

RESOLUTION NO. 1488

A RESOLUTION of the Commission of Public Utility District No. 1 of Okanogan County authorizing the execution of a Fifth Repayment Agreement relating to a line of credit for Northwest Open Access Network.

WHEREAS, the District, along with other Washington municipal corporations (collectively, the "Members"), is a member of Northwest Open Access Network, a Washington nonprofit mutual corporation ("NoaNet"); and

WHEREAS, NoaNet intends to establish a line of credit in the principal amount not to exceed \$1,500,000 (the "Line of Credit") and to draw on such Line of Credit in order to finance improvements to and expansion of NoaNet facilities as authorized by resolution of the NoaNet Board; and

WHEREAS, as a condition to extending the Line of Credit to NoaNet, the lender has required that the Members of NoaNet be obligated for repayment of amounts due on the Line of Credit; and

WHEREAS, it is in the best interest of the District and its customer-owners for the District to enter into an agreement with NoaNet setting forth the terms under which, in the event NoaNet's revenue is insufficient to repay the line of credit, the District will repay NoaNet for draws on the Line of Credit based on the District's percentage interest;


NOW, THEREFORE, BE IT RESOLVED as follows:

1. The General Manager of the District is hereby authorized to execute on behalf of the District the Fifth Repayment Agreement in substantially the form attached to this Resolution (the "Repayment Agreement") and such Repayment Agreement is hereby approved.
2. The General Manager of the District or his or her designee is hereby authorized to take any and all actions necessary or appropriate to assist NoaNet in obtaining the Line of Credit.

ADOPTED BY THE COMMISSION OF PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN COUNTY, WASHINGTON, at an open public meeting this 5th day of May, 2009.



Trish Butler, President



David Womack, Vice President

Attest:



Ernest Bolz, Secretary

Approved:



Michael D. Howe, Legal Counsel

FIFTH REPAYMENT AGREEMENT

This Fifth Repayment Agreement (the "Agreement"), effective _____, 2009, is by and among Northwest Open Access Network ("NoaNet") and Public Utility District Nos. 1 of Benton, Chelan, Clallam, Douglas, Franklin, Jefferson, Kitsap, Okanogan and Pend Oreille Counties, Public Utility District Nos. 2 of Grant and Pacific Counties, Public Utility District No. 3 of Mason County, and Energy Northwest (collectively, the "Members"). The Members that are public utility districts are established and operated pursuant to RCW Chapter 54; Energy Northwest is a joint operating agency established and operated pursuant to RCW 43.52; and NoaNet is a nonprofit mutual corporation established and operated pursuant to RCW Chapters 24.06 and 39.34.

WHEREAS, NoaNet was formed pursuant to an Interlocal Cooperation Agreement/Northwest Open Access Network (the "NoaNet Interlocal Cooperation Agreement"):

- (1) to assist in the efficient management of load, conservation, and acquisition of electrical energy, and other utility purposes, by participating in the development and efficient use of a communications network licensed or leased from or shared with the Bonneville Power Administration and/or any other source, or otherwise owned, acquired or used by the corporation for use by the Members and others as provided by law;
- (2) to assist the Members, including those in rural areas, in adapting high speed information technology systems to their needs;
- (3) to allow the sharing of resources to provide cost-effective high technology communications facilities and other services for use by the Members on an at-cost basis to those who make their networks available to all providers and users, and by others as provided by law;
- (4) through the use of such network, to improve the Members' ability to maximize the productivity of their assets and continue to provide efficient and economical service to customers; and
- (5) to do any and all lawful activities that may be necessary, useful or desirable for the furtherance, accomplishment, fostering or attainment of the foregoing purposes, either directly or indirectly and either alone or in conjunction or cooperation with others; and

WHEREAS, the Board of Directors of NoaNet (the "Board") adopted Resolution No. _____ on _____, 2009 authorizing NoaNet to establish a nonrevolving line of credit in the principal amount of not to exceed \$1,500,000 (the "Line of Credit") with Bank of America, N.A. (the "Bank") and to draw on such Line of Credit to pay capital expenditures for improvements to and expansion of NoaNet facilities; and

WHEREAS, as a condition to extending the Line of Credit to NoaNet, the Bank required that the Members be obligated for repayment of amounts due on the Line of Credit; and

WHEREAS, on July 11, 2001, the Board adopted Resolution No. 24 authorizing NoaNet to issue its Telecommunications Network Revenue Bonds, 2001 (Taxable) (the "Bonds") in the principal amount of \$27,000,000; and

