIBIT 2.1( a)**

**EASEMENT ASSIGNMENT**

Document Number

Document Title

This Easement Assignment (“Assignment”) is made by and between [SELLER], a [state] [entity designation and/or utility status], whose address is \_\_\_\_\_ (“Assignor”), and American Transmission Company LLC, a Wisconsin limited liability company, whose address is W234N2000 Ridgeview Parkway Court, Waukesha, Wisconsin 53188-1022 (“Assignee”).

Recording Area

Name and Return Address:  
American Transmission Company  
Attn: Real Estate Department  
PO Box 47  
Waukesha, WI 53187-0047

Assignor hereby assigns to Assignee all of Assignor’s rights, title and interest in and to the various easements identified on the attached and incorporated Exhibit A (“Easements”) as pertain to electrical “transmission” for purposes of placing, maintaining, modifying, operating, replacing and repairing electrical transmission facilities located within the lands described in the Easements (“Easement Area”). For purposes of this Assignment, electrical “transmission” is defined as electrical facilities equal to 50 kV or greater or as otherwise determined by order of the Public Service Commission of Wisconsin. Included within the Assignment above made, if and to the extent contained in the Easements, is the right to enter onto the Easement Areas for purposes of trimming trees and other vegetation as may interfere with Assignee’s electrical transmission facilities, as may be expressed or implied in the Easements. This Assignment is made subject to Section 196.485(5)(c)1. of the Wisconsin Statutes as created by 1999 Wis. Act 9 (as may be amended from time to time, and successor and replacement statutes thereto).

All other rights under the Easements not assigned hereunder are reserved to Assignor.

This Assignment, and the rights, obligations and interest assigned hereby shall run with the lands described within the Easements identified on Exhibit A, and shall be binding upon and inure to the benefit of Assignor and Assignee and each and all of their respective successors and assigns. This Assignment shall be construed in accordance with the laws of the State of Wisconsin.

This Assignment may be executed in one or more counterparts, all of which when taken together, shall constitute one and the same instrument.

This Assignment is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ASSIGNOR:**

\_\_\_\_\_,  
a Wisconsin municipality

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF WISCONSIN                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the above-named \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a Wisconsin municipality, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, Wisconsin  
My Commission: \_\_\_\_\_

[ADDITIONAL SIGNATURE AND ACKNOWLEDGMENT ON FOLLOWING PAGE]



**ASSIGNEE:  
AMERICAN TRANSMISSION COMPANY LLC,  
a Wisconsin limited liability company  
By: ATC Management Inc., its Corporate Manager**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN )  
 ) SS.  
COUNTY OF \_\_\_\_\_)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named \_\_\_\_\_, as \_\_\_\_\_ of ATC Management Inc., Manager of American Transmission Company LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Name: \_\_\_\_\_  
 Notary Public, Wisconsin  
 My Commission: \_\_\_\_\_

This instrument was drafted by:

**EXHIBIT 3.2(c)(i)**

**GRANT OF TRANSMISSION  
LINE EASEMENT**

Document Number

Document Title

This Grant of Transmission Line Easement (“Easement”) is made by \_\_\_\_\_, a Wisconsin municipality (“Grantor”), to American Transmission Company LLC, a Wisconsin limited liability company (“Grantee”).

**Recording Area**

Name and Return Address:  
American Transmission Company  
Attn: Real Estate Department  
PO Box 47  
Waukesha, WI 53187-0047

For valuable consideration, the receipt of which is acknowledged, Grantor hereby conveys to Grantee and Grantee’s successors and assigns, the right, permission and authority to place, maintain, operate, modify and replace “transmission” line structures of such material as Grantee may select, together with the necessary footings, stub supports and underground accessories, in such locations as may, from time to time, be selected by Grantee upon, along, over and across all that part of Grantor’s premises within the boundaries of the strip of land described on Exhibit A (“Easement Area”). For purposes of this Easement, electrical “transmission” is defined as electrical facilities equal to 50 kV or greater or as otherwise determined by order of the Public Service Commission of Wisconsin. The rights granted to Grantee hereunder are nonexclusive and subject to: existing rights of third parties, Grantor’s right to place, maintain, operate, modify and replace distribution facilities within the Easement Area, and Grantor’s right to grant to others rights within the Easement Area; provided that none of the foregoing rights interfere with or unduly inconvenience Grantee’s exercise of its rights under the Easement. Further, and not in limitation of the foregoing sentence, this grant is made subject to Section 196.485(5)(c)1. of the Wisconsin Statutes as created by 1999 Wis. Act 9 (as may be amended from time to time, and successor and replacement statutes thereto).