WHEREAS, on June 16, 2006, the Board adopted Resolution No. 0072 authorizing NoaNet to establish a line of credit in the amount of not to exceed \$5,000,000 and to issue a Northwest Open Access Network Note, 2006 (Taxable) (the "2006 Note") to evidence such line of credit, and

WHEREAS, on August 13, 2008, the Board adopted Resolution No. 0085 authorizing NoaNet to establish a line of credit in the amount of not to exceed \$1,500,000 and to issue a Northwest Open Access Network Note, 2008 (Taxable) (the "2008 Note") to evidence such line of credit, and

WHEREAS, the Board of each Member is expected to duly adopt a resolution approving this Agreement and the repayment by each Member of the Line of Credit as provided in this Agreement (each a "Member Resolution"); and

WHEREAS, the Members and NoaNet wish to set forth the terms under which the Members shall repay NoaNet for the principal of and interest on the Line of Credit when due;

NOW, THEREFORE, NoaNet and the Members agree as follows:

Section 1. Term. This Agreement shall take effect upon its execution by NoaNet and the Members and shall expire when the Bank has no further obligations to fund draws under the Line of Credit and the Line of Credit has been repaid in full.

Section 2. Guarantee and Payment by Members.

(a) Each Member hereby acknowledges and agrees that it is a guarantor of the Line of Credit and is liable to repay NoaNet for amounts due and owing with respect to outstanding principal of and interest on the Line of Credit up to the maximum percentage interest listed on Schedule A ("Percentage Interest").

(b) Interest on outstanding principal amounts drawn on the Line of Credit is payable to the Bank quarterly on each March 1, June 1, September 1 and December 1, commencing on September 1, 2009. Principal drawn on the line of credit is payable on March 1, 2010 and quarterly thereafter. To the extent that NoaNet funds are insufficient, after paying or providing for operation and maintenance expenses of NoaNet and the Bonds, the 2006 Note, and the 2008 Note, or the NoaNet Board determines that it is not in the best interest of NoaNet to draw on the Line of Credit to pay interest, NoaNet shall bill each Member no less than 30 days in advance of each interest payment date, for each Member's Percentage Interest of such interest amounts due and owing to the Bank. Each Member shall remit payments to the Bank for the account of NoaNet no later than five business days prior to each interest payment date. Interest shall accrue from the date NoaNet draws money on the Line of Credit at a variable rate per annum equal to the BBA LIBOR Daily Floating Rate (with a floor of 0.75%) plus 2.00% or LIBOR (with a floor of 0.75%) plus 2.00%, or such prime rate option as approved by the Bank in the Bank's sole

discretion, and shall be computed on the principal amount outstanding on the basis of a 360-day year and actual days elapsed.

All outstanding principal amounts drawn on the Line of Credit shall be due in quarterly payments beginning March 1, 2010 and at maturity (June 1, 2014) or early redemption. To the extent that NoaNet funds are insufficient, after paying or providing for operation and maintenance expenses of NoaNet and the Bonds, the 2006 Note, and the 2008 Note, NoaNet shall bill each Member, no less than 30 days in advance of each principal payment date, for each Member's Percentage Interest of such principal amount due and owing to the Bank. Each Member shall remit payments to the Bank for the account of NoaNet no later than five business days prior to each principal payment date.

A Member may prepay interest and/or principal it owes under this Agreement in whole or in part to the next payment date at any time without penalty.

(c) All Members except Energy Northwest, Public Utility District No. 1 of Kitsap County ("Kitsap PUD") and Public Utility District No. 1 of Jefferson County ("Jefferson PUD") shall be required to make payments to NoaNet under this Agreement only from the revenues derived from the ownership and operation of their electric utility properties. Energy Northwest shall be required to make payments to NoaNet under this Agreement only from the revenues in its Energy Northwest Business Development Fund. Kitsap PUD shall be required to make payments to NoaNet under this Agreement from all revenues of the District. Jefferson PUD shall be required to make payments to NoaNet under this Agreement only from the revenues of its water and sewer utilities. The payments to be made by each Member to NoaNet under this Agreement shall be payable after payments of operating and maintenance expenses, principal of and interest on any existing and future obligations of the Members' systems from which payments are pledged, and required reserves for such obligations and as otherwise required to conform to bond and note covenants of the Member. Each Member agrees that it will establish, maintain and collect rates and charges for power and energy and other services, facilities and commodities sold, furnished or supplied by it through its electric utility properties (or any revenues of the District in the case of Kitsap PUD, or water and/or sewer utility properties in the case of Jefferson PUD or the services, facilities and commodities that finance its Business Development Fund in the case of Energy Northwest), which shall be adequate to provide revenues sufficient to enable the Member to make its required payments under this Agreement. Subject to the limitations of this paragraph, each Member's obligation hereunder is unconditional and absolute, and is not subject to offset.