The right, permission and authority is also granted to Grantee to string, install, operate, maintain and replace wires and cables on said transmission line structures, supported by the necessary crossarms and appliances, over and across said Easement Area for the purpose of transmitting electric energy.

The right, permission and authority is also conveyed to Grantee to cut down and remove or trim all trees and overhanging branches now or hereafter existing on said strip of land, to cut down and remove brush, and to trim or cut down and remove such trees now or hereafter existing on the premises of the Grantor located outside the Easement Area by falling might interfere with or endanger said transmission lines.



**GRANTEE:**  
**AMERICAN TRANSMISSION COMPANY LLC,**  
**a Wisconsin limited liability company**  
**By: ATC Management, Inc., its Corporate Manager**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN )  
 ) SS.  
COUNTY OF \_\_\_\_\_)

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the above-named \_\_\_\_\_, as \_\_\_\_\_ of ATC Management Inc., Manager of American Transmission Company LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

Name: \_\_\_\_\_  
Notary Public, Wisconsin  
My Commission: \_\_\_\_\_

This instrument was drafted by:

## BILL OF SALE

## EXHIBIT 2.2

### ASSIGNMENT AND ASSUMPTION OF PERMITS

This Assignment and Assumption of Permits ("Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2013, by and between \_\_\_\_\_, a Wisconsin [corporation/municipality/cooperative] acting as an electric utility ("Assignor"), and American Transmission Company LLC, a Wisconsin limited liability company ("Assignee").

#### RECITALS

Assignor is a party in interest in and to certain permits identified on Schedule 3.3 of the Asset Purchase Agreement dated \_\_\_\_\_, 2013, between Assignor and Assignee, which permits are also identified in their entirety on the attached Exhibit A. As part of the conveyance of certain other rights and interests ("Contributed Assets") under the Asset Purchase Agreement, Assignor intends to assign, and Assignee wishes to assume, Assignor's rights and obligations as pertain to "transmission" under certain building permits, certificates of occupancy, utility reservations or allocations, certificates of compliance, railroad licenses, permits, and crossing agreements, and any other licenses, permits, authorizations, or approvals necessary for the operation of the Contributed Assets (as identified on Schedule 3.3 of the Asset Purchase Agreement, the "Permits"). As used herein, "transmission" means electrical facilities equal to 50 kV or greater or as otherwise determined by order of the Public Service Commission of Wisconsin.

#### ASSIGNMENT AND ASSUMPTION

In consideration of the foregoing, the covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Assignment. Assignor assigns and transfers to Assignee all of Assignor's right, title, interest and obligations in the Permits as pertain to transmission, effective as of \_\_\_\_\_, 2013 ("Effective Date"). Assignor reserves all other right, title, interest and obligations of Assignor in the Permits.
2. Assumption. Assignee accepts the foregoing assignment from Assignor and assumes and agrees to perform all of the terms, conditions and provisions on Assignor's part to be performed with respect to the Permits as pertain to transmission.
3. Indemnification. Assignor agrees to indemnify and hold Assignee harmless from any and all obligations, duties, agreements and liabilities of Assignor under the Permits arising before the Effective Date. Assignee agrees to indemnify and hold Assignor harmless from any and all obligations, duties, agreements and liabilities of Assignor under the Permits as pertain to transmission arising from and after the Effective Date.
4. Further Acts. The Parties agree that they shall do such further reasonable acts and execute such reasonable documents and instruments as may be required to make the assignments contemplated in this Agreement effective.

Executed as of the date first written above.

**ASSIGNOR:**

\_\_\_\_\_ ,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

**AMERICAN TRANSMISSION COMPANY LLC,  
a Wisconsin limited liability company**

**By: ATC Management Inc., its Manager**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT 2.3(a)

### ASSIGNMENT AND ASSUMPTION OF CONTRACTS

This Assignment and Assumption of Contracts ("Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2013, by and between \_\_\_\_\_, a Wisconsin [corporation/municipality/cooperative] acting as an electric utility ("Assignor"), and American Transmission Company LLC, a Wisconsin limited liability company ("Assignee").

### RECITALS

A. Assignor is a party in interest in and to certain contracts identified on Schedule 3.4 of the Asset Purchase Agreement dated \_\_\_\_\_, 2013, between Assignor and Assignee and also identified in their entirety on the attached Exhibit A ("Contracts").

B. As part of the conveyance of certain other rights and interests ("Contributed Assets") under the Asset Purchase Agreement, Assignor intends to assign, and Assignee wishes to assume, Assignor's rights and obligations as pertain to transmission under the Contracts identified above. As used herein, "transmission" means electrical facilities equal to 50 kV or greater or as otherwise determined by order of the Public Service Commission of Wisconsin.

### ASSIGNMENT AND ASSUMPTION

In consideration of the foregoing, the covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Assignment. Assignor assigns and transfers to Assignee all of Assignor's right, title, interest and obligations in the Contracts as pertain to transmission, effective as of \_\_\_\_\_, 2013 ("Effective Date"). Assignor reserves to itself all other right, title, interest and obligations of Assignor under the Contracts.

2. Assumption. Assignee accepts the foregoing assignment from Assignor and assumes and agrees to perform all of the terms, conditions and provisions on Assignor's part to be performed with respect to the Contracts as pertain to transmission.

3. Indemnification. Assignor agrees to indemnify and hold Assignee harmless from any and all obligations, duties, agreements and liabilities of Assignor under the Contracts arising before the Effective Date. Assignee agrees to indemnify and hold Assignor harmless from any and all obligations, duties, agreements and liabilities of Assignor under the Contracts as pertain to transmission arising from and after the Effective Date.

4. Further Acts. The Parties agree that they shall do such reasonable acts and execute such reasonable documents and instruments as may be required to make the assignments contemplated in this Agreement effective.

Executed as of the date first written above.

[SIGNATURES ON FOLLOWING PAGES]



**ASSIGNOR:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

**AMERICAN TRANSMISSION COMPANY LLC,**

**a Wisconsin limited liability company**

**By: ATC Management Inc., its Manager**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT 2.4

### ASSIGNMENT AND ASSUMPTION OF WARRANTIES

This Assignment and Assumption of Warranties ("Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2013, by and between \_\_\_\_\_, ("Assignor"), and American Transmission Company LLC, a Wisconsin limited liability company ("Assignee").

### RECITALS

Assignor is the named beneficiary in and to certain warranties as identified at Section 3.6 of an Asset Purchase Agreement dated \_\_\_\_\_, 2013, between Assignor and Assignee, which warranties are also identified on the attached Exhibit A (the "Warranties"). As part of the conveyance of the Contributed Assets (as defined in the Asset Purchase Agreement), Assignor intends to assign and Assignee wishes to assume all of Assignor's rights under the Warranties.

### ASSIGNMENT AND ASSUMPTION

In consideration of the foregoing, the covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Assignment. Assignor assigns and transfers to Assignee all of Assignor's right, title, and interest in the Warranties, effective as of \_\_\_\_\_, 2013 ("Effective Date").
2. Assumption. Assignee accepts the foregoing assignment from Assignor, subject in all cases to the terms and conditions of the Warranties as herein assigned.
3. Further Acts. The Parties agree that they shall do such further acts and execute such documents and instruments as may be required to make the assignment contemplated in this Agreement effective.

Executed as of the date first written above.

**ASSIGNOR:**

\_\_\_\_\_ ,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[ADDITIONAL SIGNATURE ON FOLLOWING PAGE]

**ASSIGNEE:**  
**AMERICAN TRANSMISSION COMPANY LLC,**  
**a Wisconsin limited liability company**  
**By: ATC Management Inc., its Manager**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT 7.2(E)

### AFFIDAVIT OF NONFOREIGN STATUS

STATE OF WISCONSIN                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

Section 1445 of the Internal Revenue Code, as amended ("Code"), provides that a transferee (buyer) of a United States real property interest, as defined in Section 897(c)(1)(A) of the Code, may withhold tax if the transferor is a foreign person as defined in the Code. To inform the American Transmission Company LLC ("Transferee") that withholding of tax is not required upon disposition of certain United States real property interests being transferred by \_\_\_\_\_ ("Transferor") to Transferee on an even date herewith the undersigned, \_\_\_\_\_ being duly sworn, certify and state on behalf of Transferor that the following is true and correct:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate, as those terms are defined in Code and income tax regulations;

2. Transferor's United States taxpayer identifying number (employer identification number) is \_\_\_\_\_, and the address of its principal place of business is \_\_\_\_\_, \_\_\_\_\_, Wisconsin.

3. The undersigned is fully authorized to execute this affidavit on behalf of Transferor.

4. I understand that this affidavit may be disclosed to the Internal Revenue Service by Transferee and that any false statement I have made here is punishable by fine, imprisonment, or both.

5. Under penalties of perjury, I declare that I have examined this affidavit and, to the best of my knowledge and belief, it is true, correct and complete.