(d) Each Member shall remain obligated pursuant to this Agreement to pay its respective share of principal of and interest on the Line of Credit, when due, regardless of whether the Member remains a member of NoaNet.

Section 3. Assignment; Third Party Beneficiary. The parties shall not assign their interests or obligations under this Agreement without the prior written consent of the other parties. This Agreement shall inure to the benefit of and shall bind the respective assigns. The Bank shall be a third-party beneficiary of this Agreement. There are no other third party beneficiaries of this Agreement.

Section 4. Severability. If a provision of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained in this Agreement.

Section 5. Governing Law. This Agreement shall be governed and interpreted under the laws of the State of Washington.

Section 6. Counterparts. This Agreement may be executed in counterparts, and each shall be considered an original when the signature of each party has been obtained.

Section 7. Waiver. No provision of this Agreement may be waived except as documented or confirmed in writing. Any waiver at any time by a party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter.

Section 8. Communications. Communications between the parties, including bills sent pursuant to Section 2(b), shall be delivered in person, mailed or faxed to the addresses and to the attention of the person(s) specified on Schedule B of this Agreement. A party may change such address or specified person(s) by submitting to the other parties a revised Schedule B.

Section 9. Representations.

(a) Each Member (with the exception of Energy Northwest) hereby represents and warrants that it is a public utility district duly organized, existing and operating under the provisions of Chapter 54 RCW with full power and authority to enter into and perform its obligations under the NoaNet Interlocal Cooperation Agreement and this Agreement. Energy Northwest represents and warrants that it is a joint operating agency duly organized, existing and operating under the provisions of Chapter 43.52 RCW with full power and authority to enter into and perform its obligations under the NoaNet Interlocal Cooperation Agreement and this Agreement.

(b) Each Member hereby represents and warrants that there is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or threatened against such Member that challenges, contests or questions the adoption or validity of the applicable Member Resolution, that seeks to prohibit, restrain or enjoin such Member from complying with the NoaNet Interlocal Cooperation Agreement or this Agreement, that affects or questions the validity or enforceability of the NoaNet Interlocal Cooperation Agreement or this Agreement, or that challenges or affects the corporate existence of such Member or the titles of its officers.

(c) Each Member hereby represents and warrants that the execution, delivery and performance by such Member of its obligations under this Agreement does not conflict with or constitute a breach of or a default under any constitutional, statutory or administrative provision of the State of Washington applicable to such Member or any judgment, decree, bond, note, resolution, indenture, contract or agreement or any other instrument to which such Member is subject or bound.

Section 10. Amendments. No amendment of any provision of this Agreement shall be valid unless set forth in a written amendment signed by all parties.

Section 11. Effectiveness of Agreement. This Agreement shall not be effective unless all Members have adopted resolutions approving the Agreement.

NORTHWEST OPEN ACCESS NETWORK

By _____
Chief Executive Officer

MEMBERS:

PUBLIC UTILITY DISTRICT NO. 1 OF
BENTON COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF
CHELAN COUNTY

By _____
Manager/Chief Executive Officer

PUBLIC UTILITY DISTRICT NO. 1 OF
CLALLAM COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF
DOUGLAS COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF
FRANKLIN COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT
COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF
JEFFERSON COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF KITSAP
COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 3 OF MASON
COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF
OKANOGAN COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 2 OF PACIFIC
COUNTY

By _____
Manager

PUBLIC UTILITY DISTRICT NO. 1 OF PEND
OREILLE COUNTY

By _____
Manager

ENERGY NORTHWEST

By _____
Chief Executive Officer

**SCHEDULE A
(SIXTH AMENDED)**

<u>Member</u>	<u>Percentage Interest</u>
Benton PUD No. 1	14.17%
Chelan PUD No. 1	11.71
Clallam PUD No. 1	7.23
Douglas PUD No. 1	5.74
Energy Northwest	5.50
Franklin PUD No. 1	3.00
Grant PUD No. 2	14.17
Jefferson PUD No. 1	0.14
Kitsap PUD No. 1	12.97
Mason PUD No. 3	10.33
Okanogan PUD No. 1	5.50
Pacific PUD No. 2	5.60
Pend Oreille PUD No. 1	<u>3.94</u>
Total	100.00%

SCHEDULE B

Addresses of NoaNet and Members

NoaNet: NoaNet
5802 Overlook Avenue NE
Tacoma, WA 98422
Phone (206) 219-3640
Fax (425) 671-0093
Attention: Greg Marney, Chief Executive Officer
Dave Spencer, Treasurer

Members:

Energy Northwest
3000 George Washington Way
Mail Drop 1035
Richland, WA 99352-0968
Phone (509) 377-8625
Fax (509) 377-8124
Attention: J. W. Baker, Manager, Energy Services

Public Utility District No. 1 of Benton County
2721 W. Tenth Avenue
P.O. Box 6270
Kennewick, WA 99336
Phone (509) 582-2175
Fax (509) 586-1710
Attention: James W. Sanders, General Manager
Daniel G. Bickford, Treasurer

Public Utility District No. 1 of Chelan County
327 N. Wenatchee Avenue
P.O. Box 1231
Wenatchee, WA 98807-1231
Phone (509) 663-8121
Fax (509) 664-2870
Attention: Richard Riazzi, General Manager
John Janney, Executive Manager – Finance, Chief Financial
Officer and Chief Risk Officer

Public Utility District No. 1 of Clallam County
2431 East Highway 101
P.O. Box 1090
Port Angeles, WA 98362-0207
Phone (360) 452-9771
Fax (360) 452-9338
Attention: Doug Nass, General Manager
Josh Bunch, Treasurer

Public Utility District No. 1 of Douglas County
1151 Valley Mall Parkway
East Wenatchee, WA 98802
Phone (509) 884-7191
Fax (509) 884-0553
Attention: William C. Dobbins, Manager
Wyatt W. Scheibner, Treasurer

Public Utility District No. 1 of Franklin County
1411 W. Clark
P.O. Box 2407
Pasco, WA 99302
Phone (509) 547-5591
Fax (509) 547-4116
Attention: Ed Brost, General Manager
Tim Nies, Director of Administrative Services

Public Utility District No. 2 of Grant County
30 C Street SW
P.O. Box 878
Ephrata, WA 98823
Phone (509) 754-0500
Fax (509) 754-5695
Attention: Tim Culbertson, General Manager
Jim Bunch, Treasurer/Controller

Public Utility District No. 1 of Jefferson County
230 Chimacum Rd.
P.O. Box 929
Port Hadlock, WA 98339
Phone (360) 385-5800
Fax (360) 385-5945
Attention: James Parker, Manager

Public Utility District No. 1 of Kitsap County
1431 Finn Hill Rd.
P.O. Box 1989
Poulsbo, WA 98370
Phone (360) 779-7656
Fax (360) 779-3284
Attention: David Siburg, Manager

Public Utility District No. 3 of Mason County
307 Cota Street
P.O. Box 2148
Shelton, WA 98584
Phone (360) 426-8255
Fax (360) 426-8547
Attention: Wyla Wood, Manager
Annette Creekpaum, Finance Manager/Auditor

Public Utility District No. 1 of Okanogan County
1331 2nd Avenue North
P.O. Box 912
Okanogan, WA 98840
Phone (509) 422-3310
Fax (509) 422-4020
Attention: John Grubich, General Manager
Don Coppock, Director of Finance/Auditor

Public Utility District No. 2 of Pacific County
405 Duryea Street
P.O. Box 472
Raymond, WA 98577
Phone (360) 942-2411
Fax (360) 875-9388
Attention: Douglas L. Miller, General Manager
Jeanne Ledford, Treasurer

Public Utility District No. 1 of Pend Oreille County
130 N. Washington
P.O. Box 190
Newport, WA 99156
Phone (509) 447-3137
Fax (509) 447-5824
Attention: Robert D. Geddes, General Manager
John Jordan, Director, Finance and Administrative Services

CERTIFICATE OF THE SECRETARY OF
THE COMMISSION

I am the duly elected Secretary of the Commission of Public Utility District No. 1 of Okanogan County, Washington (the "District") and I hereby certify the following:

John R. Grubich is the duly appointed and acting General Manager of the District and has executed the Fifth Repayment Agreement among Northwest Open Access Network ("NoaNet"), the District and the other members of NoaNet (the "Repayment Agreement").

Attached to this certificate is a true copy of Resolution No. 1488 (the "Resolution") authorizing the Repayment Agreement. The Resolution is in full force and effect and has not been amended, revised or repealed.

The Resolution was adopted on May 5, 2009, which was a regularly scheduled meeting of the Commission of the District that was open to the public and at which a quorum of the Commission was present throughout. A legally sufficient number of members of the Commission voted on the adoption of the Resolution. A copy of the minutes showing the adoption of the Resolution is attached to this certificate.

Dated this 5th day of May, 2009.



Ernest J. Bolz
Secretary of the Commission of
Public Utility District No. 1 of
Okanogan County, Washington