#### **TRANSFEROR:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

### ACKNOWLEDGMENT

STATE OF WISCONSIN                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2013, the above named \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, to me known to be the person who executed the foregoing instrument in such capacity and acknowledged the same.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, Wisconsin  
My Commission: \_\_\_\_\_

## EXHIBIT 7.2(f)

### Opinion of SELLER's Counsel

\_\_\_\_\_  
[Name and Address of  
Seller of Opinion Recipient]

Ladies and Gentlemen:

We have acted as special counsel to [Seller], a Wisconsin [corporation/municipality/cooperative] acting as an electric utility ("SELLER"), in connection with the preparation of that Asset Purchase Agreement ("Agreement") executed as of \_\_\_\_\_, 2013 between Seller and American Transmission Company LLC, a Wisconsin limited liability company. This opinion is provided pursuant to 7.2(f) of the Agreement. Except as otherwise indicated herein, capitalized terms used in this Opinion Letter are defined in the Agreement.

In rendering the opinions set forth herein, we have examined the Agreement and originals or copies, certified or otherwise identified to our satisfaction, of such documents, records, instruments, and public records, and we have made such inquiries of the officers of Seller and have considered such matters of law, as we have deemed relevant or necessary as the basis for such opinions. We have relied upon the certificates delivered to us by Seller's officers and the representations and warranties contained in the Agreement as to factual matters. In addition, we have relied upon and assumed (i) the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered; (ii) the authenticity of all documents submitted to us as originals; and (iii) the conformity to authenticated original documents of all documents submitted to us as certified, conformed, photostatic, or telefaxed copies. When we have given an opinion herein "to our knowledge" or as to matters "known by us," we have relied solely upon the absence of any contrary actual knowledge of those attorneys of this firm who have rendered substantial legal services on behalf of Seller in connection with the Agreement, and we have made no other independent investigation.

Based on our examination, it is our opinion that:

1. Seller is a Wisconsin [corporation/municipality/cooperative] acting as an electric utility duly organized and validly existing under the laws of the State of Wisconsin and has the power and authority to own its property and carry on its business as now conducted.
2. Seller:
  - a. has the corporate power to execute, deliver and perform the Agreement;
  - b. has taken all necessary action to authorize the execution, delivery and performance of the Agreement; and
  - c. has duly executed and delivered the Agreement.
3. the Agreement constitutes the legal, valid and binding obligation of Seller and is enforceable against Seller.
4. Neither the execution and delivery of the Agreement, nor Seller's performance of the obligations contained therein will violate the Articles of Incorporation or Bylaws and, upon obtaining any required approvals, result in a violation or breach of, or constitute (with or without due notice or lapse of time or, both) a default (or give rise to any right of termination, cancellation, acceleration or increased cost) under, or otherwise result in any diminution of any of the rights of Seller with respect to, any of the terms, conditions or provisions of any security, note, bond, mortgage, indenture, license, contract or other instrument or obligation to which Seller is a party or by which it is any of its properties or assets may be bound or violate any order, writ, injunction, decree, statute, rule or regulation known to us to be applicable to Seller or any of its properties or assets except for violations, breaches or defaults that, individually or in the aggregate, may not reasonably be expected to have a material adverse effect on the closing of the transactions contemplated by the Agreement and that will not prevent or delay the consummation of the transactions contemplated hereby.
5. Execution and delivery of the Agreement by Seller and performance of Seller's obligations pursuant to the Agreement will not result in a violation of any applicable law, statute or regulation of the United States or any applicable law, statute or regulation of the State of Wisconsin as interpreted by the Wisconsin Public Service Commission.

In rendering the foregoing opinions we call to your attention the following:

- a. This letter and the opinions herein are furnished solely for your information, and they may not be furnished to or relied upon in any manner by any other person or entity.
- b. The enforceability of the Agreement is limited by (i) applicable bankruptcy, insolvency, reorganization, fraudulent conveyance,

moratorium or similar laws affecting the enforcement of creditors' rights generally; (ii) by the application of general equitable principles (whether enforced at law or in equity); and (iii) applicable rules of law limiting the enforceability of provisions releasing, exculpating or exempting a party from, or requiring indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves negligence, recklessness, willful misconduct or unlawful conduct.

- c. The opinions expressed herein are based upon existing law and are given as of the date hereof. We assume no obligation to update or supplement such opinions to reflect any facts or circumstances that come to our attention after the date hereof or any changes in law that may occur after the date hereof.
- d. The opinions expressed herein are based upon and limited to matters governed by the laws of the State of Wisconsin and the United States of America; provided, however, that our opinion excludes those specific legal issues listed in Section 19 of the Legal Opinion Accord of the ABA Section of Business Law (1991).
- e. The opinions furnished herein relate only to issues specified in this letter. No opinions are issued by implication.

Very truly yours,

## EXHIBIT 7.3(e)

### Opinion of ATCLLC's Counsel

\_\_\_\_\_  
«Title» «FirstName» «LastName»  
«Company»  
«Address1»  
«Address2»  
«City», «State» «PostalCode»

Dear «Salutation»:

I represent American Transmission Company LLC, a Wisconsin limited liability company ("ATCLLC") and ATC Management Inc., a Wisconsin corporation ("Management"), in connection with the preparation of that Asset Purchase Agreement ("Agreement") executed as of \_\_\_\_\_, 2013 between ATCLLC and [Seller]. This opinion is provided pursuant to 7.3(e) of the Agreement. Except as otherwise indicated herein, capitalized terms used in this Opinion Letter are defined in the Agreement.

In rendering the opinions set forth herein, I have examined the Agreement and originals or copies, certified or otherwise identified to my satisfaction, of such documents, records, instruments, and public records, and I have made such inquiries of the officers of each of ATCLLC and Management and have considered such matters of law, as I have deemed relevant or necessary as the basis for such opinions. I have relied upon the representations and warranties contained in the Agreement as to factual matters. In addition, I have relied upon and assumed (i) the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered; (ii) the authenticity of all documents submitted to me as originals; and (iii) the conformity to authenticated original documents of all documents submitted to me as certified, conformed, photostatic, or telefaxed copies. When I have given an opinion herein "to my knowledge" or as to matters "known by me," I have relied solely upon the absence of any contrary actual knowledge of those attorneys under my supervision who have rendered substantial legal services on behalf of ATCLLC or Management, as the case may be, in connection with the Agreement, and I have made no other independent investigation.

Based on our examination, it is my opinion that:

1. ATCLLC is a Wisconsin limited liability company duly organized and validly existing under the laws of the State of Wisconsin and has the power and authority to own its property and carry on its business as now conducted.



2. Management is a corporation duly organized, validly existing under the laws of the State of Wisconsin and has the corporate power and authority to own its own property and carry on its business as now conducted.
3. ATCLLC:
  - a. has the corporate power to execute, deliver and perform the Agreement;
  - b. has taken all necessary action to authorize the execution, delivery and performance of the Agreement; and
  - c. has duly executed and delivered the Agreement.
4. The Agreement constitutes the legal, valid and binding obligations of ATCLLC and is enforceable against ATCLLC.
5. Neither the execution and delivery of the Agreement, nor ATCLLC's performance of the obligations contained therein will violate the Articles of Organization of ATCLLC or, upon obtaining any required approvals, result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, acceleration or increased cost) under, or otherwise result in any diminution of any of the rights of ATCLLC with respect to, any of the terms, conditions or provisions of any security, note, bond, mortgage, indenture, license, contract or other instrument or obligation to which ATCLLC is a party or by which it is any of its properties or assets may be bound or violate any order, writ, injunction, decree, statute, rule or regulation known to us to be applicable to ATCLLC or any of its properties or assets except for violations, breaches or defaults that, individually or in the aggregate, may not reasonably be expected to have a material adverse effect on the closing of the transactions contemplated by the Agreement and that will not prevent or delay the consummation of the transactions contemplated hereby.

In rendering the foregoing opinions I call to your attention the following:

- a. This letter and the opinions herein are furnished solely for your information, and they may not be furnished to or relied upon in any manner by any other person or entity.
- b. The enforceability of the Agreement is limited by (i) applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting the enforcement of creditors' rights generally; (ii) by the application of general equitable principles (whether enforced at law or in equity); and (iii) applicable rules of law limiting the enforceability of provisions releasing, exculpating or exempting a party from, or requiring

indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves negligence, recklessness, willful misconduct or unlawful conduct.

- c. The opinions expressed herein are based upon existing law and are given as of the date hereof. I assume no obligation to update or supplement such opinions to reflect any facts or circumstances that come to my attention after the date hereof or any changes in law that may occur after the date hereof.
- d. The opinions expressed herein are based upon and limited to matters governed by the laws of the State of Wisconsin and the United States of America; provided, however, that my opinion excludes those specific legal issues listed in Section 19 of the Legal Opinion Accord of the ABA Section of Business Law (1991).
- f. The opinions furnished herein relate only to issues specified in this letter. No opinions are issued by implication.

**AMERICAN TRANSMISSION COMPANY LLC**

**By: ATC Management Inc., as its Manager**

By \_\_\_\_\_  
Name:  
Title: