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let Mr. Payne  
message  
to please  
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filing into  
sets & hand  
or chip them  
in the future  
✓germ

Dominion Resources Services, Inc.  
Law Department  
P.O. Box 26532, Richmond, VA 23261



Horace P. Payne, Jr.  
Senior Counsel  
Direct (804) 819-2682  
Fax: (804) 819-2183  
horace.p.payne@dom.com

February 27, 2013

Ms. Gail L. Mount, Chief Clerk  
North Carolina Utilities Commission  
430 North Salisbury Street  
Dobbs Building  
Raleigh, North Carolina 27611

**FILED**  
**FEB 28 2013**  
Clerk's Office  
N.C. Utilities Commission

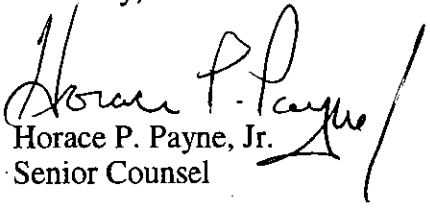
**Re: Docket No. E-100, Sub 127**

Dear Ms. Mount:

Enclosed for filing in the above referenced docket are eight (8) copies of all contracts and amendments signed in 2012 between Virginia Electric and Power Company and qualifying facilities. This filing is in accordance with the Order dated May 7, 1987 in Docket No. E-100, Sub 53, which stated that negotiated contracts between a utility and a qualifying facility must be submitted.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

  
Horace P. Payne, Jr.  
Senior Counsel

Enclosures

Cover Ltr only  
A 6  
7 Comm  
Watson  
Conrad  
Hoover  
Kite  
Hilburn  
Jones  
Hodge  
Gruber  
213 Acctg  
113 Econ  
w/contracts  
Green/Duttley  
Sessions  
Ericson  
213 Legal  
213 Elec

Dominion Virginia Power  
5000 Dominion Boulevard, Glen Allen, VA 23060  
Web Address: www.dom.com



**FILED**

**FEB 28 2013**

Clerk's Office  
N.C. Utilities Commission

June 7, 2012

Mr. Terry Munroe  
Vice President  
IPR-GDF SUEZ Generation North America, Inc.  
1990 Post Oak Blvd., Suite 1900  
Houston, TX 77056

*E-100,56127*

Re: Power Purchase and Operating Agreement dated as of June 15, 1987, as amended by Amendment No. 1, dated as of July 29, 1988, Amendment No. 2, dated as of March 6, 1989, and Amendment No. 3 as of March 17, 2008 (collectively, the "PPOA")

Dear Mr. Munroe:

This Third Interim Energy Pricing Agreement (this "TIEPA") is between Hopewell Generation Limited Partnership ("Operator") and Virginia Electric and Power Company, ("Virginia Power") who are parties to the PPOA referenced above. Operator and Virginia Power are sometimes referred to herein individually as a "Party", and collectively as the "Parties". On August 19, 2009, the Parties entered into the Second Interim Energy Pricing Agreement ("SIEPA") that replaced and terminated the First Interim Energy Pricing Agreement dated April 21, 1994, ("FIEPA"). This TIEPA reflects the agreement of the Parties to suspend temporarily certain pricing provisions of the SIEPA as described herein, and adopt a replacement pricing mechanism for the Energy Purchase Price during a ninety (90) day period commencing on June 10, 2012 (the "Interim Term"), all in accordance with the following terms and conditions. Capitalized terms used herein but not defined shall have the meaning assigned such terms in the PPOA or the SIEPA, as applicable.

1. Notwithstanding the definition of Gas Index Energy Price or "GIEP" in Section A(8) of the SIEPA, during the Interim Term the Gas Index Energy Price expressed in \$/MWh shall be calculated in accordance with the following formula:

$$\text{GIEP} = [(\text{DGI} \times 1.0825) + \$0.35] \$/\text{MMBtu} \times 8.47 \text{ MMBtu/MWh}$$

Where:

DGI is the Daily Gas Index published for the Flow date(s) that is or are coincident with the Delivery Day; provided, however, the Daily Gas Index published for such Flow date will apply for the 24 hours that constitutes the Delivery Date, notwithstanding that the Delivery Date (i) commences at midnight before the 1000 hour on the calendar day that marks the commencement of the applicable Flow date; and (ii) ends at the next midnight before the 1000 hour on the next calendar day that marks the end of the applicable Flow date.

1.0825 reflects a factor for pipeline transportation fuel and losses;

Mr. Terry Munroe  
IPR-GDF SUEZ Generation North America, Inc.  
June 7, 2012  
Page 2

\$0.35 reflects deemed transportation costs to the delivery point; and

8.47 is the conversion factor for converting MMBtu to MWh.

2. The Energy Purchase Price for each Delivery Day calculated pursuant to Section B(1)(a) of the SIEPA shall equal the Gas Index Energy Price, calculated as set forth above in Section 1.

3. Section B(1)(b) of the SIEPA, setting forth the Oil Index Energy Price, Section C of the SIEPA, describing the Oil-Based Schedule Option, and any other provisions of the SIEPA relating to the Oil Index Energy Price shall be suspended in their entirety during the Interim Term and shall not be applicable to calculation of the Energy Purchase Price.

4. Virginia Power shall have the right to dispatch the Facility that would result in any one of the three gas turbines ("GT") to be started (each a "GT Start") for up to a maximum of ninety (90) GT Starts during the Interim Term; provided, however, the first three GT Starts occurring after commencement of the Interim Period shall not apply to such maximum. If any GT that has been Dispatched on-line subsequently trips off-line, the subsequent recovery to the Dispatch level from such trip shall not be deemed to have been a GT Start. For each GT Start in excess of the Interim Term maximum, Virginia Power shall pay Operator a Start Fee equal to \$4,240 per GT Start (the "GT Start Fee"). Any GT Start Fee incurred by Virginia Power during the Interim Term shall be reflected on the Monthly Billing Statement for the Calendar Month in which it was incurred, in a separate line item as an O&M Charge.

5. The Parties further agree that this TIEPA shall serve to resolve the "Set Period Redetermination" as noticed by Virginia Power in its letter to Operator dated January 31, 2011 and that neither Party shall have any rights or obligations to the other with respect to such Set Period Redetermination notice. Further, the Parties acknowledge and agree that any and all rights of Virginia Power to request a single redetermination of the Energy Purchase Price pursuant to Article X of the PPOA, "*Single Redetermination*", shall be waived until January 31, 2013, at which date the next notice for "Set Period Redetermination" shall be due if elected by either Party pursuant to the PPOA.

6. TIEPA's Affect on PPOA and SIEPA; Termination: Except for the expressed modifications set forth above, each of Virginia Power and Operator agrees and confirms to the other that all other terms and provisions of the PPOA and SIEPA shall remain in full force and effect, and the termination of this TIEPA for any reason whatsoever shall not affect the obligations, duties, rights, and remedies applicable to each of Virginia Power and Operator under the PPOA and SIEPA.

Either Party may terminate this TIEPA upon 30 days' prior written notice to the other. Upon expiration of the Interim Term or the earlier termination of this TIEPA as provided herein, the SIEPA will continue in full force and effect, as it existed prior to execution of this TIEPA, in accordance with the terms and conditions set forth in the SIEPA.

Mr. Terry Munroe  
IPR-GDF SUEZ Generation North America, Inc.  
June 7, 2012  
Page 3

7. Representations and Warranties. Each Party represents and warrants that: (i) it has the power to execute, deliver and perform this TIEPA; (ii) all necessary action has been taken to authorize the execution, delivery and performance of this TIEPA; (iii) no consent or approval of any person or entity, and no consent, approval, authorization or declaration of any governmental authority, bureau, commission or agency, is required in connection with the execution, delivery and performance of this TIEPA by such Party or as a condition precedent to the validity or enforceability of this TIEPA; and (iv) this TIEPA has been duly executed and delivered by, and constitutes the valid and legally binding obligation of, such Party, enforceable against such Party in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights generally.

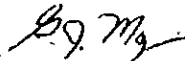
8. Choice of Law: This TIEPA shall be governed by and construed in accordance with the applicable laws of the Commonwealth of Virginia, without regard to the conflict of laws principles thereof.

9. Amendment. This TIEPA may not be amended, modified, extended, or supplemented in any manner except by an instrument in writing executed by each of Operator and Virginia Power.

If this letter agreement accurately reflects the mutual understanding of our companies, please execute two originals of this TIEPA in the space provided below; retain one original for your files; and return the remaining original to my attention at the above address.

Respectfully,

VIRGINIA ELECTRIC AND POWER COMPANY



Gregory J. Morgan  
Authorized Representative

Agreed this day 7th of June 2012

HOPEWELL COGENERATION LIMITED PARTNERSHIP  
BY: HOPEWELL COGENERATION, INC., ITS GENERAL PARTNER

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

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

Vice President



*E-100, 56127*

**AGREEMENT FOR THE SALE  
OF ELECTRICAL OUTPUT TO  
VIRGINIA ELECTRIC AND POWER COMPANY**

**FILED**

**FEB 28 2013**

**Clerk's Office  
N.C. Utilities Commission**

THIS AGREEMENT, effective this 23<sup>rd</sup> day of May, 2012, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service company with its principal office in Richmond, Virginia, doing business in Virginia as Dominion Virginia Power, and in North Carolina as Dominion North Carolina Power, hereinafter called "Dominion North Carolina Power" or "Company", and Plymouth Solar, LLC, a North Carolina Corporation, with its principal office in Mooresville, North Carolina, hereinafter called "Operator", operator of the Plymouth Solar Facility, hereinafter called the "Facility":

**RECITALS**

WHEREAS, the North Carolina Utilities Commission has adopted a rate schedule described in this Agreement below as Schedule 19-DRR applicable to Qualifying Facilities (or "QF" as that term is defined in 18 C.F.R. 292) which can provide Contracted Capacity (a) up to 5000 kW from a hydroelectric generating facility, (b) up to 5000 kW from a generating facility fueled by trash or methane derived from landfills, hog waste, poultry waste, solar, wind or non-animal forms of biomass, or (c) up to 3000 kW for all other QFs; and

WHEREAS, the parties hereto wish to contract for the sale of electrical output from such a QF to be operated by Operator;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto contract and agree with each other as follows:

FIRST - Dominion North Carolina Power or its agent, assignee, or successor will purchase from Operator all of the electrical output (energy and Contracted Capacity) made available for sale from the Facility on an excess sale arrangement. In addition, Operator has elected to contract under the DRR Method for determining the Company's avoided cost as described more fully in paragraph FIFTH and Exhibit C. Operator elects to operate the Facility in the Mode of Operation as specified in Section IV.C (Firm Mode of Operation) of Schedule 19-DRR. The Facility is located in Dominion North Carolina Power's retail service area in Plymouth, Washington County, North Carolina.

SECOND - This Agreement shall commence on the Effective Date and shall continue in effect for a period of fifteen (15) years from the Commercial Operations Date. The Commercial Operations Date shall be the first date that all of the following conditions have been satisfied:

- a) The Facility has been permanently constructed, synchronized with and has delivered electrical output to the Dominion North Carolina Power system and such action has been witnessed by an authorized Dominion North Carolina Power employee;
- b) After completion of item a) above, Dominion North Carolina Power has received written notice from Operator specifying the Commercial Operations Date and certifying that the Facility is ready to begin commercial operations as a Qualifying Facility;
- c) Operator and Dominion North Carolina Power (or the PJM Interconnection, LLC or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an Interconnection Agreement to be included herewith as Exhibit A;
- d) Operator has provided to Dominion North Carolina Power Qualifying Facility Certification to be included herewith as Exhibit F; and

- e) Operator either has received from the North Carolina Utilities Commission a Certificate of Public Convenience and Necessity or has filed the notice required by G.S. 62-110.1(g) and is not legally required to obtain such a certificate for the construction and operation of the Facility.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power on substantially the same terms and conditions and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Dominion North Carolina Power's then avoided cost rates and other relevant factors or (2) set by arbitration.

THIRD - The Facility, consisting of solar panels and four inverters, will have a combined nameplate rating of approximately 2,400 kW. The Facility's Contracted Capacity shall be 2,400 kW.

FOURTH - The following documents are attached hereto and are made a part hereof:

- Exhibit A: Executed Interconnection Agreement (attached for information but not as a part of this Agreement)
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-DRR, Power Purchases from Cogeneration and Small Power Production Qualifying Facilities and applicable to the QF who chooses the DRR Method (effective August 26, 2011, sometimes referred to as "Schedule 19-DRR" herein)
- Exhibit D: NOT APPLICABLE
- Exhibit E: Map and related written description identifying the specific location of the Facility in the City or County designated in Paragraph FIRST
- Exhibit F: "Qualifying Facility" Certification (if Facility is less than 1MW, Owner submission that the Facility qualifies as a Qualifying Facility (QF) under federal law)
- Exhibit G: Certificate of Public Convenience and Necessity (or evidence that no such certificate was required under North Carolina law)

[Note: Appropriate Exhibit C, if applicable, will be based on Energy Payment selected in the FIRST section of this Agreement]

FIFTH - Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions and rate determination methodologies for payments in Schedule 19-DRR included herewith as Exhibit C and pursuant to Operator elections within such Schedule 19-DRR, if any, as stated in Paragraph FIRST hereof. Payments for all energy and Contracted Capacity purchased hereunder shall be on a cents per kilowatt-hour basis. Should the North Carolina Utilities Commission (NCUC), Virginia State Corporation Commission (SCC) or other regulatory or other legal body having jurisdiction (such as the Federal Energy Regulatory Commission) 1) not allow any future payments to non-utility generators (generally or to Operator specifically) for energy or capacity (including Contracted Capacity) or both to be included in Dominion North Carolina Power/Dominion Virginia Power's rates charged to customers, 2) at any time prohibit Dominion North Carolina Power/ Dominion Virginia Power from recovering from its customers sums related to payments previously made to non-utility generators (generally or to Operator specifically), or 3) order Dominion North Carolina Power/ Dominion Virginia Power to pay back to its customers sums related to amounts collected as a result of payments to non-utility generators (generally or to Operator specifically) (hereinafter the sums referred to in both 2) and 3) above shall be referred to individually and collectively as the "Disallowed Payments"), Operator shall be required both to accept from the effective date of the Order from the NCUC, SCC, or other regulatory or legal body having jurisdiction ("Commission Order") payments at the level of rates that will be allowed to be recovered in rates charged to Dominion North Carolina Power/ Dominion Virginia Power's customers and to refund to Dominion North Carolina Power, A) the identified dollar amount of the Disallowed Payments specifically identified in the Commission Order

as resulting from payments made to Operator hereunder, or B) if the Disallowed Payments are not specifically identified, Operator's pro-rata share of the Disallowed Payments which shall be equal to the product of (1) the total amount of payments made under this Agreement for the period of time such Disallowed Payments have been calculated, and (2) a fraction whereby the numerator is the Disallowed Payments and the denominator is the total amount of payments made to all Non-utility Generators, that were considered in the Commission Order, for the same period of time that such Disallowed Payments have been calculated. Operator shall pay any amounts due as a result of the Commission Order within 28 days of notice by Dominion North Carolina Power or, provided that more than three years remain in the term of the Agreement, then, at Operator's option, Dominion North Carolina Power shall collect such amounts due with interest from the date of any such Commission Order by reducing payments to Operator at a monthly amount projected to complete the refund of the Disallowed Amount with interest in the two year period following such notice. Such interest shall be calculated at the rate of Dominion North Carolina Power/ Dominion Virginia Power's most recent issue of long-term debt at the time of the Commission Order. If, for any reason, at the end of the two year period, the reduction in payments does not recover in full such amounts due, then such remaining amount shall be due immediately.

If Operator elects the Firm Mode of Operation, then for the term of this Agreement Operator shall be paid for firm energy in accordance with VI.B in Schedule 19-DRR. All firm energy payments will be calculated each year of the Agreement by Dominion North Carolina Power using the 15 year levelized avoided energy mix as shown in Exhibit C attached hereto and as specified in Schedule 19-DRR. The \$/MBtu fuel cost, ¢/kWh for purchased power, and on-peak and off-peak factors, used to calculate firm energy rates, will change on a biennial basis consistent with the Schedule 19-DRR filing. North Carolina Power will notify Operator of changes to the firm and non-firm rates. Payments for firm energy will begin on the Commercial Operations Date. All energy delivered per hour above the Contracted Capacity shall be considered non-firm and be paid for at the applicable non-firm rate. All energy delivered prior to the Commercial Operations Date shall also be considered non-firm and be paid for at the non-firm rate. In all cases, such non-firm energy rates will be those in the Schedule 19-DRR in effect at the time such energy is delivered.

If Operator elects the Firm Mode of Operation, specified in Section IV.C of Schedule 19-DRR, Operator shall be paid for Contracted Capacity on a cents per kilowatt-hour basis as specified in Schedule 19-DRR, Section VII. Operator shall not be paid for Contracted Capacity above the Contracted Capacity level in any hour during which the generation exceeds the Contracted Capacity level specified in Paragraph THIRD.

Payments for energy will begin on the Commercial Operations Date. All energy delivered prior to the Commercial Operations Date shall be paid pursuant to the attached Schedule 19-DRR tariff.

SIXTH - Not used.

SEVENTH - After execution of this Agreement and until the Commercial Operations Date, Operator shall prepare a quarterly status report for Dominion North Carolina Power showing the current progress on completing the project. This status report shall be delivered to Dominion North Carolina Power on or before the following dates each year, January 15, April 15, July 15, and October 15. Such status report shall discuss the progress of the project in a format, which is acceptable to Dominion North Carolina Power.

EIGHTH - Operator and Dominion North Carolina Power agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Dominion North Carolina Power having the right to immediate cancellation, without a cure period, of this Agreement: (i) failure to achieve Commercial Operations Date by December 31, 2012, (ii) delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor, (iii) failure to meet those requirements necessary to maintain Qualifying Facility status, (iv) failure at any time to have in effect a valid Interconnection Agreement with Dominion North Carolina Power (or its successor as operator of the Dominion North Carolina transmission system), (v) failure to generate and deliver power from the Facility to Dominion North Carolina Power for more than 180 consecutive days, at any time after the Commercial Operations Date, or (vi) failure to maintain QF certification. In the event Operator fails to perform in any way, materially or non-materially, any other obligations not specifically listed above, Operator shall be given notice and thirty (30) days to cure such non-performance. Notwithstanding any cure period, Dominion North Carolina Power shall not be obligated to purchase any energy or Contract Capacity under this Agreement while any such breach remains uncured. If Operator fails to

cure its non-performance within thirty (30) days of Dominion North Carolina Power's notice, Dominion North Carolina Power shall have the right to cancel this Agreement. Operator agrees that if this Agreement is canceled by Dominion North Carolina Power for Operator's non-performance prior to the end of the initial term of this Agreement, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity. Dominion North Carolina Power shall have no obligation to accept a declaration of Commercial Operations prior to May 23, 2012. The Anticipated Commercial Operations Date is June 15, 2012.

NINTH - Operator represents and warrants that it has the right to operate the Facility in accordance with the terms of this Agreement. Operator further represents and warrants that all permits, approvals, and/or licenses necessary for the operation of the Facility will be obtained prior to the Commercial Operations Date and shall be maintained throughout the Term of this Agreement. Operator shall, provide such documentation and evidence of such right, permits, approvals and/or licenses as Dominion North Carolina Power may reasonably request, including without limitation air permits, leases and/or purchase agreements.

TENTH - All correspondence and payments concerning this Agreement shall be to the following addresses:

OPERATOR:

Plymouth Solar, LLC  
192 Raceway Drive  
Mooresville, NC 28117

DOMINION NORTH CAROLINA POWER:

Virginia Electric and Power Company  
Power Contracts (3SE)  
5000 Dominion Boulevard  
Glen Allen, Virginia 23060-6711

Either Party may change the address by providing written notice to the other Party.

ELEVENTH - This Agreement is intended by the Parties as the final expression of their Agreement and is intended also as a complete and exclusive statement of the terms of their Agreement with respect to the purchase and sale of electrical output generated by the Facility. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are hereby abrogated and withdrawn.

IN WITNESS WHEREOF, the Parties hereto have caused their names to appear below, signed by authorized representatives as of the date first shown above.

Plymouth Solar, LLC

By: 

Kenny Habul

Title: Chief Executive Officer

Date: May 23, 2012

VIRGINIA ELECTRIC AND POWER COMPANY

By: 

Robert J. Trexler

Title: Authorized Representative

Date: 5/23/2012



**EXHIBIT A**  
**GENERATOR INTERCONNECTION GUIDANCE AND AGREEMENT**

Dominion North Carolina Power's procedures for generator interconnection are available through the Internet at the Company's website, with draft interconnection agreements for non-FERC jurisdictional generators (as approved by the NCUC included as Attachments 1, 2 and 3 thereto). For FERC jurisdictional generators interconnection shall be in accordance with FERC and PJM requirements.

The specific Internet address for these procedures is <http://www.dom.com/about/elec-transmission/gi-main.jsp>. The Internet site contains links to the Generator Interconnection Procedures along with the Generator Interconnection Request Form. Once an Interconnection Agreement is executed it will be included herewith as part of this Exhibit A.

**NORTH CAROLINA  
INTERCONNECTION AGREEMENT**

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This Interconnection Agreement ("Agreement") is made and entered into this 4th day of April, 2012, by Virginia Electric and Power Company, doing business as Dominion North Carolina Power ("Utility"), and Plymouth Solar, LLC ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties."

### Utility Information

Utility: Virginia Electric and Power Company

Attention: Steven A. Eisenrauch

Address: 701 East Cary Street, 8<sup>th</sup> Floor

City, State, Zip: Richmond, Virginia 23219

Phone: (804) 775-5187

Fax: (804) 771-4204

### Interconnection Customer Information

Interconnection Customer: Plymouth Solar, LLC

Attention: Kenny Habul

Address: 192 Raceway Dr.

City, State, Zip: Mooresville, NC 28117

Phone (704) 662-0375

Fax (704) 662-0052

Interconnection Request ID No: NC11009

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

## Article 1. Scope and Limitations of Agreement

### 1.1 Applicability

This Agreement shall be used for all Interconnection Requests submitted under the North Carolina Interconnection Procedures except for those submitted under the 10 kW Inverter Process in Section 2 of the Interconnection Procedures.

### 1.2 Purpose

This Agreement governs the terms and conditions under which the Interconnection Customer's Generating Facility will interconnect with, and operate in parallel with, the Utility's System.

**1.3 No Agreement to Purchase or Deliver Power or RECs**

This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power or Renewable Energy Certificates (RECs). The purchase or delivery of power, RECs that might result from the operation of the Generating Facility, and other services that the Interconnection Customer may require will be covered under separate agreements, if any. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity with the applicable Utility.

**1.4 Limitations**

Nothing in this Agreement is intended to affect any other agreement between the Utility and the Interconnection Customer.

**1.5 Responsibilities of the Parties**

- 1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice.
- 1.5.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.
- 1.5.3 The Utility shall construct, operate, and maintain its System and Interconnection Facilities in accordance with this Agreement, and with Good Utility Practice.
- 1.5.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriters' Laboratories, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the System or equipment of the Utility and any Affected Systems.
- 1.5.5 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Appendices to this Agreement. Each

Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Utility and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Utility's System, personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Appendices to this Agreement.

- 1.5.6 The Utility shall coordinate with all Affected Systems to support the interconnection.

1.6 Parallel Operation Obligations

Once the Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Generating Facility in the applicable control area, including, but not limited to: 1) any rules and procedures concerning the operation of generation set forth in Commission-approved tariffs or by the applicable system operator(s) for the Utility's System and; 2) the Operating Requirements set forth in Appendix 5 of this Agreement.

1.7 Metering

The Interconnection Customer shall be responsible for the Utility's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Appendices 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

1.8 Reactive Power

- 1.8.1 The Interconnection Customer shall design its Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless the Utility has established different requirements that apply to all similarly situated generators in the control area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.
- 1.8.2 The Utility is required to pay the Interconnection Customer for reactive power that the Interconnection Customer provides or absorbs from the Generating Facility when the Utility requests the Interconnection Customer to operate its Generating Facility outside the range specified

in Article 1.8.1. In addition, if the Utility pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.

- 1.8.3 Payments shall be in accordance with the Utility's applicable rate schedule then in effect unless the provision of such service(s) is subject to a regional transmission organization or independent system operator FERC-approved rate schedule. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb reactive power under this Agreement, the Parties agree to expeditiously file such rate schedule and agree to support any request for waiver of any prior notice requirement in order to compensate the Interconnection Customer from the time service commenced.

## 1.9 Capitalized Terms

Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 of the North Carolina Interconnection Procedures or the body of this Agreement.

## Article 2. Inspection, Testing, Authorization, and Right of Access

### 2.1 Equipment Testing and Inspection

- 2.1.1 The Interconnection Customer shall test and inspect its Generating Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the Utility of such activities no fewer than five Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and Inspection shall occur on a Business Day, unless otherwise agreed to by the Parties. The Utility may, at its own expense, send qualified personnel to the Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Utility a written test report when such testing and inspection is completed.
- 2.1.2 The Utility shall provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Utility of the safety, durability, suitability, or reliability of the Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Generating Facility.



## **2.2 Authorization Required Prior to Parallel Operation**

- 2.2.1 The Utility shall use Reasonable Efforts to list applicable parallel operation requirements in Appendix 5 of this Agreement. Additionally, the Utility shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The Utility shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.
- 2.2.2 The Interconnection Customer shall not operate its Generating Facility in parallel with the Utility's System without prior written authorization of the Utility. The Utility will provide such authorization once the Utility receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

## **2.3 Right of Access**

- 2.3.1 Upon reasonable notice, the Utility may send a qualified person to the premises of the Interconnection Customer at or immediately before the time the Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Generating Facility (including any required testing), startup, and operation for a period of up to three Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Utility at least five Business Days prior to conducting any on-site verification testing of the Generating Facility.
- 2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Utility shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.
- 2.3.3 Each Party shall be responsible for its own costs associated with following this Article.

## **Article 3. Effective Date, Term, Termination, and Disconnection**

### **3.1 Effective Date**

This Agreement shall become effective upon execution by the Parties.

### 3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of ten years from the Effective Date or such other longer period as the Interconnection Customer may request and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with Article 3.3 of this Agreement.

### 3.3 Termination

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

- 3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the Utility 20 Business Days written notice and physically and permanently disconnecting the Generating Facility from the Utility's System.
- 3.3.2 Either Party may terminate this Agreement after Default pursuant to Article 7.6.
- 3.3.3 Upon termination of this Agreement, the Generating Facility will be disconnected from the Utility's System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.
- 3.3.4 The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.
- 3.3.5 The provisions of this article shall survive termination or expiration of this Agreement.

### 3.4 Temporary Disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Utility Practice.

#### 3.4.1 Emergency Conditions

"Emergency Condition" shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the Utility, is imminently likely (as determined in a non-discriminatory manner) to

cause a material adverse effect on the security of, or damage to the Utility's System, the Utility's Interconnection Facilities or the systems of others to which the Utility's System is directly connected; or (3) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or the Interconnection Customer's Interconnection Facilities. Under Emergency Conditions, the Utility may immediately suspend interconnection service and temporarily disconnect the Generating Facility. The Utility shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Generating Facility. The Interconnection Customer shall notify the Utility promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Utility's System or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

#### 3.4.2 Routine Maintenance, Construction, and Repair

The Utility may interrupt interconnection service or curtail the output of the Generating Facility and temporarily disconnect the Generating Facility from the Utility's System when necessary for routine maintenance, construction, and repairs on the Utility's System. The Utility shall provide the Interconnection Customer with five Business Days notice prior to such interruption. The Utility shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

#### 3.4.3 Forced Outages

During any forced outage, the Utility may suspend interconnection service to effect immediate repairs on the Utility's System. The Utility shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Utility shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

#### 3.4.4 Adverse Operating Effects

The Utility shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Generating Facility may cause disruption or deterioration of service to

other customers served from the same electric system, or if operating the Generating Facility could cause damage to the Utility's System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Utility may disconnect the Generating Facility. The Utility shall provide the Interconnection Customer with five Business Day notice of such disconnection, unless the provisions of Article 3.4.1 apply.

**3.4.5     Modification of the Generating Facility**

The Interconnection Customer must receive written authorization from the Utility before making any change to the Generating Facility that may have a material impact on the safety or reliability of the Utility's System. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer makes such modification without the Utility's prior written authorization, the latter shall have the right to temporarily disconnect the Generating Facility.

**3.4.6     Reconnection**

The Parties shall cooperate with each other to restore the Generating Facility, Interconnection Facilities, and the Utility's System to their normal operating state as soon as reasonably practicable following a temporary or emergency disconnection.

**Article 4.     Cost Responsibility for Interconnection Facilities and Distribution Upgrades**

**4.1     Interconnection Facilities**

4.1.1     The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Appendix 2 of this Agreement. The Utility shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and the Utility.

4.1.2     The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection

Facilities, and (2) operating, maintaining, repairing, and replacing the Utility's Interconnection Facilities.

#### **4.2 Distribution Upgrades**

The Utility shall design, procure, construct, install, and own the Distribution Upgrades described in Appendix 6 of this Agreement. If the Utility and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

### **Article 5. Cost Responsibility for Network Upgrades**

#### **5.1 Applicability**

No portion of this Article 5 shall apply unless the interconnection of the Generating Facility requires Network Upgrades.

#### **5.2 Network Upgrades**

The Utility shall design, procure, construct, install, and own the Network Upgrades described in Appendix 6 of this Agreement. If the Utility and the Interconnection Customer agree, the Interconnection Customer may construct Network Upgrades that are located on land owned by the Interconnection Customer. Unless the Utility elects to pay for Network Upgrades, the actual cost of the Network Upgrades, including overheads, shall be borne by the Interconnection Customer.

### **Article 6. Billing, Payment, Milestones, and Financial Security**

#### **6.1 Billing and Payment Procedures and Final Accounting**

6.1.1 The Utility shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within 30 calendar days of receipt, or as otherwise agreed to by the Parties.

6.1.2 Within three months of completing the construction and installation of the Utility's Interconnection Facilities and/or Upgrades described in the Appendices to this Agreement, the Utility shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and

(2) the Interconnection Customer's previous aggregate payments to the Utility for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Utility shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Utility within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Utility shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.

6.1.3 If the Interconnection Customer elects the payment procedures in Articles 6.1.1 and 6.1.2, the Utility may also bill the Interconnection Customer periodically for the costs associated with operating, maintaining, repairing and replacing the Utility's Interconnection Facilities, as set forth in Appendix 2 of this Agreement.

6.1.4 The Interconnection Customer may elect to be billed the costs in Articles 6.1.1 and 6.1.2 and for on-going operations, maintenance, repair and replacement of the Utility's Interconnection Facilities under a Utility rate schedule, tariff, rider or service regulation providing for extra facilities charges, as set forth in Appendix 2 of this Agreement, such monthly charges to continue throughout the entire life of the interconnection.

## 6.2 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Appendix 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, it shall immediately notify the other Party of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) request appropriate amendments to Appendix 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless (1) it will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

## 6.3 Financial Security Arrangements

At least 20 Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Utility's

Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Utility, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Utility and is consistent with the Uniform Commercial Code of North Carolina. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Utility's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Utility under this Agreement during its term. In addition:

- 6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Utility, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.
- 6.3.2 The letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Utility and must specify a reasonable expiration date.
- 6.3.3 The Utility may waive the security requirements if its credit policies show that the financial risks involved are de minimus, or if the Utility's policies allow the acceptance of an alternative showing of creditworthiness from the Interconnection Customer.

## **Article 7. Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default**

### **7.1 Assignment**

- 7.1.1 This Agreement shall not survive the transfer of ownership of the Generating Facility to a new owner. The new owner must complete a new Interconnection Request and submit it to the Utility within 20 Business Days of the transfer of ownership or the Utility's Interconnection Facilities shall be removed or disabled and the Generating Facility disconnected from the Utility's System. The Utility shall not study or inspect the Generating Facility unless the new owner's Interconnection Request indicates that a Material Modification has occurred or is proposed.
- 7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Utility, for collateral security purposes to aid in providing financing for the Generating Facility, provided that the Interconnection Customer will promptly notify the Utility of any such assignment. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

7.1.3 Any attempted assignment that violates this article is void and ineffective.

7.2 Limitation of Liability

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, incidental, consequential, or punitive damages of any kind, except as authorized by this Agreement.

7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 7.2.

7.3.2 The Parties shall at all times indemnify, defend, and save the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inaction of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

7.3.4 If an Indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

7.3.5 Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a



Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

#### 7.4 Consequential Damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

#### 7.5 Force Majeure

7.5.1 As used in this article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing.

7.5.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

#### 7.6 Default

7.6.1 No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission

of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Article 7.6.2, the defaulting Party shall have 60 calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

- 7.6.2 If a Default is not cured as provided in this Article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

## **Article 8. Insurance**

- 8.1 The Interconnection Customer shall obtain and retain, for as long as the Generating Facility is interconnected with the Utility's System, liability insurance which protects the Interconnection Customer from claims for bodily injury and/or property damage. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. This insurance shall be primary for all purposes. The Interconnection Customer shall provide certificates evidencing this coverage as required by the Utility. Such insurance shall be obtained from an insurance provider authorized to do business in North Carolina. The Utility reserves the right to refuse to establish or continue the interconnection of the Generating Facility with the Utility's System, if such insurance is not in effect.

- 8.1.1 For an Interconnection Customer that is a residential customer of the Utility proposing to interconnect a Generating Facility no larger than 250 kW, the required coverage shall be a standard homeowner's insurance policy with liability coverage in the amount of at least \$100,000 per occurrence.

- 8.1.2 For an Interconnection Customer that is a non-residential customer of the Utility proposing to interconnect a Generating Facility no larger than 250 kW, the required coverage shall be comprehensive general

liability insurance with coverage in the amount of at least \$300,000 per occurrence.

- 8.1.3 An Interconnection Customer of sufficient credit-worthiness may propose to provide this insurance via a self-insurance program if it has a self-insurance program established in accordance with commercially acceptable risk management practices, and such a proposal shall not be unreasonably rejected.
- 8.2 The Utility agrees to maintain general liability insurance or self-insurance consistent with the Utility's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Utility's liabilities undertaken pursuant to this Agreement.
- 8.3 The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

#### **Article 9. Confidentiality**

- 9.1 Confidential Information shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.
- 9.2 Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.
  - 9.1.1 Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Party as it employs to protect its own Confidential Information.
  - 9.1.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

- 9.3 If information is requested by the Commission from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to the Commission within the time provided for in the request for information. In providing the information to the Commission, the Party may request that the information be treated as confidential and non-public in accordance with North Carolina law and that the information be withheld from public disclosure.

#### **Article 10. Disputes**

- 10.1 The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this Article.
- 10.2 In the event of a dispute, either Party shall provide the other Party with a written notice of dispute. Such notice shall describe in detail the nature of the dispute.
- 10.3 If the dispute has not been resolved within two Business Days after receipt of the notice, either Party may contact the Public Staff for assistance in informally resolving the dispute. If the Parties are unable to informally resolve the dispute, either Party may then file a formal complaint with the Commission.
- 10.4 Each Party agrees to conduct all negotiations in good faith.

#### **Article 11. Taxes**

- 11.1 The Parties agree to follow all applicable tax laws and regulations, consistent with North Carolina and federal policy and revenue requirements.
- 11.2 Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the Utility's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

#### **Article 12. Miscellaneous**

##### **12.1 Governing Law, Regulatory Authority, and Rules**

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of North Carolina, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

## 12.2 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties, or under Article 12.12 of this Agreement.

## 12.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

## 12.4 Waiver

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

## 12.5 Entire Agreement

This Agreement, including all Appendices, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

## 12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

#### 12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

#### 12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

#### 12.9 Security Arrangements

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All Utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.

#### 12.10 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

#### 12.11 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

12.11.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

12.11.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

#### 12.12 Reservation of Rights

The Utility shall have the right to make a unilateral filing with the Commission to modify this Agreement with respect to any rates, terms and conditions, charges, or classifications of service, and the Interconnection Customer shall have the right to make a unilateral filing with the Commission to modify this Agreement; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before the Commission in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties except to the extent that the Parties otherwise agree as provided herein.

### Article 13. Notices

#### 13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement (Notice) shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: Plymouth.Solar ,LLC

Attention: Kenny Habul

Address: 192 Raceway Dr.

City, State, Zip: Mooreville, NC 28117

Phone (704) 662-0375 Fax (704) 662-0052



If to the Utility:

Utility: Virginia Electric and Power Company

Attention: Steven A. Eisenrauch

Address: 701 East Cary Street, 8<sup>th</sup> Floor

City, State, Zip: Richmond, Virginia 23219

Phone: (804) 775-5187

Fax: (804) 771-4204

### 13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

Interconnection Customer: Plymouth Solar, LLC

Attention: Kenny Habul

Address: 192 Raceway Dr.

City, State, Zip: Mooreville, NC 28117

Phone: (704) 662-0375

Fax: (704) 662-0052

If to the Utility:

Utility: Virginia Electric and Power Company

Attention: Remittance Processing Services

Address: P.O. Box 26543

City, State, Zip: Richmond, Virginia 23290

### 13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: Plymouth Solar, LLC

Attention: Kenny Habul

Address: 192 Raceway Dr.

City, State, Zip: Mooreville, NC 28117

Phone: (704) 662-0375

Fax: (704) 662-0052



If to the Utility:

Utility: Virginia Electric and Power Company

Attention: Steven A. Eisenrauch

Address: 701 East Cary Street, 8<sup>th</sup> Floor

City, State, Zip: Richmond, Virginia 23219

Phone: (804) 775-5187 Fax: (804) 771-4204

**13.4 Designated Operating Representative**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: Plymouth Solar, LLC

Attention: Kenny Habul

Address: 192 Raceway Dr.

City, State, Zip: Mooreville, NC 28117

Phone (704) 662-0375 Fax (704) 662-0052

Utility's Operating Representative:

Utility: Virginia Electric and Power Company

Attention: ROC Shift Supervisor

Address: 2700 Cromwell Rd.

City, State, Zip: Norfolk, Virginia 23509

Phone: (757) 857-6702 Fax: (757) 857-2633

**13.5 Changes to the Notice Information**

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Utility

Name: Philip R. Bli

Title: VICE PRESIDENT - DISTRIBUTION OPERATIONS

Date: 4-9-12

For the Interconnection Customer

Name: ~~Atch~~ Kenny Habel

Title: CEO

Date: 4-5-12



## **Glossary of Terms**

See Glossary of Terms, Attachment 1 to the North Carolina Interconnection Procedures.

**Description and Costs of the Generating Facility,  
Interconnection Facilities, and Metering Equipment**

**Generating Facility**

Generating facility will be 5 MW of ground mounted solar arrays.

**Customer Interconnection Facilities**

Customer will be responsible for all associated solar panels, inverters, transformers and underground line built to Point of Interconnection with Utility. Customer will also provide terminations for the underground cable.

**Interconnection Facilities and Metering**

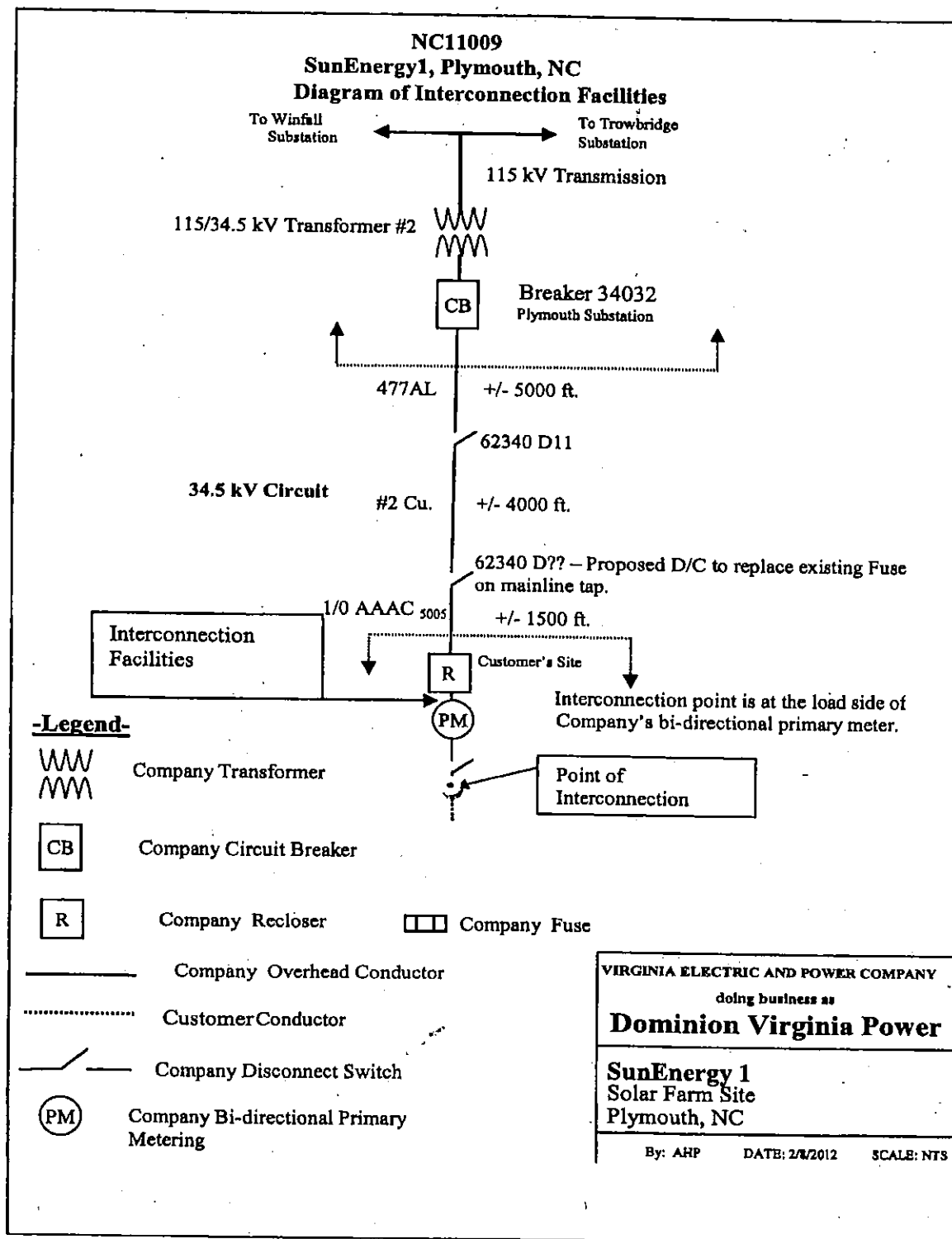
The Interconnection Facilities required to be provided by the Utility will include:

1. Installation of ABB Electronic Recloser that is to be installed on tap serving Customer.
2. Installation of pole mounted bi-directional metering.
3. Install 3 - three phase poles.
4. Installation of approximately 500 feet of a three phase overhead line (477 Al.)
5. Installation of 3 Line Tension Disconnect Switches.

The estimated cost for the installation of new attachment facilities to provide the interconnection, at this location, is \$121,291.25.

The customer will be also be responsible for an ongoing monthly operation and maintenance cost of %0.44 percent of the estimated cost of the new facilities of \$121,291.25. The calculation will be;  $\$121,291.25 \times \%0.44 = \$533.68$  a month.

# One-line Diagram Depicting the Generating Facility, Interconnection Facilities, Metering Equipment, and Upgrades



### Milestones

In-Service Date:

Critical milestones and responsibility as agreed to by the Parties:

	Milestone/Date	Responsible Party
(1)	_____	_____
(2)	_____	_____
(3)	_____	_____
(4)	_____	_____
(5)	_____	_____
(6)	_____	_____
(7)	_____	_____
(8)	_____	_____
(9)	_____	_____
(10)	_____	_____

Agreed to by:

For the Utility \_\_\_\_\_ Date \_\_\_\_\_

For the Interconnection Customer \_\_\_\_\_ Date \_\_\_\_\_

**Additional Operating Requirements for the Utility's  
System and Affected Systems Needed to Support  
the Interconnection Customer's Needs**

Utility has reviewed the SunEnergy1 Solar Farm (NC11009) request for installation of parallel Generation (5 MW) units located adjacent to 382 Industrial Drive in Plymouth, North Carolina. The Customer desires to export power into the Utility source and site generation power. This is typically an inverter based interconnection which will initially consist of five (2) 500 kVA rated inverters with step-up transformer (208V/34.5 kV, 3-Phase) which are owned and maintained by the Customer. The Customer has requested that the study be performed with respect to 5 MW of Solar which will be their ultimate build out. The resulting protection requirements are based on the following information:

- No more than 5 MW of total generation will be in parallel with the Utility system at any one time.
- The customer's generation facility will be paralleled with the Utility's system by the following connections:
  - The Customer will be connected to Plymouth substation circuit breaker 34032
  - Customer's feed is behind line fuse 340 F757 which is down-line from CB 34032
- Plymouth 340 breaker has reclosing time at 10 seconds and 45 seconds after the first trip.
- The load data for the pertinent sectionalizing devices are as follows:
  - Plymouth Circuit 340 (34032) has a typical "light" loading of 4.0 MVA.
  - Plymouth 340 F757 has a typical "light" loading of 0.06 MVA

A review of the Transmission Line Light load provided the following information:

- Winfall Line 64 to Plymouth light load is about 13,600 kW or 16 MVA

Based on the minimum loads given for the utility sectionalizing devices, the following minimum "Local Load to Customer Generation Capacity" ratios will apply for this installation:

<i>Utility Device</i>	<i>Minimum Ratio</i>
CB 34032	0.681
340 F757	0.01
Line 64	2.72

Based on the size of your generation, the applicable Industry Standard (UL-1741 and IEEE-1547) and your equipment individually meeting this specification, Utility will require

the installation of a Dominion owned Automatic Line Recloser (ALR) at the point of common coupling with all required relaying (described in the table below) as well as all communication equipments (to be specified by Utility) at the customer expense. Such ALR should sectionalize the customer generation for any opening of the parent utility device in coordination with customer site's protection but also will help ensure that Utility field personnel are protected during routine maintenance or repair. In addition, it would aid in protecting the customer generator from an out-of-step reclose of the utility source. The closing conditions for the ALR (Utility relays monitoring all three phases of the incoming line [all three "hot"] to establish a "hot" condition) will be limited to no more than Hot Line-Dead Bus (generator).

In addition, since the line Fuse distribution protective devices listed above operate to isolate only individual faulted phases from the system, as part of the project Utility will need to replace 340 F757 with a solid blade.

The required relay functions (each sectionalizing all of the customer's generation) and the corresponding setting ranges, applying for each of the designated utility feed at the point of interconnection with Plymouth circuit 340, are listed in the following tables:

Function		Set Point	Duration to Generation Cleared (seconds)	
			Preferred	Maximum
27	Undervoltage	90% of nominal operating voltage	Less than 2.0	2.0
59	Overvoltage	106 to 110% of nominal operating voltage	Less than 2.0	2.0
81U	Underfrequency	59.0 to 59.5 Hz	Less than 2.0	2.0
81O	Overfrequency	60.5 to 61.0 Hz	Less than 2.0	2.0
51	Phase Time-delay Overcurrent	Set for minimum, with adequate load allowance	Maintain proper coordination	
51N	Ground Time-delay Overcurrent	Set for minimum, with adequate imbalance allowance	Maintain proper coordination	
67/ 67N	Directional Overcurrent	Set to detect faults on the Dominion System	2.0 or less	2.0

Harmonics (voltage and current) if not controlled can be a source of problems on the Utility's network. Though it is definitive that small scale PV systems (i.e. about 5 kW or less) have little to no significant Harmonics effects on the system provided their



associated converter meet the IEEE standard 519 (Guideline for Harmonic Control and Reactive Compensation of Static Power Converter), the impacts of larger scale PV systems is far less certain. It is a general consensus that a concentration of small sources of harmonic distortion - as little as they could be - can have a significant effect on the overall utility network's power quality as the effect of harmonics are cumulative thus making it imperative not to ignore the Harmonics in this particular 5 MW interconnection request.

In Summary, Total Harmonic Distortion (THD) measurements will be performed at the point of common coupling (PCC) through the ALR relaying in order to monitor the Harmonic effects of the Generation unit and would include an alarm capability (for THD greater than or equal to 3%) and a tripping capability (for THD is greater than or equal to 5%).

Please note that the customer will not be allowed to interconnect until the recloser and its relaying is installed and fully functional.

Moreover, in the advent of changes in IEEE guidelines for interconnection of Distributed Generation (DG) system and/or changes in system condition (i.e. penetration level of DG on that part of the system), Utility reserves the right to re-evaluate the protection application and require upgrade(s) as it deems necessary at the Utility and/or the customer end. Any upgrades necessary will be assigned according to how the changes impact the customers' generation and its impact on interconnection to the grid.

### **Utility's Description of Its Upgrades**

Distribution upgrades are required to existing Plymouth Substation and Circuit 340 to accommodate proposed interconnection. The upgrades are as follows:

1. Remove existing tap fuses and relocated them downline of IC.
2. Install 300A Solid Blade Disconnects and Fault Indicators at the location of existing fuses.
3. Replace existing Pole with larger Buck Pole configuration.

The Facility Study estimated cost for Distribution upgrades is \$10,545.07.

This will be a onetime payment and no operation and maintenance expense applied.

**EXHIBIT B**  
**General Terms and Conditions**

**I - Assignments**

Operator agrees not to assign this Agreement without the prior written consent of Dominion North Carolina Power. Dominion North Carolina Power may withhold such consent if it determines, in its sole discretion, that such assignment would not be in the best interests of Dominion North Carolina Power or its customers. Any attempted assignment that Dominion North Carolina Power has not approved in writing shall be null and void and ineffective for all purposes.

**II - Indemnity**

Operator shall indemnify and save harmless and, if requested by Dominion North Carolina Power, defend Dominion North Carolina Power, its officers, directors and employees from and against any and all losses and claims or demands for damages to real property or tangible personal property (including the property of Dominion North Carolina Power) and injury or death to persons arising out of, resulting from, or in any manner caused by the presence, operation or maintenance of any part of Operator's Facility; provided, however, that nothing herein shall be construed as requiring Operator to indemnify Dominion North Carolina Power for any injuries, deaths or damages caused by the sole negligence of Dominion North Carolina Power. Operator agrees to provide Dominion North Carolina Power written evidence of liability insurance coverage, which is specifically and solely for the Facility, prior to the operation of the Facility. Operator agrees to have Dominion North Carolina Power named as an additional insured, and shall keep such coverage current throughout the term of this Agreement.

**III - QF Certification**

Operator represents and warrants that its Facility meets the Qualifying Facility requirements established as of the Effective Date of this Agreement by the Federal Energy Regulatory Commission's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to remain a Qualifying Facility throughout the term of this Agreement. [Dominion North Carolina Power may require "FERC" QF Certification by adding the following: "Operator agrees to obtain, at Operator's expense, a certification as a "QF" from the Federal Energy Regulatory Commission, in accordance with 18 C.F.R. ' 292.207 (b)."] Operator agrees to provide copies, at the time of submittal, of all correspondence and filings with the Federal Energy Regulatory Commission relating to obtaining certification of the Facility as a "QF". Operator will submit prior to delivery of electrical output from the Facility to Dominion North Carolina Power evidence of Qualifying Facility certification. After the Commercial Operations Date, if requested by Dominion North Carolina Power prior to March 1 of any year, Operator agrees to provide July 1 of the same year to Dominion North Carolina Power for the preceding year sufficient for Dominion North Carolina Power to determine the Operator's continuing compliance with its QF requirements; including but not limited to:

- (a) All information required by FERC Form 556.
- (b) Copy of the Facility's QF Certification and any subsequent revisions or amendments;
- (c) Provide a copy of any contract executed with a thermal host.
- (d) Identification of the amount of each type of fuel used per month and average heating value for each type of fuel, which will be used to determine the Total Energy Input. These values should be verifiable by auditing supporting documentation.
- (e) Identification of each of the QF's useful thermal output(s) for each month, including temperature, pressure, amount of thermal output delivered, temperature and amount of condensate returned (if applicable) and the conversion to Btus. These values should be verifiable by auditing supporting documentation.

- (f) Identification of the QF's useful power output, for each month. These values should be verifiable by auditing supporting documentation.
- (g) Provide drawings, heat balance diagrams and a sufficiently detailed narrative describing the delivery of useful thermal output including the location, description, and calibration data for all metering equipment used for QF calculations.
- (h) Provide any other information which the QF believes will facilitate Dominion North Carolina Power's monitoring of the QF requirements.
- (i) Dominion North Carolina Power may request additional information, as needed, to monitor the QF requirements.

#### IV - Consequential Damages

In no event shall either Party be liable to the other for any special, indirect, incidental or consequential damages whatsoever, except that the foregoing shall not apply to any promises of indemnity or obligations to reimburse the Parties expressly set forth in this Agreement.

#### V - Amendments, Waivers, Severability and Headings

This Agreement, including the appendices thereto, can be amended only by agreement between the Parties in writing. The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder. In the event any provision of this Agreement, or any part or portion thereof, shall be held to be invalid, void or otherwise unenforceable, the obligations of the Parties shall be deemed to be reduced only as much as may be required to remove the impediment. The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.

#### VI - Compliance with Laws

Operator covenants that it shall comply with all applicable provisions of Executive Order 11246, as amended; § 503 of the Rehabilitation Act of 1973, as amended; § 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended; and implementing regulations set forth in 41 C.F.R. §§ 60.1, 60-250, and 60-741 and the applicable provisions relating to the utilization of small minority business concerns as set forth in 15 U.S.C. § 637, as amended. Operator agrees that the equal opportunity clause set forth in 41 C.F.R. § 60-1.4 and the equal opportunity clauses set forth in 41 C.F.R. § 250.5 and 41 C.F.R. § 60-741.5 and the clauses relating to the utilization of small and minority business concerns set forth in 15 U.S.C. § 637(d)(3) and 48 C.F.R. § 52-219.9 are hereby incorporated by reference and made a part of this Agreement. If this Agreement has a value of more than \$500,000, Operator shall adopt and comply with a small business and small disadvantaged business subcontracting plan which shall conform to the requirements set forth in 15 U.S.C. § 637(d)(6). The provisions of this section shall apply to Operator only to the extent that:

- (a) such provisions are required of Operator under existing law,
- (b) Operator is not otherwise exempt from said provisions and
- (c) Compliance with said provisions is consistent with and not violative of 42 U.S.C. § 2000 et seq., 42 U.S.C. § 1981 et seq., or other acts of Congress.

## VII - Interconnection and Operation

Operator shall be responsible for the design, installation, and operation of its Facility. Operator shall be responsible for obtaining an Interconnection Agreement. Interconnection guidelines and agreement requirements are set forth in Exhibit A of this Agreement.

Operator shall: (a) maintain the Facility and the Interconnection Facilities on Operator's side of the Interconnection Point, except Dominion North Carolina Power-owned Interconnection Facilities, in conformance with all applicable laws and regulations and in accordance with operating procedures; (b) obtain any governmental authorizations and permits required for the construction and operation thereof and keep all such permits and authorizations current and in effect; and (c) manage the Facility in a safe and prudent manner. If at any time Operator does not hold such authorizations and permits, Dominion North Carolina Power may refuse to accept deliveries of power hereunder.

Dominion North Carolina Power may enter Operator's premises (a) to inspect Operator's protective devices at any reasonable time; (b) to read or test meters and metering equipment; and (c) to disconnect, without notice, the Facility if, in Dominion North Carolina Power's opinion, a hazardous condition exists and such immediate action is necessary to protect persons, or Dominion North Carolina Power facilities or other customers' facilities from damage or interference caused by Operator's Facility or lack of properly operating protective devices. Dominion North Carolina Power will endeavor to notify Operator as quickly as practicable if disconnection occurs as provided in (c) above. Any inspection of Operator's protective devices shall not impose on Dominion North Carolina Power any liabilities with respect to the operation, safety or maintenance of such devices.

Operator shall not operate the Facility in parallel with Dominion North Carolina Power's system prior to (a) an inspection of the installed Interconnection Facilities by an authorized Dominion North Carolina Power representative and (b) receiving written authorization from an authorized Dominion North Carolina Power representative to begin parallel operation.

## VIII - Metering

Dominion North Carolina Power will meter all electrical output delivered from the Facility on the high voltage side of the step up transformer.

Operator agrees to pay an administrative charge to Dominion North Carolina Power to reflect all reasonable costs incurred by Dominion North Carolina Power for meter reading and billing, also referred to as metering charges. The monthly meter reading and billing charge shall change from time to time when the NCUC approves a different charge in Schedule 19-DRR.

In addition, Operator agrees to pay any fees required to provide and maintain leased telephone lines required for meter reading by Dominion North Carolina Power.

## IX - Billing and Payment

Dominion North Carolina Power shall read the meter in accordance with its normal meter reading schedule. Within twenty-eight (28) days thereafter, Dominion North Carolina Power shall send Operator payment for energy and Contracted Capacity delivered. At Dominion North Carolina Power's option, (i) Dominion North Carolina Power may make such payments net of the monthly metering charges, Interconnection Facilities charges, and charges for sales of electricity to the Operator, or (ii) Dominion North Carolina Power may invoice Operator for such charges separately. Payment by Dominion North Carolina Power shall include verification showing the billing month's ending meter reading, on-peak and off-peak kWh, and the amount paid. If in any month the monthly metering and Interconnection Facilities charges are in excess of any payments due Operator, Dominion North Carolina Power shall bill Operator for the difference and Operator shall make such payment within 28 days of the invoice date. Failure by Operator to make such payments may result in disconnection of the Facility. In no event shall such disconnection relieve Operator of its obligation to pay monthly metering charges and Interconnection Facilities charges under this Agreement.

In the event that any data required for billing purposes hereunder are unavailable when required for such billing, the unavailable data shall be estimated by Dominion North Carolina Power, based upon historical data. Such billing shall be subject to any required adjustment in a subsequent billing month.

Operator agrees that Dominion North Carolina Power shall be entitled to withhold sufficient amounts due pursuant to this Agreement to offset (a) any damages to Dominion North Carolina Power resulting from any breach of this Agreement by Operator, and (b) any other amounts Operator owes Dominion North Carolina Power, including amounts arising from sales of electricity by Dominion North Carolina Power to Operator, metering charges and Interconnection Facilities charges.

In no event shall Dominion North Carolina Power be liable to Operator for any Contracted Capacity payments in excess of the amounts contracted for herein, regardless of the ultimate length of this Agreement or revisions to Schedule 19-DRR or successor schedules. Operator hereby agrees to accept the Contracted Capacity payments as set forth herein as its sole and complete compensation for delivery of Contracted Capacity to Dominion North Carolina Power.

#### X - Force Majeure

Neither Party shall be considered in default under this Agreement or responsible to the other Party in tort, strict liability, contract or other legal theory for damages of any description for any interruption or failure of service or deficiency in the quality or quantity of service or any other failure to perform any of its obligations hereunder to the extent such failure occurs without fault or negligence on the part of that Party and is caused by factors beyond that Party's reasonable control, which by the exercise of reasonable diligence that Party is unable to prevent, avoid, mitigate or overcome, including without limitation storm, flood, lightning, earthquake, explosion, equipment failure, civil disturbance, labor dispute, act of God or public enemy, action or inaction of a court or public authority, fire, sabotage, war, explosion, curtailments, unscheduled withdrawal of facilities from operation for maintenance or repair or any other cause of similar nature beyond the reasonable control of that Party (any such event, "Force Majeure"). Solely economic hardship of either Party shall not constitute Force Majeure under this Agreement. Nor shall anything contained in this paragraph or elsewhere in this Agreement excuse Operator or Dominion North Carolina Power from strict compliance with the obligation of the Parties to comply with the terms of Article IX of this Exhibit B relating to timely payments.

Each Party shall have the obligation to operate in accordance with Good Utility Practice (as defined below) at all times and to use due diligence to overcome and remove any cause of failure to perform.

If a Party relies on the occurrence of an event of Force Majeure described above as a basis for being excused from performance of its obligations under this Agreement, then the Party relying on the Force Majeure event shall:

- a) Provide within forty-eight (48) hours written notice of such Force Majeure event or potential Force Majeure to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations hereunder;
- b) Exercise all reasonable efforts to continue to perform its obligations under this Agreement;
- c) Expeditiously take action to correct or cure the Force Majeure event excusing performance; provided, however, that settlement of strikes or other labor disputes will be completely within the sole discretion of the Party affected by such strike or labor dispute;
- d) Exercise all reasonable efforts to mitigate or limit damages to the other Party; and
- e) Provide prompt notice to the other Party of the cessation of the Force Majeure event giving rise to its excuse from performance. All performance obligations hereunder shall be extended by a period equal to the term of the resultant delay.

If a Party responding to a Force Majeure event has the ability to obtain, for additional expenditures, expedited material deliveries or labor production which would allow a response to the event in a manner that is above and beyond Good Utility Practice, and such a response could shorten the duration of the Force Majeure event, the Party

responding to the event may, at its discretion, present the other Party with the option of funding the expenditures for expediting material deliveries or labor production in an effort to reduce the duration of the event and economic hardship. Each such opportunity will be negotiated on a case-by-case basis by the Parties.

For purposes of this Agreement, "Good Utility Practice" shall mean any of the applicable practices, methods, standards, guides or acts: required by any governmental authority, regional or national reliability council, or national trade organization, including NERC, SERC, or the successor of any of them, as they may be amended from time to time whether or not the Party whose conduct is at issue is a member thereof; otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period which in the exercise of reasonable judgment in light of the facts known or that should have been known at the time a decision was made, could have been expected to accomplish the desired result in a manner consistent with law, regulation, good business practices, generation, transmission and distribution reliability, safety, environmental protection, economy and expediency. Good Utility Practice is intended to be acceptable practices, methods, or acts generally accepted in the region, or any other acts or practices as are reasonably necessary to maintain the reliability of the Transmission System (as defined in the Interconnection Agreement), or of the Facility, and is not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others.

## **EXHIBIT C**

**Exhibit C is a copy of Schedule 19-DRR based on the DRR Method**



Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

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I. APPLICABILITY AND AVAILABILITY

This schedule is applicable to any qualifying Cogenerator or Small Power Producer (Qualifying Facility) which desires to deliver all of its net electrical output to the Company, and which has either (1) generating facilities designated as new capacity as defined by 18 C.F.R. 292.304(b)(1), or (2) hydroelectric generating facilities that meet the criteria of being owned or operated by a small power producer as defined in G.S. 62-3(27a) and enters into an agreement for the sale of net electrical output to the Company (Agreement).

Where the Qualifying Facility (QF) elects to be compensated for firm deliveries in accordance with this schedule, the amount of capacity under contract and the initial term of contract shall be limited as follows:

- A. Where the QF operates hydroelectric generating facilities that meet the criteria of being owned or operated by a small power producer as defined in G.S. 62-3(27a), or where the QF operates non-hydroelectric QFs fueled by trash or methane derived from landfills, hog waste, poultry waste, solar, wind, and non-animal forms of biomass, the amount of capacity subject to compensation shall be no greater than 5,000 kW, and the amount of energy purchased during a given hour at rates applicable to firm deliveries shall be no greater than 5,000 kWh. The initial term of contract for such a QF shall be for a period of 5, 10, or 15 years, at the option of the QF.
- B. Where the QF is not defined under Paragraph I.A., the amount of capacity subject to compensation shall be no greater than 3,000 kW, and the amount of energy purchased during a given hour at rates applicable to firm deliveries shall be no greater than 3,000 kWh. The initial term of contract for such a QF shall be for a period of 5 years.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

I. APPLICABILITY AND AVAILABILITY (Continued)

Where the QF elects to be compensated for firm or non-firm deliveries in accordance with this schedule, the QF must enter into a contract and begin deliveries to the Company on or before December 31, 2012. Where the QF elects an initial contract term of 10 or more years, such contract may be renewed for subsequent term(s), at the Company's option, based on substantially the same terms and provisions and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration the Company's then avoided cost rates and other relevant factors or (2) set by arbitration.

This schedule is not applicable to a QF owned by a developer, or affiliate of a developer, who sells power to the Company from another facility located within one-half mile unless: 1) each facility provides thermal energy to different, unaffiliated hosts, or 2) each facility provides thermal energy to the same host, and the host has multiple operations with distinctly different or separate thermal needs, or 3) each facility utilizes a renewable resource which may be subject to geographic siting limitations, such as hydroelectric, solar, or wind power facilities.

II. MONTHLY BILLING TO THE QF

All sales to the QF will be in accordance with any applicable filed rate schedule. In addition, where the QF contracts for sales to the Company, the QF will be billed a monthly charge equal to one of the following to cover the cost of meter reading and processing:

<u>Metering required</u>	<u>Charge</u>
One non-time-differentiated meter	\$17.24
One time-differentiated meter	\$35.55
Two time-differentiated meters	\$41.16

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

III. DEFINITION OF ON- AND OFF-PEAK HOURS

As referenced in Paragraphs V.C., VI.A., VI.B., and VI.C., On-peak hours are defined as the hours between 7 a.m. and 10 p.m., Mondays through Fridays. Off-peak hours are all hours not defined as On-peak.

IV. CONTRACT OPTIONS FOR DESIGNATING MODE OF OPERATION

The QF shall designate under contract its Mode of Operation from the following options, each of which determines the Company's method of payment.

- A. The QF may contract for the delivery of energy to the Company without reimbursement, designated as the Non-reimbursement Mode of Operation; or,
- B. The QF may contract for the delivery of non-firm energy to the Company (no payment for capacity). This option includes QFs that elect to contract to deliver non-firm energy to the Company on an as-available basis. Where the QF's generation facilities have an aggregate nameplate rating of 100 kW or less the QF may designate the Non-firm, Non-time-differentiated Mode of Operation. Regardless of nameplate rating the QF may designate the Non-firm, Time-differentiated Mode of Operation.
- C. The QF may contract for the delivery of firm energy and capacity to the Company. The level of capacity which the QF contracts to sell to the Company shall not exceed 5,000 kW, where the QF is defined under Paragraph I.A., or 3,000 kW otherwise. This capacity level, in kW, shall be referred to as the Contracted Capacity. When the QF elects to sell firm energy and capacity, the QF shall designate the Firm Mode of Operation.

(Continued)

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

V. PAYMENT FOR COMPANY PURCHASES OF NON-FIRM ENERGY

The QF may contract to receive payment for non-firm energy at rates to be determined with each revision of this schedule. These rates will be based upon the QF's Mode of Operation as described below.

- A. Non-reimbursement Mode of Operation. Where the QF designates the Non-Reimbursement Mode of Operation, no payment will be made for energy delivered.
- B. Non-firm, Non-time-differentiated Mode of Operation. Where the QF's generation facilities have an aggregate nameplate rating of 100 kW or less and the QF designates the Non-firm, Non-time-differentiated Mode of Operation, the following rates in cents per kWh are applicable:

<u>2011</u>	<u>2012</u>
4.741	4.880

- C. Non-firm, Time-differentiated Mode of Operation. Where the QF designates the Non-firm, Time-differentiated Mode of Operation, the following On- and Off-peak rates in cents per kWh are applicable:

	<u>2011</u>	<u>2012</u>
On-peak	5.440	5.606
Off-peak	4.178	4.296

All energy purchase rates will be further increased by 3.0% to account for line losses avoided by the Company, except that upon the effective date of any Schedule 19 that is subsequently amended and approved by the Commission, the line loss percentage applied shall be the percentage stated in the then-current Schedule 19. In lieu of 3.0% or the line loss percentage stated in the then-current Schedule 19, the QF may request that a site specific line loss percentage be determined with the QF bearing the cost of the study required.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

VI. PAYMENT FOR COMPANY PURCHASES OF FIRM ENERGY

QFs designating the Firm Mode of Operation will be eligible to receive purchase payments for the delivery of firm energy by the QF to the Company. Where the QF operates generation facilities having an aggregate nameplate rating of 100 kW or less, the QF may contract to receive payments for firm energy based on A., B., or C., below. Otherwise, the QF may contract to receive payments for firm energy based on A. or B., below. Contract terms for 10 or 15 years are available only where the QF is defined under Paragraph I.A.

Any energy delivered during an hour which exceeds the QF's Contracted Capacity will be priced at the rates provided in Paragraph V.C.

- A. The QF may contract to receive payment for firm energy at rates to be determined with each revision of this schedule. These rates in cents per kWh, which reflect the Company's estimated avoided energy cost for the year specified, are as follows:

	<u>2011</u>	<u>2012</u>
On-peak	5.009	5.231
Off-peak	3.846	4.009

- B. As an alternative to Paragraph VI.A., the QF may contract to receive energy purchase payments based on the Company's estimated resource plan used in support of this tariff. From this resource plan, an avoided energy mix will be derived for each year in the plan. These avoided energy mixes will then be levelized to create a mix that will be fixed for the initial term of the QF's contract. A QF contracting for this option will receive a levelized energy mix, as filed and approved in this Docket, that will correspond with the year the QF begins to deliver energy to the Company and the length of the contract between the QF and the Company. With each biennial avoided cost hearing, the Company will file with the North Carolina Utilities Commission its cost estimates for each fuel type, along with On- and Off-peak factors used to derive purchase prices, that will be applicable for the next two calendar years. Once accepted by the Commission, these yearly fuel costs will then be applied to the levelized energy mix in each QF contract to derive the applicable energy purchase prices, using the On- and Off-peak factors, for the next two years.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

VI. PAYMENT FOR COMPANY PURCHASES OF FIRM ENERGY (Continued)

The 2011/2012 energy purchase prices, in cents per kWh, derived using levelized energy mixes for five, ten, and fifteen-year contract terms are as follows:

2011/2012 rates for operation beginning during 2011

Term:	<u>5 years</u>		<u>10 years</u>		<u>15 years</u>	
Year:	<u>2011</u>	<u>2012</u>	<u>2011</u>	<u>2012</u>	<u>2011</u>	<u>2012</u>
On-peak:	4.997	5.231	4.911	5.173	4.867	5.131
Off-peak:	3.833	4.013	3.767	3.969	3.734	3.936

2012 rates for operation beginning during 2012

Term:	<u>5 years</u>	<u>10 years</u>	<u>15 years</u>
On-peak:	5.191	5.146	5.113
Off-peak:	3.982	3.948	3.922

Attachments A1, A2 and A3 of this schedule provide examples of how these rates are derived using the levelized energy mix.

- C. Where the QF operates generation facilities having an aggregate nameplate rating of 100 kW or less, the QF may contract to receive payments for the delivery of firm energy based upon levelized prices fixed for the initial term of the QF's contract, as shown below in cents per kWh:

<u>Initial Year of Operation</u>		<u>Contract Length in Years</u>		
		<u>5</u>	<u>10</u>	<u>15</u>
2011	On-Peak	5.271	5.998	6.621
	Off-Peak	4.007	4.633	5.220
2012	On-Peak	5.409	6.332	6.985
	Off-Peak	4.111	4.923	5.539

(Continued)

Filed 08-16-11  
Electric-North Carolina

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Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

VI. PAYMENT FOR COMPANY PURCHASES OF FIRM ENERGY (Continued)

All energy purchase rates will be further increased by 3.0% to account for line losses avoided by the Company, except that upon the effective date of any Schedule 19 that is subsequently amended and approved by the Commission, the line loss percentage applied shall be the percentage stated in the then-current Schedule 19. In lieu of 3.0% or the line loss percentage stated in the then-current Schedule 19, the QF may request that a site specific line loss percentage be determined with the QF bearing the cost of the study required.

VII. PAYMENT FOR COMPANY PURCHASES OF CAPACITY

Company purchases of capacity are applicable only where the QF elects the Firm Mode of Operation. Such QFs shall receive capacity purchase payments based on the applicable levelized capacity purchase price below, in cents per kWh, corresponding to the contract length in years and the year in which the QF begins delivering Contracted Capacity to the Company on a firm basis. Contract terms for 10 or 15 years are available only where the QF is defined under Paragraph I.A.

<u>Length in Years</u>	<u>Initial Year of Operation</u>	
	<u>2011</u>	<u>2012</u>
5	0.379	0.426
10	0.905	1.018
15	1.131	1.216

Payments will be made to the QF beginning with the initial month of its operation, by applying the appropriate levelized capacity purchase price above to all kWh delivered to the Company during each hour, up to the Contracted Capacity. However, in any calendar year the total capacity purchase payments made to the QF shall not exceed the QF's Contracted Capacity, multiplied by 7,446 hours, and further multiplied by the applicable levelized capacity purchase price above. In the QF's beginning and ending year of its contract term, the 7,446 hours referenced above shall be prorated.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

VIII. PROVISIONS FOR COMPANY PURCHASE OF THE QF GENERATION

- A. The QF shall own and be fully responsible for the costs and performance of the QF's:
  - 1. Generating facility in accordance with all applicable laws and governmental agencies having jurisdiction;
  - 2. Control and protective devices as required by the Company on the QF's side of the meter.
- B. Upon request by the Company, the Cogenerator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.
- C. Interconnection procedures for the QF's generation interconnection are provided through the Internet at the Company's website;

<http://www.dom.com/dominion-north-carolina-power/customer-service/rates-and-tariffs/pdf/term24.pdf>

IX. MODIFICATION OF RATES AND OTHER PROVISIONS HEREUNDER

The provisions of this schedule, including the rates for purchase of energy and Contracted Capacity by the Company, are subject to modification at any time in the manner prescribed by law, and when so modified, shall supersede the rates and provisions hereof. However, payments to QFs with contracts for a specified term at payments established at the time the obligation is incurred shall remain at the payment levels established in their contract with the exception of the line loss percentage applied which shall be the percentage stated in the then-current Schedule 19.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.



Schedule 19 - DRR  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

IX. MODIFICATION OF RATES AND OTHER PROVISIONS HEREUNDER (Continued)

If the QF terminates its contract to provide Contracted Capacity on a firm basis to the Company prior to the expiration of the contract term, the QF shall, in addition to other liabilities, be liable to the Company for excess capacity payments. Such excess payments will be calculated by taking the difference between (1) the total capacity payments already made by the Company to the QF and (2) capacity payments calculated based on the levelized capacity purchase price found in Paragraph VII corresponding to the highest term option completed by the QF. These excess payments shall also include interest, from the time such excess payments were made, compounded annually at the rate equal to the Company's most current issue of long-term debt at the time of the contract's effective date.

X. TERM OF CONTRACT

The term of contract shall be such as may be mutually agreed upon but for not less than one year.

(Continued)

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

ATTACHMENT A1  
Schedule 19 - DRRPOWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIESFIRM MODE OF OPERATION  
ENERGY PURCHASE PRICES FOR 2011  
APPLICABLE TO QFs WITH FIVE YEAR LEVELIZED ENERGY MIX BEGINNING IN 2011

Fuel Type	(1) Displaced MWh	(2) Displaced Fuel Mix %	(3) Displaced Plants Heat Rate BTU/kWh	(4) Avoided Energy Costs \$/MBTU x (Col. 3) / 10,000
Fossil Steam:				
Coal	1,618,555	28.97	9,937	4.000¢/kWh = (4.026\$/MBTU x 9,937)/10,000
Oil	14,390	0.26	10,008	12.181¢/kWh = (12.171\$/MBTU x 10,008)/10,000
Natural Gas	814,718	14.58	7,520	3.422¢/kWh = (4.551\$/MBTU x 7,520)/10,000
Comb. Turbine	91,753	1.64	10,813	7.228¢/kWh = (6.685\$/MBTU x 10,813)/10,000
Biomass	27,948	0.50	14,821	4.004¢/kWh = 2.701 \$/MBTU x 14,821/10,000
Pumped Storage	-162,452	-2.91		0.031¢/kWh
Purchase Power/Sale	2,978,885	53.31		4.775¢/kWh
Pumping	203,763	3.65		
150 MW Block	5,587,559			

Weighted Average =  $\Sigma$  (Col. 2 x Col. 4) = 4.353¢/kWh

On-peak Energy Purchase Payment = 4.353 x 1.1480 (On-peak factor) = 4.997¢/kWh

Off-peak Energy Purchase Payment = 4.353 x 0.8806 (Off-peak factor) = 3.833¢/kWh

(Continued)

Filed 08-16-11  
Electric-North CarolinaSuperseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

ATTACHMENT A2  
Schedule 19 - DRRPOWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIESFIRM MODE OF OPERATION  
ENERGY PURCHASE PRICES FOR 2011  
APPLICABLE TO QFs WITH FIVE YEAR LEVELIZED ENERGY MIX BEGINNING IN 2012

Fuel Type	(1) Displaced MWh	(2) Displaced Fuel Mix %	(3) Displaced Plants Heat Rate BTU/kWh	(4) Avoided Energy Costs \$/MBTU x (Col. 3) / 10,000
Fossil Steam:				
Coal	1,618,555	28.97	9,937	4.025¢/kWh = (4.050\$/MBTU x 9,937)/10,000
Oil	14,390	0.26	10,008	13.139¢/kWh = (13.129\$/MBTU x 10,008)/10,000
Natural Gas	814,718	14.58	7,520	4.245¢/kWh = (5.645\$/MBTU x 7,520)/10,000
Comb. Turbine	91,753	1.64	10,813	5.833¢/kWh = (5.395\$/MBTU x 10,813)/10,000
Biomass	27,948	0.50	14,821	4.300¢/kWh = 2.901\$/MBTU x 14,821/10,000
Pumped Storage	-162,452	-2.91		0.031¢/kWh
Purchase Power/Sale	2,978,885	53.31		4.958¢/kWh
Pumping	203,763	3.65		
150 MW Block	-5,587,559			

Weighted Average =  $\Sigma$  (Col. 2 x Col. 4) = 4.557¢/kWh

On-peak Energy Purchase Payment = 4.557 x 1.1480 (On-peak factor) = 5.231¢/kWh

Off-peak Energy Purchase Payment = 4.557 x 0.8806 (Off-peak factor) = 4.013¢/kWh

(Continued)

Filed 08-16-11  
Electric-North CarolinaSuperseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

ATTACHMENT A3  
Schedule 19 - DRRPOWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIESFIRM MODE OF OPERATION  
ENERGY PURCHASE PRICES FOR 2012  
APPLICABLE TO QFs WITH FIVE YEAR LEVELIZED ENERGY MIX BEGINNING IN 2012

Fuel Type	(1) Displaced MWh	(2) Displaced Fuel Mix %	(3) Displaced Plants Heat Rate BTU/kWh	(4) Avoided Energy Costs \$/MBTU x (Col. 3) / 10,000
Fossil Steam:				
Coal	1,556,312	27.84	9,933	4.023¢/kWh = (4.050\$/MBTU x 9,933)/10,000
Oil	10,346	0.19	9,914	13.016¢/kWh = (13.129\$/MBTU x 9,914)/10,000
Natural Gas	977,537	17.49	7,338	4.142¢/kWh = (5.645\$/MBTU x 7,338)/10,000
Comb. Turbine	88,754	1.59	10,700	5.773¢/kWh = (5.395\$/MBTU x 10,700)/10,000
Biomass	25,275	0.45	14,780	4.288¢/kWh = (2.901\$/MBTU x 14,780)/10,000
Pumped Storage	-166,072	-2.97		0.031¢/kWh
Purchase Power/Sale	2,889,828	51.69		4.958¢/kWh
Pumping	208,639	3.73		
150 MW Block	-5,590,619			

Weighted Average =  $\Sigma$  (Col. 2 x Col. 4) = 4.522¢/kWh

On-peak Energy Purchase Payment = 4.522 x 1.1480 (On-peak factor) = 5.191¢/kWh

Off-peak Energy Purchase Payment = 4.522 x 0.8806 (Off-peak factor) = 3.982¢/kWh

Filed 08-16-11  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 07-21-09. This Filing Effective For Usage On  
and After 08-26-11.

## EXHIBIT D

[Exhibit D is reserved for possible future use]

## EXHIBIT E

Exhibit E is a map and written description identifying the specific location of the Facility and is provided by the Operator.

BOOK 472 PAGE 714 (10)

301971



Filed: 12/09/2011 03:25:18 PM  
 Elaine G. Vann, Register of Deeds  
 Washington County, NC

*Elaine G. Vann*

Excise Tax \$400.00

This certifies that there are no delinquent  
 ad valorem real estate taxes, which the  
 Washington County Tax Collector is charged  
 with collecting that are a lien on:

6778.00-81-2356

Washington County Office of Land Records  
 This is not a Certification that the Pin #  
 matches the deed description.

*Wendell R. Martin* 12/9/11  
 Tax Collector *by D. Jones* Tax Clerk

WASHINGTON COUNTY, N. C.

PARCEL IDENTIFIER NO. 6778.00-81-2356ASSIGNED OR VERIFIED BY: *T.E.* DATE: 12/9/11

### NORTH CAROLINA GENERAL WARRANTY DEED

Prepared by: Boerner, Hadler & Willard, P.A.Excise Tax: \$ 400.00 net #

Return to: Grantee

Parcel Identifier No. 5916

THIS DEED made this 26th day of November, 2011 by and between

#### GRANTOR

ROGER E. HOPKINS, SR., widower;  
 KATHERINE H. CUTLER and husband, KEVIN A. CUTLER;  
 SUSAN H. SHARP;  
 ROGER E. HOPKINS, JR. and wife MICHELE WATKINS HOPKINS;  
 DAVID W. HOPKINS;  
 DEBORAH H. PEEL and husband, MACK L. PEEL; and  
 JEANETTE H. AYERS and husband, JAY AYERS

c/o Deborah H. Peel  
 413 Warren Street, Williamston, NC 27892

☐ If checked, the property includes the primary residence of at least one of the Grantors. (NC G.S. § 101-31.2)

#### GRANTEE

PLYMOUTH SOLAR, LLC  
 1178 C River Highway, Mooresville, NC 28117

The designation Grantor and Grantee as used herein shall include said parties, their heirs,  
 successors, and assigns, and shall include singular, plural, masculine, feminine or neuter  
 as required by context.

WHEREAS, the herein described property was conveyed to Florine A. Hopkins (deceased, July 28, 1965) for the term of her natural life, and at her death to D. L. Hopkins, and Roger E. Hopkins, by deed of D. L. Hopkins and wife Jacquelyn Hopkins, recorded October 8, 1949, in Book 156, at Page 196, Washington County Registry; and

WHEREAS, Darrell Lanston Hopkins, Sr., also referred to herein as D. L. Hopkins, predeceased by his wife Jacqueline Lewis Hopkins (Washington County estate file 94-E-105), died testate on July 2, 1996 (Washington County estate file 96-E-67), leaving his one-half tenant in common interest in the herein described property to heir beneficiaries Jeannette Hopkins Ayers, Deborah Hopkins Peel, and Danny S. Hopkins; and

WHEREAS, Danny Stewart Hopkins, also referred to herein as Danny S. Hopkins, conveyed his interest in the herein described property to Deborah H. Peel by deed, recorded January 4, 1999 in Book 376, at Page 759; and;

WHEREAS, Roger E. Hopkins, predeceased by his wife, Alice H. Hopkins (Washington County estate file 04-E-15), conveyed his interest in the herein described property to Katherine H. Cutler, Susan H. Sharp, Roger E. Hopkins, Jr., and David W. Hopkins, saving for himself a life estate in said property, by deed recorded April 7, 2008 in Book 435, at Page 928; and

WHEREAS, Roger E. Hopkins joins in the execution of this deed for the sole purpose of releasing his life estate; and Kevin A. Cutler, Michele Watkins Hopkins, Mack L. Peel, and Jay Ayers join in the execution of this deed for the sole purpose of releasing their marital rights.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the County of Washington, North Carolina, and more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED  
HEREIN BY REFERENCE.**

All or a portion of the property hereinabove described was acquired by Grantor by instrument recorded in Book 156, Page 196, Washington County Registry.

A map showing the above described property is recorded in Plat Book \_\_\_\_, Page \_\_\_\_ and referenced within this instrument.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee, their heirs, successors, and assigns, in fee simple.



AND THE GRANTOR COVENANTS with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

- Subject to 2011 taxes, easements, conditions and restrictions of record, if any.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

Roger E. Hopkins Sr. (SEAL)  
ROGER E. HOPKINS, SR.

NORTH CAROLINA

COUNTY OF CHowan

I, Donis S. Berryman, Notary Public for the County of CHowan, State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Roger E. Hopkins, Sr., Grantor(s). Witness my hand and official stamp or seal, this the 29<sup>th</sup> day of November, 2011.

Donis S. Berryman  
Notary Public  
My Commission Expires



IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

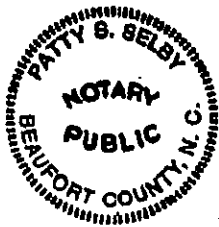
Katherine H. Cutler (SEAL)  
KATHERINE H. CUTLER

Kevin A. Cutler (SEAL)  
KEVIN A. CUTLER

NORTH CAROLINA

COUNTY OF Beaufort

I, Patty S. Selby, Notary Public for the County of Beaufort, State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Katherine H. Cutler and Kevin A. Cutler, Grantors(s). Witness my hand and official stamp or seal, this the 26th day of November, 2011.



Patty S. Selby  
Notary Public  
My Commission Expires:  
02/03/15

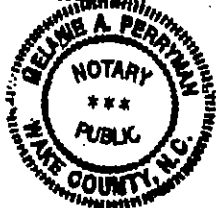
IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

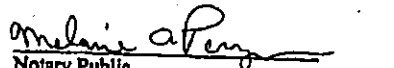
 (SEAL)  
SUSAN H. SHARP

NORTH CAROLINA

COUNTY OF Wake

I, Melanie A. Perryman, Notary Public for the County of Wake, State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Susan H. Sharp, Grantor(s). Witness my hand and official stamp or seal, this the 25<sup>th</sup> day of November, 2011.



  
Notary Public  
My Commission Expires: 11-25-2011

INWITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

Roger E. Hopkins, Jr. (SEAL)  
ROGER E. HOPKINS, JR.

Michele Watkins Hopkins (SEAL)  
MICHELE WATKINS HOPKINS

NORTH CAROLINA

COUNTY OF New Hanover

I, Jill W. Strickland, Notary Public for the County of New Hanover State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Roger E. Hopkins, Jr., and Michele Watkins Hopkins, Grantors(s). Witness my hand and official stamp or seal, this the 9th day of December, 2011.



Jill W. Strickland  
Notary Public  
My Commission Expires: 2/22/2013

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

David W. Hopkins (SEAL)  
DAVID W. HOPKINS

NORTH CAROLINA

COUNTY OF CHowan

I, Doris S. Berryman, Notary Public for the County of  
Chowan, State of North Carolina, certify that the following person(s) personally  
appeared before me this day, each acknowledging to me that he or she voluntarily signed  
the foregoing document for the purpose stated therein and in the capacity indicated:  
David W. Hopkins, Grantor(s). Witness my hand and official stamp or seal, this the  
29th day of November, 2011.  
D.S.B.

Doris S. Berryman  
Notary Public  
My Commission Expires: 10/29/12



IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

Deborah H. Peel (SEAL)  
DEBORAH H. PEEL

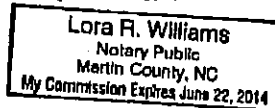
Mack L. Peel (SEAL)  
MACK L. PEEL

NORTH CAROLINA

COUNTY OF Martin

I, Lora R. Williams, Notary Public for the County of Martin, State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Deborah H. Peel and Mack L. Peel, Grantors(s). Witness my hand and official stamp or seal, this the 7<sup>th</sup> day of December, 2011.

Lora R. Williams  
Notary Public  
My Commission Expires: June 22, 2014



INWITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

Jeannette H. Ayers (SEAL)  
JEANNETTE H. AYERS

Jay Ayers (SEAL)  
JAY AYERS

NORTH CAROLINA

COUNTY OF Martin

I, Lora R. Williams, Notary Public for the County of Martin, State of North Carolina, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Jeannette H. Ayers and Jay Ayers, Grantors(s). Witness my hand and official stamp or seal, this the 7<sup>th</sup> day of December, 2011.

Lora R. Williams  
Notary Public  
Martin County, NC  
My Commission Expires June 22, 2014

Lora R. Williams  
Notary Public  
My Commission Expires: June 22, 2014

IN WITNESS WHEREOF, I have set my hand and seal this the  
9 day of November, 2011. SHR  
December, 2011 SHR

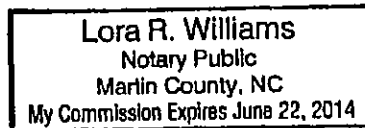
Jeanette H. Ayers (SEAL)  
JEANETTE H. AYERS

NORTH CAROLINA

COUNTY OF Martin

I, Lora R. Williams, Notary Public for the County of  
Martin, State of North Carolina, certify that the following person(s)  
personally appeared before me this day, each acknowledging to me that he or she  
voluntarily signed the foregoing document for the purpose stated therein and in the  
capacity indicated: Jeanette H. Ayers and Jay Ayers, Grantors(s). Witness my hand  
and official stamp or seal, this the 9<sup>th</sup> day of November, 2011.

December LEW



Lora R. Williams  
Notary Public  
My Commission Expires: June 22, 2014



9<sup>th</sup> IN WITNESS WHEREOF, I have set my hand and seal this the  
7 day of November, 2011.

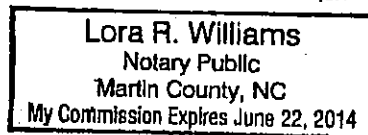
December  
DHP

Deborah H. Peel (SEAL)  
DEBORAH H. PEEL

NORTH CAROLINA

COUNTY OF Martin

I, Lora R. Williams, Notary Public for the County of  
Martin, State of North Carolina, certify that the following person(s)  
personally appeared before me this day, each acknowledging to me that he or she  
voluntarily signed the foregoing document for the purpose stated therein and in the  
capacity indicated: Deborah H. Peel and Mack L. Peel, Grantors(s). Witness my hand  
and official stamp or seal, this the ~~8<sup>th</sup>~~ <sup>9<sup>th</sup></sup> day of ~~November~~ <sup>December</sup>, 2011.  
LRW



Lora Williams  
Notary Public  
My Commission Expires: June 22, 2014

IN WITNESS WHEREOF, I have set my hand and seal this the  
\_\_ day of November, 2011.

Roger E. Hopkins, Jr. (SEAL)  
ROGER E. HOPKINS, JR.

NORTH CAROLINA

COUNTY OF New Hanover

I, Julie W. Strickland, Notary Public for the County of  
New Hanover, State of North Carolina, certify that the following person(s)  
personally appeared before me this day, each acknowledging to me that he or she  
voluntarily signed the foregoing document for the purpose stated therein and in the  
capacity indicated: Roger E. Hopkins, Jr., and Michele Watkins Hopkins, Grantors(s).  
Witness my hand and official stamp or seal, this the \_\_\_\_ day of November, 2011.

Julie W. Strickland  
Notary Public  
My Commission Expires:

2/22/2013



## **EXHIBIT F**

**Exhibit F is the "Qualifying Facility" Certification to be provided by the Operator.**

From: eFiling@ferc.gov  
Subject: **FERC Acceptance for Filing in QF12-162-000**  
Date: January 17, 2012 9:49:40 AM EST  
To: vickie.harris@sunenergy1.com, eFiling@ferc.gov

Acceptance for Filing  
-----

The FERC Office of the Secretary has accepted the following electronic submission for filing (Acceptance for filing does not constitute approval of any application or self-certifying notice):

- Accession No.: 201201175098
- Docket(s) No.: QF12-162-000
- Filed By: Plymouth Solar, LLC
- Signed By: Vickie Harris
- Filing Type: Qualifying Facility Application or PURPA Energy Utility Filing
- Filing Desc: Form 556 of Plymouth Solar, LLC under QF12-162.
- Submission Date/Time: 1/17/2012 9:23:07 AM
- Filed Date: 1/17/2012 9:23:07 AM

Your submission is now part of the record for the above Docket(s) and available in FERC's eLibrary system at:

[http://elibrary.ferc.gov/idmws/file\\_list.asp?accession\\_num=20120117-5098](http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20120117-5098)

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Accession Number: 20120117-5098

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**Description:**

Form 556 of Plymouth Solar, LLC under QF12-162.

**Category:****Library:**

Submittal

Electric

**Document Type:**

<b>Class:</b>	<b>Type:</b>
Application/Petition/Request	Qualifying Facility Application or PURPA Energy Utility Filing

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<b>Docket</b>	<b>SubDocket</b>	<b>Type</b>
QF12-162	000	On Document

**Correspondent:**

Type	Last Name	FI	MI	Affiliation
AUTHOR	Harris	V	L	Plymouth Solar, LLC
AGENT	Harris	V	L	SunEnergy1 LLC
RECIPIENT	Bose	K	D	Office of the Secretary, FERC

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Please include a current mail address, telephone number, and email address.

## EXHIBIT G

Exhibit G is the Certificate of Public Convenience and Necessity to be provided by the Operator, or evidence that no such certificate is required under North Carolina law.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. SP-1568, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

<p>In the Matter of Application of Plymouth Solar, LLC for a Certificate of Public Convenience and Necessity to Construct a 4.15-MW Solar Photovoltaic Electric Generating Facility in Washington County, North Carolina and for Registration as a New Renewable Energy Facility</p>	<p>) ORDER ISSUING CERTIFICATE ) OF PUBLIC CONVENIENCE ) AND NECESSITY AND ) ACCEPTING REGISTRATION ) AS A NEW RENEWABLE ) ENERGY FACILITY</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------

BY THE COMMISSION: On December 22, 2011, Plymouth Solar, LLC (Applicant) filed an application with the Commission seeking a certificate of public convenience and necessity (CPCN) pursuant to G.S. 62-110.1 for construction of a 2.4 MW solar photovoltaic electric generation facility to be located off of Mackeys Road and Industrial Park Road in Plymouth, North Carolina. The Applicant plans to sell the electricity generated by this facility to Dominion North Carolina Power (Dominion). The Applicant filed a registration statement for a new renewable energy facility contemporaneously with the application.

On February 8, 2012, Applicant filed an amendment to the application and to the registration statement specifying that the proposed facility would be rated at 4.15 MW.

The registration statement included certified attestations that: 1) the facility is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources; 2) the facility will be operated as a new renewable energy facility; 3) the Applicant will not remarket or otherwise resell any renewable energy certificates sold to an electric power supplier to comply with G.S. 62-133.8; and 4) the Applicant will consent to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers.

On February 9, 2012, the Commission issued an Order Requiring Publication of Notice, which required the Applicant to (1) publish notice of the application as required by G.S. 62-82(a) and file an affidavit of publication with the Commission, (2) mail a copy of the application and notice, no later than the first date that such notice is published, to the electric utility to which the Applicant plans to sell and distribute the electricity, and (3) file a certificate of service of such mailing to the utility. The Order also specified that if a complaint was received within 10 days after the last date of the publication of the notice, the Commission would schedule a public hearing to determine whether a CPCN should be awarded. The Order further specified that if the Commission received



no complaint within the time specified above and if the Commission did not order a hearing upon its own initiative, it would enter an order awarding the CPCN.

On March 23, 2012, the State Clearinghouse filed comments resulting from the routing of the application through the Clearinghouse review. Because of the nature of the comments, the cover letter indicated that no further action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On April 12, 2012, the Applicant filed a signed and verified certificate of service stating that the last day of publication of notice was completed on March 14, 2012. No complaints have been received in this docket.

The Public Staff presented this matter to the Commission at its Regular Staff Conference on May 14, 2012. The Public Staff recommended that the Commission approve the application, issue a CPCN and accept the registration statement.

After careful consideration, the Commission finds good cause to approve the application and issue the attached certificate of public convenience and necessity for the proposed solar photo-voltaic electric generating facility off of Mackeys Road and Industrial Park Road in Plymouth, North Carolina. The Commission further finds good cause, based upon the foregoing and the entire record in this proceeding, to accept registration of the facility as a new renewable energy facility. The Applicant shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year. The Applicant shall be required to participate in the NC-RETS REC tracking system (<http://www.ncrets.org>) in order to facilitate the issuance of RECs:

IT IS, THEREFORE, ORDERED as follows:

1. That the requested certificate of public convenience and necessity should be, and is hereby, granted.
2. That Appendix A shall constitute the certificate of public convenience and necessity issued to Plymouth Solar, LLC for 4.15 MW of solar photovoltaic electric generation to be constructed off of Mackeys Road and Industrial Park Road in Plymouth, North Carolina.
3. That the registration statement filed by Plymouth Solar, LLC for its solar photo-voltaic electric generating facility located in Washington County, North Carolina, as a new renewable energy facility shall be, and is hereby, accepted.

4. That Plymouth Solar, LLC shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year.

ISSUED BY ORDER OF THE COMMISSION.

This the 17<sup>th</sup> day of May, 2012.

NORTH CAROLINA UTILITIES COMMISSION

*Gail L. Mount*

Gail L. Mount, Chief Clerk

Commissioner Susan W. Rabon did not participate.

Bh051712.02

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. SP-1568, SUB 0

Plymouth Solar, LLC  
1178 C River Highway  
Mooresville, North Carolina 28117

is hereby issued this

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
PURSUANT TO G.S. 62-110.1**

for 4.15 MW of solar photo-voltaic electric generation

located at

off of Mackeys Road and Industrial Park Road in Plymouth, North Carolina,

subject to all orders, rules, regulations and conditions  
as are now or may hereafter be lawfully made  
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 17<sup>th</sup> day of May, 2012.

NORTH CAROLINA UTILITIES COMMISSION

*Gail L. Mount*

Gail L. Mount, Chief Clerk

*E-100, 5.6127*  
**POWER PURCHASE AGREEMENT  
VIRGINIA ELECTRIC AND POWER COMPANY**

EXECUTION COPY

**FILED**

**FEB 28 2013**

Clerk's Office  
N.C. Utilities Commission

This POWER PURCHASE AGREEMENT ("PPA") is made as of August 16, 2012 ("Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service company with its principal office in Richmond, Virginia ("Company"), and Energy Extraction Partners LLC ("Operator") (hereinafter also referred to individually as "Party" and collectively as "Parties").

WHEREAS, Operator owns and operates a municipal waste-to-energy generating facility that is located at 489 Eskimo Hill Road, Stafford, Virginia, 22554 ("Facility"), which Facility consists of four generators with a total nameplate capacity of 19,000 kW and a dependable capacity declared by the Operator to be 15,270 kW ("Dependable Capacity"), and which shall be connected to the Company's electrical distribution system;

WHEREAS, Operator submits that the Facility qualifies as a qualifying facility ("QF" or "Qualifying Facility") under federal law set forth in the Public Utility Regulatory Policies Act of 1978 ("PURPA") (codified at 16 U.S.C. § 824a-3);

WHEREAS, Operator desires to sell exclusively to the Company and the Company desires to purchase the net electrical output ("NEO") delivered by the Facility, consistent with the terms and conditions set forth herein below;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

1. Agreement:

(a) References herein to the "Agreement" shall mean this Power Purchase Agreement, the Company's current Virginia Rate Schedule 19 ("Schedule 19") as may be changed, approved and adopted by the Virginia State Corporation Commission ("SCC") from time to time that is attached hereto as Exhibit A and made a part hereof for the limited purpose of supplementing such terms herein that may specifically reference Schedule 19, and the other exhibits identified below. The exhibits attached hereto and made a part hereof are:

Exhibit A: Schedule 19. Upon SCC approval of any subsequent Schedule 19, Exhibit A shall be deemed amended and the subsequent Schedule 19 shall replace and substitute for the past Schedule 19 without further writing.

Exhibit B: The Notice Contact Schedule containing the names of the Parties' respective representatives, their addresses, and other contact information to which notice, invoices, and other communications shall be sent.

Exhibit C: A description of the Facility, a map indicating its specific geographical location, and a one-line diagram of the Facility

Exhibit D: Documentation evidencing the Facility's certification as a Qualifying Facility under PURPA, which shall be supplied by the Operator on or prior to commencement of the Initial Delivery Year as defined in Section 4, and as supplemented during the term of this Agreement as requested by the Company.

Exhibit E: Supplemental Representations of Legal Compliance.

(b) Each Party specifically acknowledges that this Agreement is the product of voluntary negotiations with full understanding that Schedule 19 does not govern nor apply to this Agreement except as expressly provided in this Agreement. In particular only Articles I, II, III, VI, and VII of Schedule 19 shall be applicable to this PPA. Seller agrees that by execution of this Agreement it hereby waives its rights to the terms and conditions of Schedule 19 except as referenced in this Agreement. Consequently, in the event that this Agreement shall conflict with Schedule 19, this Agreement shall govern.

2. Company's Right to Purchase Renewable Energy & Capacity: For the purposes of this Agreement, the Parties agree that NEO shall consist of both the dependable capacity and the energy output of the Facility, including any renewable energy attributes that may be associated with the Facility's use of municipal waste as a renewable fuel source for electric generation. Commencing on the first day of the Initial Delivery Year as defined in Section 4 below and not before, Operator shall sell and deliver and the Company shall purchase and receive at the Delivery Point, as defined herein below, an amount of NEO in any hour up to but not to exceed 110% of the Dependable Capacity.

(i) the Company's obligation to purchase and to take delivery of the NEO shall be excused as a result of any failure due to an outage, equipment failure, equipment replacement, planned, routine or emergency maintenance, or other similar event associated with the Company's distribution system; and

(ii) the Company shall have the right to reduce NEO received from Operator as set forth in Article VI, Section G of Schedule 19 except the reductions shall be for 250 off-peak hours and not 1000 off-peak hours.

Operator shall not sell any of the renewable energy and/or capacity output or NEO of the Facility to any third-party entity, including any renewable energy and/or capacity that may become available from the Facility in excess of 110% of the Dependable Capacity. Unless approved by Company in its sole discretion and in writing, the total kWhs from the Facility used in any hour for payments in any Delivery Year shall not exceed 110% of the Dependable Capacity.

3. Renewable Energy Attributes: Renewable energy as a component of the NEO generated by the Facility shall include bundled energy and its renewable energy attributes, as well as any and all associated renewable energy credits (RECs) representing such attributes. For purposes of this Agreement, the renewable attributes and/or RECs bundled hereunder shall be defined consistent with the definition in any applicable federal or state law establishing the renewable portfolio standards ("RPS") program or other similar program under which the Facility may be certified or registered as a renewable energy resource. Upon Company's reasonable request, Operator shall (i) file with the North Carolina Utilities Commission ("NCUC") in accordance with the NCUC

Rule R8-66 or any successor rule, no later than the date reasonably requested by Company, such information and certifications as necessary to fulfill all the requirements for the Facility to earn renewable energy certificates under N.C. Gen. Stat. 62-133.8 ; and (ii) maintain such registration in accordance with NCUC Rule R8-66 or any successor rule during the Term of this Agreement. In addition, Company may reasonably request Operator to file for certification as a renewable energy resource qualified to earn RECs pursuant to another state's RPS requirements, and Operator shall use good faith efforts to cooperate with Company's request.

4. Term: A Delivery Year shall mean 365 consecutive days, except in a leap year shall mean 366 consecutive days. The Initial Delivery Year shall be the first Delivery Year commencing on the Commercial Operations Date ("COD"). The anticipated COD is November 1, 2013. The Term hereunder shall continue through the end of the Initial Delivery Year and through each successive Delivery Year thereafter for a total of twenty (20) Delivery Years (the "Initial Term"); provided however, in the event that Seller shall fail to achieve (i) Commencement of Construction, as defined in Section 11(b)(iii), by February 1, 2013 or (ii) a Commercial Operations Date, as defined in Section 5 below, by no later than May 31, 2014, then Company shall have the right to immediate cancellation of this Agreement, without a cure period with written notice to Operator, with neither Party being further liable to the other Party. Unless written notice is given by either Party to the other Party at least sixty (60) days prior to the end of the Initial Term to terminate at the end of the Initial Term, this Agreement shall automatically renew for successive Delivery Years and shall continue to renew unless written notice to terminate is given by either Party to the other Party at least sixty (60) days prior to the conclusion of the then current Delivery Year period. Notwithstanding the termination of this Agreement, those provisions of the Agreement that provide for final accounting, billing and payment resolution of any billing dispute or other dispute, and indemnification as provided herein shall continue in effect beyond the termination as necessary.

5. Preconditions for Company's Obligation and COD: Notwithstanding Section 2 or other provisions in this Agreement and without limiting any other obligations of Operator in this Agreement, Company's obligation to purchase under this Agreement is contingent upon Operator's submittal to Company all of the documents identified herein this Section 5 (a) through (g). The COD shall be the first date that Company has received all of the following documents:

- (a) An affidavit certifying that (i) the Facility has been permanently constructed, synchronized with and has delivered electrical output to the Company's system; and (ii) such action have been witnessed by an authorized Company representative;
- (b) Written notice from the Operator specifying the Commercial Operations Date, and certifying that the Facility is ready to begin commercial operations as a Qualifying Facility, including provision of the currently effective self-certification or formal FERC certification, as applicable, of the QF status of the Facility;
- (c) Evidence of a valid Interconnection Service Agreement ("ISA") in accordance with Section 11.

- (d) A copy of a Certificate of Public Convenience and Necessity for the construction and operation of the Facility which shall be in full force and effect as of the COD, (or evidence that no such certificate is required under Virginia law);
- (e) A certificate of insurance coverage or policies required by Section 9 of this Agreement;
- (f) Such documentation and evidence of the right to operate the Facility in accordance with the terms of this Agreement; permits, approvals and/or licenses as Company may reasonably request, including without limitation air permits, leases and/or purchase agreements; and
- (g) Map and related written description identifying the specific location of the Facility, which shall be consistent with the Recitals hereto; a one-line electrical diagram of the Facility.

6. **Price:** The payment Company shall provide to Operator for the NEO delivered each Billing Period under this Agreement shall comprise both a renewable energy price component of 3.4 cents per kWh and a capacity price component of 0.4 cents per kWh. Both the renewable energy component and the capacity component of NEO shall be bundled together and paid at the fixed and bundled rate of 3.8 cents per kWh fixed for the Term of the Agreement. Payment made by the Company under this Agreement at the bundled rate for NEO shall be the full and only compensation for the Dependable Capacity and renewable energy. Should the SCC at any time prohibit the Company from recovering from its customers payments made or to be made hereunder, the Parties will undertake to negotiate mutually agreeable prices for the purchase of renewable energy and Dependable Capacity from the Facility, such that the SCC will allow the Company to recover them from its customers. Should such an agreement not be reached, either Party may seek arbitration or other remedies at the SCC.

7. **Metering, Billing and Payment:** The Company shall meter the renewable energy delivered from the Facility on the high voltage side of the step up transformer (the "Delivery Point"). The Company shall read the Facility's meter in accordance with the Company's established meter reading schedule (the "Billing Period"). Operator shall pay the monthly metering charge set forth in Article II of Schedule 19 to cover the cost of meter reading and processing, as such charge may be amended from time to time subject to SCC approval. By the first business day after thirty days following the meter read date, the Company shall make payment to Operator equal to the amount owed by the Company for the delivered capacity and renewable energy under Section 6 above, net of the monthly charge for metering owed by the Operator. All payments shall be by wire transfer to Operator's wire account designated on Exhibit B or as otherwise reasonably requested in writing by Operator. The Company shall also provide at the time of payment a billing statement showing the beginning and ending meter reading for the applicable Billing Period, the purchase amount it owes and the monthly metering charge owed by the Operator for metering that was netted against the purchase amount. In the event that any data required for billing purposes under this Section 7 is not available, the Company shall use its best estimate based upon historical data to determine the Billing Period payment owed Operator. Any adjustments resulting from the use of estimates shall be made in the subsequent Billing Period.

If in any month the Company's billing statement shows a net amount due to Company as a result of the monthly charge for metering being greater than the purchase amount owing under Section 6, the Operator shall make such payment by wire transfer to the Company's wire account

designated on Exhibit B within 28 days of the date of the invoice. Failure by the Operator to make such payment may result in disconnection of the Facility; provided, however, such disconnection shall not relieve the Operator of its obligation to pay any charges due for metering services under this Agreement so long as such meter(s) remain in service. At the Company's discretion, the Company may choose to add any amount due to Company under this Agreement to the bill the Operator receives from the Company for power the Operator purchases from the Company at this Facility's site. In addition, any payment due to the Operator hereunder shall be subject to withholding by the Company pursuant to Section 12(d) of this Agreement.

8. Operator's Representations: Operator makes the following representations deemed given as of the Effective Date hereunder and continuing to be made throughout the Term of the Agreement:

- (a) The Facility shall continue for the term of this Agreement to meet the requirements for a Qualifying Facility under regulations adopted by the FERC to implement PURPA that are in effect as of the Effective Date of this Agreement (18 Code of Federal Regulations Part 292).
- (b) It has the right to operate the Facility consistent with the terms of this Agreement and has the necessary authority and power to execute this Agreement and to perform the obligations set forth in this Agreement.
- (c) It has all rights, title and interest in the Dependable Capacity and renewable energy, including the associated renewable attributes and RECs, and that it is transferring such rights and title free and clear of any liens, taxes, claims, security interest or other encumbrances.
- (d) It has not sold or transferred and will not in the future sell or transfer the capacity, the renewable energy, and/or the associated renewable energy attributes and/or RECs, to any other entity.
- (e) It has obtained any and all governmental authorizations, permits, approvals and/or licenses necessary for the operation of the Facility and shall keep all such authorizations, permits, approvals and/or licenses current and in effect for the term of this Agreement.
- (f) It will maintain and operate the Facility in a safe and prudent manner and in conformance with all applicable laws and regulations.
- (g) To the extent that it is required to comply with the federal statutes and regulations specified in Exhibit E, it is and shall remain in compliance with such laws.
- (h) It will maintain, at the request of Company, registration as a renewable energy facility in accordance with NCUC Rule R8-66 or any successor rule.

9. Insurance and Indemnification: Operator shall hold during any Delivery Year hereunder, liability insurance coverage specifically and solely for the Facility in the amount of \$1,000,000, which amount shall be modified using commercially reasonable standards in accordance with any prior written notice by the Company. Operator shall initially provide the Company written evidence of liability insurance coverage prior to the commencement of the Initial Delivery Year



hereunder. Thereafter, it shall provide additional documentation evidencing current coverage when requested by the Company. In addition, Operator shall provide thirty (30) days prior written notice of any cancellation or non-renewal of such coverage. Operator further agrees to indemnify and hold the Company, its officers, directors and employees harmless for any and all claim, liabilities, losses or demands for damages to real property or tangible personal property (including the Company's property) and injury or death to persons arising out of, resulting from or in any manner caused by the presence, operation or maintenance of any part of the Facility, except to the extent that such claims, liabilities, losses or demands arise from the Company's sole negligence or intentional misconduct.

10. Causes for Termination: Any one of the following actions by the Operator shall constitute a material breach of this Agreement for which the Company shall have the right in its sole discretion, to either (i) suspend its purchases hereunder until such time as the Operator has remedied the breach and is in compliance with this Agreement; or (ii) cancel this Agreement upon fifteen (15) days prior written notice to the Operator:

- (a) Failure to deliver Dependable Capacity and/or renewable energy as required under this Agreement for any period longer than 180 consecutive days at any time during the term of the Agreement regardless of whether this period bridges any two consecutive Delivery Years or between the Initial Delivery Year and the consecutive Delivery Year.
- (b) Failure to pay any applicable bills when due and payable, including any monthly charge for metering under Section 7.
- (c) Any event in which a representation made by the Operator, as set forth in Section 8 or elsewhere in this Agreement, is proven to be wrong or incorrect in any material respect either when made or at any time during the term of this Agreement.
- (d) Failure of the Operator to provide such documentation as is required under this Agreement.
- (e) Failure to meet the requirements necessary to maintain QF status or revocation of its QF certification for any reason;
- (f) Delivery or supply of electrical output, including the renewable energy attributes or associated RECs to any third party in violation of Company's exclusive rights under Section 2;
- (g) An increase in the net electrical output of the Facility above 110% of the Dependable Capacity without the prior written approval of Company;
- (h) Failure of the Operator to maintain liability insurance coverage in accordance with the requirements of Section 9 of this Agreement.
- (i) Failure at any time to maintain and have in effect a valid Interconnection Service Agreement (if required under Section 11 of this Agreement) with Dominion Virginia Power.

Early termination shall not relieve either Party for any amounts a Party may owe the other Party under this Agreement for performance prior to termination under this Section 10.

In the event Operator fails to perform in any way, materially or non-materially, any other obligations which failure would not constitute an individual event of default under Section 10 above, Operator shall be given notice and fifteen (15) days from such notice to cure such non-performance. Notwithstanding any cure period, Company shall not be obligated to purchase any renewable energy or Dependable Capacity under this Agreement while any such breach remains uncured. If Operator fails to cure its non-performance within such fifteen (15) days from the date of Company's notice, Company shall have the right to terminate this Agreement.

11. Operator's Pre-COD Obligations.

- (a) Prior to the start of the Initial Delivery Year, Operator shall provide evidence of a valid ISA or evidence that one is not required. In the event that Operator shall determine that the costs of any required utility facility upgrades pursuant to an ISA shall render this Agreement uneconomical, Operator may, following approval from Company which approval shall not be unreasonably withheld terminate this Agreement by providing reasonable notice of termination in writing to the Company, provided however, that Operator shall provide Company with sufficient information in writing including Operator's reasoning supporting Operator's determination that the cost of the facility upgrades would render the Agreement uneconomical. This Agreement shall be subject to the ISA, and to the extent that any term or condition of this Agreement or provision of Schedule 19, including, but not limited to, Article VI, shall conflict with the ISA, the ISA shall govern.
- (b) Operator shall be responsible for the design, installation and operation of the Facility and interconnection with Company's electrical system.
  - i. Within thirty (30) days of the Effective Date hereunder, Operator shall submit to Company its proposed schedule for construction, start-up and testing of the Facility with updated schedules and status reports to be submitted to Company on or before January 15, April 15, July 15, and October 15 of each year until the COD. Such status reports shall discuss the progress of the project in a format, which is acceptable to the Company. In the event that Operator shall fail to provide two consecutive schedules and status reports under this Section 11(b) and such failure is not remedied within fifteen (15) days from the date of Company's notice to Operator of its failure to provide such reports, Company shall have the right to terminate.
  - ii. The Company shall have the rights to monitor the construction, start-up and testing of the Facility at any time before or after the COD. Operator shall provide Company with written notice of commencement of construction within 15 days for its commencement, as defined in 11(b)iii. below. Operator shall cooperate in such physical inspection of the Facility as may be reasonably required by Company during and after completion of construction. Company's technical review and inspection of the Facility shall not be construed as endorsing the design thereof or as any warranty of the safety, durability or reliability of the Facility.

- iii. *Commencement of Construction:* Operator shall be deemed to have commenced construction of the Facility on the first day upon which all of the following have occurred: (1) the issuance by Operator to its construction contractor for the Facility of a written unconditional Notice-to-Proceed; (2) the mobilization of major construction equipment and construction facilities on the Facility site; and (3) the commencement of major structural excavation and structural concrete work relating to a major component of the Facility such as the power island consistent with having commenced a continuous process of construction relating to the Facility.

12. Miscellaneous Provisions:

- (a) In no event shall either Party be liable to the other Party for any special, indirect, incidental or consequential damages whatsoever, except that such limitation on liability shall not apply to any indemnification obligation set forth in Section 8 or as otherwise expressly stated in this Agreement.
- (b) This Agreement shall inure to the benefit of and be binding upon the heirs, successors or assigns of each of the Parties. Operator shall not assign this Agreement without the prior written consent of the Company, which shall not be unreasonably withheld. In the event of assignment by Operator, Operator shall pay the Company within thirty (30) days from the effective date of the assignment an amount equal to \$10,000 escalated at a rate of 2.5% per year prorated daily from the Effective Date of this Agreement until the effective date of such assignment ("Assignment Payment"); provided, however, assignment of this Agreement by the Operator in connection with an initial financing arrangement which is finalized within nine months of the Effective Date of this Agreement and to which the Company has consented shall not be subject to the payment requirement provided herein. Failure to obtain the consent of the Company or to pay the Company its Assignment Payment shall cause the assignment to be null and void.
- (c) The Parties shall use good faith efforts to resolve any disputes hereunder promptly, including, but not limited to, invoicing and payment disputes. If after such good faith negotiations, the Parties are unable to resolve the dispute within thirty (30) days from the initial notice of such dispute, the Parties may (i) negotiate during the next succeeding thirty (30) day period an arbitration agreement that shall specify an arbitrator and specified procedures for binding arbitration; or (ii) should the Parties forego negotiation under subsection (i) or in the event no agreement is reached under subsection (i), pursue any and all available legal remedies in accordance with this Agreement pursuant to the laws of the Commonwealth of Virginia; provided, however, that the SCC does not have jurisdiction over the subject matter of the dispute.
- (d) The Company shall have the right to set-off, net or recoup against amounts owed by the Company to the Operator under this Agreement any amount owed by the Operator to the Company under this Agreement or any other agreement or tariff of the Company, including payment due for the sale of electricity by the Company to the Operator or for damages or indemnification due the Company by the Operator.

- (e) During the term of this Agreement and continuing for an additional period of at least two (2) years from the date of termination of this Agreement, the Parties shall keep all records associated with the performance under this Agreement.
- (f) All notices required hereunder, and all other correspondence and payments concerning this Agreement shall be addressed to the Parties' representatives in accordance with the Notice Contact Schedule attached hereto as Exhibit B, which may be revised as needed by either Party. All notices shall be in writing and shall be sent by any of the following methods: hand delivery, reputable overnight courier, certified mail return receipt requested, facsimile transmission, or Email, unless noted otherwise on the Notice Contact Schedule. A notice shall be effective on the Business Day when received if received during 7:30 am to 5:30 pm on a Business Day; otherwise, the notice shall be deemed to have been received on the following Business Day, where a Business Day shall mean Monday through Friday excluding holidays recognized by Company.
- (g) This Agreement is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement with respect to the purchase and sale of renewable energy and Dependable Capacity. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are hereby abrogated and withdrawn.
- (h) This Agreement, including the Exhibits thereto except as otherwise provided herein for Exhibit A, can be amended only by agreement between the Parties in writing.
- (i) The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder. In the event any provision of this Agreement, or any part or portion thereof, shall be held to be invalid, void or otherwise unenforceable, the obligations of the Parties shall be deemed to be reduced only as much as may be required to remove the impediment.
- (j) Operator agrees to provide Company by July 1<sup>st</sup> of each year of the Term hereunder such information for the preceding year that will allow Company to determine Operator's continuing compliance with its QF requirements after COD, which shall include, but not be limited to the following documentation:
  - i. Copies of any subsequent revisions or amendments to the Facility's QF Certification;
  - ii. Details of any changes in MW rating/size, fuel content and input or ownership structure of the Facility.
  - iii. Any other information that Company may reasonably request to facilitate Company's monitoring of the QF requirements.
- (k) The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid

in any manner in the construction of this Agreement. This Agreement may be photocopied and stored on computer tapes and disks ("Imaged Agreement"). If an Imaged Agreement is introduced as evidence in any arbitration, administrative or judicial proceeding, it shall be considered as admissible evidence.

- (l) Such certifications and documents referenced in this Agreement and required by the terms hereof (with the exception of the Interconnection Agreement) are hereby incorporated herein and made a part of this Agreement.
- (m) Operator shall provide documentation evidencing (i) Operator's continued compliance as a Qualifying Facility; (ii) Operator's right to operate the Facility; and/or (iii) such permits, approval and/or licenses necessary for the operation of the Facility upon the reasonable request of the Company at any time during the term of this Agreement.

13. Events of Force Majeure. Neither Party shall be considered in default under this Agreement or responsible to the other Party in tort, strict liability, contract or other legal theory for damages of any description for any interruption or failure of service or deficiency in the quality or quantity of service or any other failure to perform any of its obligations hereunder to the extent such failure occurs without negligence, errors, omissions or intentional acts, or failure to comply with any law, rule, regulation, or order or ordinance or for any breach or default of this Agreement on the part of that Party and is caused by factors beyond that Party's reasonable control, which by the exercise of reasonable diligence that Party is unable to prevent, avoid, mitigate or overcome, including, but not limited to, storm, flood, lightning, earthquake, explosion, equipment failure, civil disturbance, labor dispute, act of God or public enemy, action or inaction of a court or public authority, fire, sabotage, war, explosion, curtailments, or any other cause of similar nature beyond the reasonable control of that Party (any such event, "Force Majeure"). Events of Force Majeure shall not include (i) Operator's ability to sell the renewable energy (bundled or separately as unbundled energy and renewable attributes or RECs) or capacity where applicable, at a price greater than the price set forth in this Agreement; (ii) Operator's failure to secure marketable fuel sources or any reduction in the availability of fuel resource used by the Facility to generate renewable energy; (iii) the withdrawal of facilities from operation for maintenance or repair resulting in a forced outage unless such withdrawal for repair is the direct result of a separate Force Majeure event. In addition, nothing contained in this Section or elsewhere in this Agreement shall excuse Operator or Company from strict compliance with the obligation of the Parties to relating to timely payments; provided, however, neither Party shall be required to pay for any obligation the performance of which is excused by an event of Force Majeure.

- (a) *Use of Due Diligence:* Each Party shall have the obligation to operate in accordance with Good Utility Practice, as that term is defined by the Federal Energy Regulatory Commission (FERC), at all times and to use due diligence to overcome and remove any cause of failure to perform.
- (b) *Notice of Force Majeure:* If a Party relies on the occurrence of an event of Force Majeure described above as a basis for being excused from performance of its obligations under this Agreement, then the Party relying on the Force Majeure event shall:
  - i. Provide within forty-eight (48) hours written notice of such Force Majeure event or potential Force Majeure to the other Party, giving an estimate of its expected

- duration, an explanation of the circumstances supporting the Party's claim as an event of Force Majeure, and the probable impact on the performance of its obligations hereunder;
- ii. Exercise all reasonable efforts to continue to perform its obligations under this Agreement;
  - iii. Expeditiously take action to correct or cure the Force Majeure event excusing performance; provided, however, that settlement of strikes or other labor disputes will be completely within the sole discretion of the Party affected by such strike or labor dispute;
  - iv. Exercise all reasonable efforts to mitigate or limit damages to the other Party; and
  - v. Provide prompt notice to the other Party of the cessation of the Force Majeure event giving rise to its excuse from performance. All performance obligations hereunder shall be extended by a period equal to the term of the resultant delay.

If a Party responding to a Force Majeure event has the ability to obtain, for additional expenditures, expedited material deliveries or labor production which would allow a response to the event in a manner that is above and beyond Good Utility Practice, and such a response could shorten the duration of the Force Majeure event, the Party responding to the event may, at its discretion, present the other Party with the option of funding the expenditures for expediting material deliveries or labor production in an effort to reduce the duration of the event and economic hardship. Each such opportunity will be negotiated on a case-by-case basis by the Parties.

14. Scheduled Outages: Operator shall provide written notice of any Scheduled Outage in advance of such Scheduled Outage to the maximum extent practicable, but in no event less than ninety (90) days prior to the Scheduled Outage. Company may request rescheduling of the Scheduled Outage with proposed dates and Operator shall use reasonable efforts to accommodate Company's request. In no event shall Operator plan any Scheduled Outage during the months December, January, and February or during the period June 15 and extending through September 15 of any year during the Term. Operator may plan multiple Scheduled Outages on an annual kWh basis not to exceed the kWhs that are determined by the formula 500 hours x Dependable Capacity in effect at the beginning of each year to which the maintenance schedule applies.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the 16 day of August, 2012

ENERGY EXTRACTION PARTNERS, LLC

By: Joseph D. Yavorski

Name: Joseph D. Yavorski

Title: Managing Partner

VIRGINIA ELECTRIC AND POWER COMPANY

By: J L Neal

Name: Mr. James L. Neal

Title: Authorized Representative

Exhibit A  
Schedule 19  
Power Purchases From  
Cogeneration and Small Power Production  
Qualifying Facilities



Exhibit B

Notice Contact Schedule

Notices under the Agreement sent via E-mail shall be followed by a hard copy via US mail or facsimile

To: VIRGINIA ELECTRIC & POWER COMPANY:

NOTICES, INVOICES, SCHEDULING & CORRESPONDENCE:

Virginia Electric and Power Company  
Attn: Director, Power Contracts  
Innsbrook 3 SE  
5000 Dominion Blvd  
Glen Allen, VA 23060  
Phone: 804-273-4433  
Fax: 804-273-2951  
E-MAIL: bob.trexler@dom.com

PAYMENTS:

By Wire: Company: Virginia Electric and Power Company  
Bank: Mellon Bank  
ABA #: 043000261  
Account #: 1156525

To: Energy Extraction Partners.

NOTICES & CORRESPONDENCE:

Address: 8520 Spruce Mountain Rd Ste 103 Larkspur, CO 80118  
Attention: Joseph D. Yavorski  
Phone: 303-250-1611  
Fax: 303-683-2387  
E-MAIL: jyavorski@eep-ces.com

**BILLING & PAYMENTS:**

Address: 8520 Spruce Mountain Rd Ste 103 Larkspur, CO 80118  
Attention: Joseph Yavorski  
Phone: 303-250-1611  
Fax: 303-683-2387  
E-MAIL: jyavorski@eep-ces.com

By Wire: Company: Energy Extraction Partners  
Bank: Bank of the West  
ABA #: 001603  
Account #: 027714444

**OPERATIONS:**

Address: 8520 Spruce Mountain Rd Ste 103 Larkspur, CO 80118  
Attention: Rod Flores  
Phone: 303-621-6658  
Fax: 303-683-2387

Exhibit C

A description of the Facility, a map indicating its specific geographical location, and a one-line diagram of the Facility.

Exhibit D

Documentation evidencing the Facility's certification as a Qualifying Facility under PURPA, to be included upon presentation by the Operator.

Exhibit E

Supplemental Representations of Legal Compliance

Operator warrants that it is and shall continue to be in compliance with all applicable provisions of the following federal law:

- Executive Order 11246, as amended;
- § 503 of the Rehabilitation Act of 1973, as amended;
- § 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, together with the implementing regulations set forth in 41 C.F.R. §§ 60.1, 60-250, and 60-741;
- The applicable provisions relating to the utilization of small minority business concerns as set forth in 15 U.S.C. § 637, as amended.

In addition, Operator agrees that

- The equal opportunity clause set forth in 41 C.F.R. § 60-1.4 and the affirmative action clauses set forth in 41 C.F.R. § 60-250.4 and 41 C.F.R. § 60-741.4 and the clauses relating to the utilization of small and minority business concerns set forth in 15 U.S.C. § 637(d) (3) and 48 C.F.R. § 52-219.9 are hereby incorporated by reference and made a part of this Agreement.
- Where this Agreement has a value of more than \$500,000, it shall adopt and comply with a small business and small disadvantaged business subcontracting plan that shall conform to the requirements set forth in 15 U.S.C. § 637(d)(6).

This Exhibit E shall apply to Operator only to the extent that:

- a) Such provisions are required of Operator under existing law,
- b) Operator is not otherwise exempt from said provisions and
- c) Compliance with said provisions is consistent with and not violative of 42 U.S.C. § 2000e et seq., 42 U.S.C. § 1981 et seq., or other acts of Congress.

**FILED**

**FEB 28 2013**

Clerk's Office  
N.C. Utilities Commission

*E-100, 5-6127*

**AMENDMENT NO. 6  
TO THE  
THIRD AMENDED AND RESTATED AGREEMENT**

This AMENDMENT NO. 6 TO THE THIRD AMENDED AND RESTATED AGREEMENT (this "Amendment") is entered into as of this 24<sup>th</sup> day of October, 2012 between RockTenn CP, LLC, a Delaware limited liability company, as successor-in-interest by merger to Smurfit-Stone Container Corporation ("RockTenn"), and VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation ("Dominion Virginia Power") (each a "Party" and collectively, the "Parties").

**WHEREAS**, RockTenn and Dominion Virginia Power entered into a Third Amended and Restated Agreement dated as of October 25, 2004, which was amended as of October 23, 2008, as of February 25, 2009, as of October 26, 2009, as of October 26, 2010, and as of October 26, 2011 (collectively the "Agreement");

**WHEREAS**, the Agreement's term expires on October 26, 2012;

**WHEREAS**, the Parties desire to extend the term of the Agreement and to amend certain other provisions as described in this Amendment.

**NOW, THEREFORE**, in consideration of the mutual covenants and other good and valuable consideration described herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. Unless otherwise defined in this Amendment, all capitalized terms shall have the meanings given to them in the Agreement.

2. Effective Date. This Amendment shall be effective as of October 26, 2012.

3. Amendment.

(a) Section 1.17 shall be deleted in its entirety.

(b) Section 2.1 shall be deleted in its entirety and replaced with the following:

"The term of this Agreement shall commence on the Effective Date and shall expire on October 26, 2013 (the "Initial Term"), unless earlier terminated in accordance with its terms. Following the end of the Initial Term (and any renewal term), the Agreement shall automatically renew for successive periods of one (1) year unless either party gives written notice no less than ninety (90)

days prior to the end of the then-current term that it does not wish to renew the Agreement.”

(c) Section 4.3(a) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(a) For Net Electrical Output delivered to Dominion Virginia Power, Dominion Virginia Power shall pay RockTenn at the Energy /Capacity NEO Payment Rate, which shall equal the sum of (i) the energy rate of ninety-five percent (95%) of the PJM hourly Day-Ahead Dominion Zone Locational Marginal Price, and (ii) the daily capacity rate equal to 98% of the applicable PJM Reliability Pricing Model (RPM) Base Residual Auction (BRA) price multiplied by the Facility’s 5CP Contribution Average. The 5CP Contribution Average is defined as the Facility’s average NEO during the 5 coincident peak hours used by PJM to determine the DOMLSE capacity obligation for the subsequent RPM BRA, typically occurring three years prior to the subject RPM Planning Year. Exhibit B shows calculations of daily capacity rates from October 26, 2012 through May 31, 2016, which is the last day of the last RPM Planning Year for which an RPM BRA price has been determined as of October 26, 2012.”

(d) Exhibit B shall be deleted in its entirety and replaced with Exhibit B attached hereto.

4. Entire Agreement; Conflicts. This Amendment and the Agreement represent the entire agreement between the Parties with respect to the subject matter hereof and no oral or written representation, warranty, course of dealing, or trade usage not contained or referenced herein shall be binding on either Party. In the event of a conflict between the terms of this Amendment and the Agreement, the terms of this Amendment shall control. Only an instrument in writing executed by the Parties may amend this Amendment.

5. No Other Changes. Except as expressly set forth in this Amendment, all other provisions of the Agreement remain unchanged and in full force and effect.

6. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together constitute one instrument.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Amendment effective as of the date first written above.

ROCKTENN CP, LLC

By: Robert B. McIntosh

Name: Robert B. McIntosh

Title: EVP + General Counsel  
neg

VIRGINIA ELECTRIC AND POWER COMPANY

By: James L. Neal

Name: James L. Neal

Title: Authorized Representative



EXHIBIT B  
RockTenn Capacity Value Calculations for NEO During PJM 5 CP Hours

RPM Planning <u>Year</u> <sup>1</sup>	5 CP Year <u>in Forecast</u>	5CP Contribution <u>Average</u> <sup>2</sup>	RPM <u>BRA Price</u> <sup>3</sup>	98% of <u>RPM BRA</u>	Daily <u>Capacity Rate</u> <sup>4</sup>
2012/2013	2008	1.488	\$16.46	\$16.13	\$24.01
2013/2014	2009	0.374	\$27.73	\$27.18	\$10.18
2014/2015	2010	0.844	\$125.99	\$123.47	\$104.21
2015/2016	2011	0.580	\$136.00	\$133.28	\$77.25

<sup>1</sup> PJM RPM planning years are from June 1 - May 31

<sup>2</sup> RockTenn's average NEO during PJM's 5 Coincident Peak hours

<sup>3</sup> PJM RTO Base Residual Auction clearing prices: \$/MW-Day

<sup>4</sup> Daily Capacity Rate = 5CP Contribution Average x [98% of RPM BRA]

FEB 28 2013

Clerk's Office  
N.C. Utilities CommissionE-100, 56127  
CONSENT AND AGREEMENT

CONSENT AND AGREEMENT, dated as of December 5, 2012, among VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in Virginia as Dominion Virginia Power (hereinafter referred to as "Dominion Virginia Power"), SPRUANCE GENCO, LLC (the "Assignor"), WINDSOR FINANCING, LLC (the "Borrower") and WILMINGTON TRUST, NATIONAL ASSOCIATION, in its capacity as collateral agent (together with its successors, designees and assigns in such capacity, the "Collateral Agent") for the benefit of the Secured Parties (as defined below) under the Security Agreement (as defined below).

RECITALS

A. The Assignor (as assignee of Cogentrix of Richmond, Inc.) and Dominion Virginia Power are parties to (i) the Amended and Restated Power Purchase Agreement (Facility I), dated as of October 27, 2005, between the Assignor (as assignee of Cogentrix of Richmond, Inc.) and Dominion Virginia Power, as amended pursuant to Amendment No. 1, dated as of February 14, 2006, between Cogentrix of Richmond, Inc. and Dominion Virginia Power, as assigned to Assignor pursuant to the Assignment and Assumption Agreement, dated as of February 14, 2006, between Cogentrix of Richmond, Inc. and the Assignor, as further amended pursuant to Amendment No. 2, dated as of April 17, 2007, between Dominion Virginia Power and the Assignor, the Letter Agreement, dated June 16, 2009, between Dominion Virginia Power and the Assignor, and the Letter Agreement, dated November 15, 2012, between Dominion Virginia Power and the Assignor (as the same may be amended, supplemented or otherwise modified from time to time, the "Power Purchase Agreement I"), (ii) the Amended and Restated Power Purchase Agreement (Facility II) dated as of October 27, 2005 between the Assignor (as assignee of Cogentrix of Richmond, Inc.) and Dominion Virginia Power, as amended pursuant to Amendment No. 1, dated as of February 14, 2006, between Cogentrix of Richmond, Inc. and Dominion Virginia Power, as assigned to Assignor pursuant to the Assignment and Assumption Agreement, dated as of February 14, 2006, between Cogentrix of Richmond, Inc. and the Assignor, as further amended pursuant to Amendment No. 2, dated as of April 17, 2007, between Dominion Virginia Power and the Assignor, and the Letter Agreement, dated June 16, 2009, between Dominion Virginia Power and the Assignor (as the same may be amended, supplemented or otherwise modified from time to time, the "Power Purchase Agreement II"), and together with the Power Purchase Agreement I, the "Power Purchase Agreements"), and (iii) the Memorandum of Amended and Restated Right of First Refusal, dated as of the date hereof, between the Assignor and Dominion Virginia Power (as the same may be amended, supplemented or otherwise modified from time to time, the "Memorandum of A&R ROFR"); and together with the Power Purchase Agreements, being herein collectively called the "Assigned Agreements"; the right, title and interest of the Assignor in, to and under the Assigned Agreements being hereinafter referred to as the "Assigned Rights").

B. The Borrower, Edgecombe Genco, LLC, and the Assignor entered into that certain Credit and Guaranty Agreement (as amended, amended and restated, supplemented or otherwise modified from time to time, "Credit Agreement"), dated as of the date hereof, with, *inter alia*, the Collateral Agent and Morgan Stanley Senior Funding, Inc., as the administrative

agent, sole bookrunner and sole lead arranger thereunder, to provide for term loans and letters of credit and the repayment terms and conditions to obligations outstanding thereunder.

C. The Assignor, Edgcombe Genco, LLC, the Borrower, Windsor Financing Holding Company, LLC and the Collateral Agent entered into that certain First Lien Pledge and Security Agreement, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement").

D. Pursuant to the Security Agreement, the Assignor has agreed to collaterally assign all of its Assigned Rights to the Collateral Agent, on behalf of such agent and certain secured creditors represented thereby (collectively, the "Secured Parties"), including lenders, issuing banks, agents, interest rate hedge counterparties, commodity hedge counterparties, and other secured creditors providing financing or otherwise providing credit (whether now or in the future) to or for the benefit of the Borrower, Edgcombe Genco, LLC and/or the Assignor pursuant to certain contracts and agreements, each as amended, amended and restated, supplemented, replaced, refinanced or otherwise modified from time to time (collectively, "Financing Documents").

## AGREEMENT

NOW, THEREFORE, the parties hereto hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

1.01. Defined Terms. Unless the context shall otherwise require and except as otherwise specified herein, capitalized terms used herein shall have the meanings assigned to them in the applicable Assigned Agreements.

### ARTICLE II

#### CONSENT TO ASSIGNMENT AND SUBSEQUENT TRANSFERS

2.01. Consents. Dominion Virginia Power hereby consents to (A) the assignment by the Assignor to the Collateral Agent of the Assigned Rights and (B) any subsequent transfer meeting the requirements of Section 3.04 (a "Subsequent Transfer") of the Assigned Rights by the Collateral Agent to any transferee meeting the requirements of paragraph (b) of this Section 2.01 (a "Transferee") in connection with the Collateral Agent's exercise of its rights and enforcement of its remedies under the Security Agreement, at law, in equity or otherwise; provided that enforcement of (1) the Security Agreement shall be subject to the satisfaction of the conditions set forth in paragraph (a) of this Section 2.01 in the circumstances described therein and (2) each Subsequent Transfer shall be subject to satisfaction of the conditions set forth in paragraph (b) of this Section 2.01:

(a) If, pursuant to the Security Agreement and the Financing Documents, the cogeneration facility subject to the Power Purchase Agreement I (herein called "Unit I")

or the cogeneration facility subject to the Power Purchase Agreement II (herein called "Unit II", and together with Unit I, the "Facility") is being operated by the Collateral Agent or a Related Agent Party (as defined below), Dominion Virginia Power shall accept performance of such person under the Assigned Agreements and the Collateral Agent shall be entitled to performance by Dominion Virginia Power of the Assigned Agreements if, (i) such person shall utilize for such operation a prudent and experienced power plant operator or shall engage for such purposes the services of another person who is so qualified and (ii) the Collateral Agent or such Related Agent Party, either directly or through their respective agents or designees, performs the duties and obligations required of the Assignor under the relevant Assigned Agreements arising during such time and pays to Dominion Virginia Power any past due amounts payable to Dominion Virginia Power by the Assignor (other than amounts which are subject to bona fide dispute and for which adequate security (in the reasonable judgment of Dominion Virginia Power) has been provided) under the Assigned Agreements;

(b) A Transferee (i) shall be a person who (x) is, or whose performance is guaranteed by a person who is, creditworthy and (y) is either a prudent and experienced power plant operator and legally permitted to operate Unit I and/or Unit II, or shall have engaged the services of another person who is a prudent and experienced power plant operator, legally permitted to operate Unit I and/or Unit II, as the operator of Unit I and/or Unit II, as the case may be, and (ii) have paid all amounts then due and payable to Dominion Virginia Power by the Assignor (other than amounts which are subject to bona fide dispute for which adequate security (in the reasonable judgment of Dominion Virginia Power) has been provided by the Collateral Agent or such Transferee) pursuant to the Assigned Agreements and shall have expressly assumed in writing for the benefit of Dominion Virginia Power all other obligations and liabilities of the Assignor under the Assigned Agreements arising from and after the date of such assumption (including the obligation of the Assignor to maintain and operate Unit I and/or Unit II in accordance with the requirements of the applicable Assigned Agreement).

Upon a Subsequent Transfer of Unit I and/or Unit II to a Transferee, the Transferee shall succeed to all right, title, interest, and obligation of the Assignor, the Collateral Agent, any Related Agent Party, and the Secured Parties under the Assigned Agreements and neither the Collateral Agent, any Related Agent Party, nor the Secured Parties shall have any further liabilities, duties or obligations to Dominion Virginia Power under this Consent and Agreement or the Assigned Agreements.

2.02. Consent to Qualified Deed of Trust. Dominion Virginia Power and Assignor acknowledge, agree and consent to the execution and delivery of the Qualified Deed of Trust (as hereinafter defined), whether now or hereafter executed and delivered. For the purposes herein, the "Qualified Deed of Trust" means the First Lien Credit Line Leasehold Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated as of December 5, 2012, executed by Assignor (as Grantor), to Alexander Title Agency, Incorporated (as Grantee), for the benefit of Collateral Agent (as Grantee) acting on behalf of the First Lien Secured Parties named therein, securing the principal amount of \$246,000,000 and any other amounts secured thereby. Upon any exercise of the Right of First Refusal to purchase a Transfer Interest in accordance with the terms of the Power Purchase Agreements, at the closing,

Dominion Virginia Power shall be entitled to receive a good and marketable fee simple title to any real property comprising part of the Transfer Interest, and at Dominion Virginia Power's sole option either (i) to receive title free and clear of all liens, encumbrances, easements, conditions, restrictions and agreements, including the Qualified Deed of Trust which shall be released of record upon payment in full of the indebtedness secured thereby, or (ii) to receive title free and clear of all liens, encumbrances, easements, conditions, restrictions and agreements, except the lien of the Qualified Deed of Trust; in which case title will be conveyed subject to the lien of the Qualified Deed of Trust. The parties hereto understand and agree that the Assignor remains obligated to pay in full the indebtedness secured by the Qualified Deed of Trust until such indebtedness is paid and satisfied in full. The parties hereto understand and agree that notwithstanding any other provision herein or of any agreements between or among the parties and notwithstanding any right the Collateral Agent, Dominion Virginia Power, the Assignor or any other party may have at law or in equity, the lien of the Qualified Deed of Trust shall remain in existence as a valid and subsisting first lien against the Facility in the full amount of the indebtedness secured thereby until the indebtedness secured by the Qualified Deed of Trust is paid and satisfied in full and the title acquired by Dominion Virginia Power, its successors and assigns, is and shall remain subject to the lien of the Qualified Deed of Trust.

### ARTICLE III

#### AGREEMENTS

3.01. Waiver and Assurance. Notwithstanding the terms of any provision of any Assigned Agreement, Dominion Virginia Power agrees and confirms to the Collateral Agent as security assignee of the Assigned Rights pursuant to the Security Agreement, to each Related Agent Party (as defined below) and to each Transferee, if any, that (a) the assignment of the Assigned Rights pursuant to the Security Agreement and any Subsequent Transfer shall bind Dominion Virginia Power and be fully effective against Dominion Virginia Power, (b) neither such assignment nor the exercise of any rights or the enforcement of any remedies by the Collateral Agent pursuant to the Security Agreement nor any Subsequent Transfer shall constitute a breach of or default under any Assigned Agreement, (c) each representation, warranty, covenant and agreement of Dominion Virginia Power in the Assigned Agreements shall continue in full force and effect, inure to the benefit of and be enforceable by the Collateral Agent and any Transferee to the same extent as if the Collateral Agent or such Transferee were named in the place of the Assignor in the Assigned Agreements, (d) neither such assignment nor any Subsequent Transfer shall relieve the Assignor from any duty, debt or obligation owing to Dominion Virginia Power under any Assigned Agreement, and (e) Section 5.2 of the Power Purchase Agreements does not provide Dominion Virginia Power with a unilateral right to extend the Term and Assignor is free to enter into replacement agreements commencing on the expiration of the Term.

3.02. Payments. Dominion Virginia Power agrees that it will make all payments due and to become due from it to the Assignor under or in connection with the Assigned Agreements directly to the Collateral Agent at the account set forth below, or to such other account or other person or in such other manner as the Collateral Agent may from time to time specify in writing to Dominion Virginia Power:

Pay To: Wilmington Trust, National Association  
ABA Number: 031100092  
Account Number: 103200-000  
Account Name: Windsor Financing, LLC—Revenue Account  
Attention: Adam Vogelsong  
Reference: Windsor Financing, LLC—Revenue Account, 103200-000

3.03. Termination of Assigned Agreements; Right to Cure. (a) Dominion Virginia Power agrees that, notwithstanding any right it may have under any Assigned Agreement, at law, in equity or otherwise so long as the Security Agreement shall be in effect, Dominion Virginia Power shall not exercise any right that it may have to cancel or terminate or suspend its performance under any Assigned Agreements unless the Collateral Agent shall have received prior written notice of Dominion Virginia Power's intent to cancel or terminate or suspend its performance under such Assigned Agreements and the Collateral Agent shall not thereafter cure, or cause to be cured, the condition giving rise to such right of termination within 60 days after Dominion Virginia Power's provision of notice. Failure of Dominion Virginia Power to provide such notice to the Collateral Agent shall not constitute a breach of this Consent and Agreement, and the Collateral Agent agrees that Dominion Virginia Power shall have no liability to the Collateral Agent whatsoever for such failure; provided, however, no termination by Dominion Virginia Power is effective without such notice being given at least 60 days prior to the termination of the relevant Assigned Agreements.

(b) If a default or other event or circumstance giving rise to a termination right (hereinafter also referred to as a "default") under any Assigned Agreement is of such nature that it cannot practicably be cured without first taking possession of Unit I and/or Unit II or if such default is of such a nature that it is not susceptible of being cured by the Collateral Agent (it being understood by the parties hereto that the failure to provide power after the expiration of the cure periods set forth in this Consent and Agreement and defaults of payment obligations under the applicable Assigned Agreement shall be deemed to be susceptible of being cured), then Dominion Virginia Power shall not terminate such Assigned Agreements by reason of such default if and so long as (i) the Collateral Agent shall proceed diligently to attempt to obtain possession of the Facility pursuant to the rights of the Collateral Agent under the Security Agreement (including possession by a receiver), provided that such attempt does not exceed a period of one year following Dominion Virginia Power's delivery of notice to the Collateral Agent pursuant to paragraph (a), and (ii) upon obtaining such possession, the Collateral Agent or a Transferee shall (x) proceed diligently to cure such default if such default is susceptible of being cured by the Collateral Agent, such Related Agent Party or such Transferee and (y) within 90 days of the date the Collateral Agent, such Related Agent Party or such Transferee, as the case may be, obtains such possession, cure all such defaults which are susceptible of being cured by the Collateral Agent, such Related Agent Party or such Transferee.

(c) The Collateral Agent shall not be required to continue to proceed to obtain possession, or to continue in possession of the Unit subject to a defaulted Assigned Agreement, pursuant to the foregoing subparagraph (b) if and when such default shall be

cured. If the Collateral Agent, a Related Agent Party, or any Transferee shall acquire title to a Unit and shall cure all defaults which are susceptible of being cured by the Collateral Agent, such Related Agent Party, or such Transferee, as the case may be, then any default of the Assignor which is not susceptible of being cured by the Collateral Agent, such Related Agent Party, or such Transferee (it being understood by the Parties hereto that the failure to provide power after the expiration of the cure periods set forth in this Consent and Agreement and defaults of payment obligations under the applicable Assigned Agreement shall be deemed to be susceptible of being cured), as the case may be, shall no longer be deemed to be a default under such Assigned Agreements. If the Collateral Agent or a Related Agent Party assumes any Assigned Agreement as provided above, then the Collateral Agent or such Related Agent Party shall not be personally liable for the performance of the obligations thereunder except to the extent of all of its right, title and interest in and to the Facility.

3.04. Right of First Refusal. Dominion Virginia Power, the Assignor and the Collateral Agent hereby agree that notwithstanding anything to the contrary contained in the Assigned Agreements or the Financing Documents and notwithstanding any rights any of them may have thereunder, at law, in equity or otherwise:

(a) The sale, assignment, transfer or delivery by the Assignor or any of its subsidiaries, affiliates or other related entities of its or their right, title or interest in Facility, or any part thereof, or any other sale, assignment, transfer or delivery that would otherwise constitute a "Transfer Interest" within the meaning of Section 13.4 (including Section 13.4(g)) of the applicable Power Purchase Agreement (any such right, title or interest, a "Secured Party Transfer Interest"), to the Collateral Agent or any person wholly-owned by the Collateral Agent or in whom the Collateral Agent owns a controlling interest (any such party other than the Collateral Agent hereinafter referred to as a "Related Agent Party"), including pursuant to the exercise of rights by the Collateral Agent or the Secured Parties under the Financing Documents, shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the applicable Power Purchase Agreement; provided that any subsequent sale by the Collateral Agent or a Related Agent Party of all or any portion of such Secured Party Transfer Interest shall constitute a Transfer Interest.

(b) The Collateral Agent may exercise its rights under the Financing Documents to foreclose upon, sell, assign, transfer or deliver the whole or any part of the Facility or other Secured Party Transfer Interest to the Collateral Agent, any Related Agent Party, or any Transferee at a price equal to or greater than the Release Amount (as defined below and without incorporating any increases in such amount provided for in Section 3.06) at any time after a foreclosure proceeding has been initiated by the Collateral Agent and such event shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the applicable Power Purchase Agreement if and only if the following conditions have been satisfied:

(i) The Collateral Agent shall by written notice to Dominion Virginia Power have offered to release the lien created by the Financing Documents and to renounce all right, title and interest in and to the Facility, and the Collateral Agent, on

behalf of the Assignor, shall have offered to convey all right, title and interest of the Assignor in the Facility to Dominion Virginia Power, in consideration of the payment by Dominion Virginia Power of an amount equal to the lesser of (x) 60.67% of the aggregate amount of indebtedness and other obligations secured by the Security Agreement and (y) an amount established by requisite Secured Parties in accordance with the terms of the Intercreditor Agreement (as defined in the Security Agreement) (such requisite Secured Parties from time to time, the "Required Secured Parties") in their sole and absolute discretion (the "Release Amount"); and

(ii) Dominion Virginia Power (A) shall have notified the Collateral Agent that it does not wish to purchase the Facility or (B) shall not have notified the Collateral Agent within 30 days after receipt by Dominion Virginia Power of the notice referred to in paragraph (i) of this Section 3.04(b) of its election (subject to regulatory approval and otherwise revocable) to pay the Release Amount to the Collateral Agent in consideration of the Collateral Agent's release of the lien of the Financing Documents by the Collateral Agent and the conveyance of title to the Facility by the Assignor or the Collateral Agent on a date specified in such notice of election (such date to be a date within 270 days after the date of such notice of election); and

(iii) Not more than 365 days shall have passed since the failure of Dominion Virginia Power to notify the Collateral Agent pursuant to clause (B) of paragraph (ii) above.

(c) In the event that the provisions of Section 3.04(b) above or Section 3.07 below are deemed to be unenforceable against the Assignor or a trustee in bankruptcy of the Assignor by a court of competent jurisdiction, or if the Assignor or such trustee shall obtain injunctive relief from any such court which prevents the enforcement of such provisions against the Assignor or such trustee, or such enforcement shall otherwise be effectively stayed, the Collateral Agent may exercise its rights under the Financing Documents to foreclose upon, sell, assign, transfer or deliver the whole or any part of any Secured Party Transfer Interest to the Collateral Agent, any Related Agent Party, or any Transferee, in each case at a price equal to or greater than the Release Amount at a foreclosure proceeding initiated by the Collateral Agent and such sale or transfer shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the Power Purchase Agreements, provided that if the Collateral Agent purchases the Facility at a foreclosure proceeding it will offer to sell the Facility to Dominion Virginia Power at a price equal to the Release Amount on the same terms and conditions as set forth in Section 3.04(b) and Section 3.06 hereof.

(d) For a period of 13 months following any sale, assignment, transfer or delivery to the Collateral Agent or a Related Agent Party of a Secured Party Transfer Interest pursuant to the exercise of the Collateral Agent's rights under the Financing Documents, Dominion Virginia Power agrees that the time periods referred to in Section 13.4 of the applicable Power Purchase Agreement with respect to the amount of time Dominion Virginia Power shall have to exercise its right of first refusal with respect to any Transfer Interest shall be reduced to 60 days.



3.05. Sale to Dominion Virginia Power. If Dominion Virginia Power shall have notified the Collateral Agent of its election to purchase the Facility (subject to regulatory approval and otherwise revocable) as contemplated by clause (B) of Section 3.04(b)(ii), then, subject to the receipt of regulatory approval and otherwise revocable, on the date specified by Dominion Virginia Power in such notice, Dominion Virginia Power shall pay the Release Amount to the Collateral Agent and the Collateral Agent shall execute and deliver to Dominion Virginia Power an appropriate instrument, in form and substance satisfactory to Dominion Virginia Power, releasing the Facility from the lien of the Financing Documents and renouncing all right, title and interest in and to the Facility and the Assignor or the Collateral Agent shall have conveyed title of the Facility to Dominion Virginia Power. If Dominion Virginia Power fails to so pay the Release Amount to the Collateral Agent on such date, Dominion Virginia Power shall not have any further rights pursuant to Section 13.4 of the applicable Power Purchase Agreement with respect to any sale, assignment, transfer or delivery of the Facility, in whole or in part, by the Collateral Agent or a Related Agent Party.

3.06. Release Price. The parties hereto hereby agree and acknowledge that the offer presented to Dominion Virginia Power pursuant to Section 3.04(b)(i) may include a schedule of the estimated monthly losses which may be incurred by the Secured Parties in connection with the Facility during the 240 day period beginning 60 days after the date of the election to purchase contemplated by clause (B) of Section 3.04(b)(ii). If Dominion Virginia Power elects to purchase the Facility as contemplated by clause (B) of Section 3.04(b)(ii), the Release Amount shall be increased on the first day of each 30 day period set forth in such schedule by the amount set forth opposite such date in such schedule. If Dominion Virginia Power receives regulatory approval for such purchase, Dominion Virginia Power hereby agrees to pay to the Collateral Agent the Release Amount in effect on the day title to the Facility is conveyed to Dominion Virginia Power. Dominion Virginia Power further agrees that if title to the Facility is not conveyed to Dominion Virginia Power because regulatory approval is not granted for such transaction or because Dominion Virginia Power revokes its offer to purchase the Facility, Dominion Virginia Power will pay to the Collateral Agent the excess of (x) the Release Amount then in effect over (y) the original Release Amount named to Dominion Virginia Power pursuant to clause (i) of Section 3.04(b). Notwithstanding anything to the contrary contained in this Section 3.06, the Release Amount shall be increased pursuant to this Section 3.06 only to the extent that such Release Amount does not exceed the aggregate amount of indebtedness and other obligations secured by the Security Agreement.

3.07. Obligations of the Assignor. (a) The Assignor hereby agrees that the Required Secured Parties may and authorizes the Required Secured Parties to; establish the Release Amount set forth in Section 3.04(b). The Assignor hereby agrees that the Collateral Agent may and authorizes the Collateral Agent to present to Dominion Virginia Power, on behalf of the Assignor, an offer to convey the title to the Facility at the Release Amount. If Dominion Virginia Power elects to purchase the Facility as contemplated in clause (B) of Section 3.04(b)(ii), the Assignor hereby agrees to convey title to the Facility to Dominion Virginia Power pursuant to the provisions of Section 3.05 and in accordance with the terms of Section 3.05 and Section 3.08. The Assignor hereby waives, to the fullest extent permitted by law, all defenses to its obligations under this Consent and Agreement.

(b) The Assignor does hereby irrevocably constitute and appoint the Collateral Agent its true and lawful attorney-in-fact with full and irrevocable power and authority in the place and stead of the Assignor and in the name of the Assignor or in the name of the Collateral Agent, for the purpose of carrying out the terms of this Consent and Agreement, to take any and all action and to execute any and all instruments which may be necessary to accomplish the purposes of this Consent and Agreement. This power-of-attorney is a power coupled with an interest and shall be irrevocable.

3.08. Rights of the Assignor. Dominion Virginia Power hereby agrees that notwithstanding anything herein to the contrary, (a) the Assignor and the Borrower shall have all rights of redemption to which it is entitled at law or in equity and (b) for a period of 60 days from the date on which Dominion Virginia Power gives notice to the Collateral Agent of its election to purchase the Facility as contemplated by clause (B) of Section 3.04(b)(ii), the Assignor and the Borrower shall have the right to prevent the sale of the Facility to Dominion Virginia Power by (x) satisfying in full the indebtedness and other obligations secured by the Security Agreement or the Financing Documents or (y) obtaining an agreement from the Collateral Agent to abandon the sale of the Facility.

3.09. Amendments to and Termination of Assigned Agreements. Subject to Section 3.03, no termination (other than pursuant to either Section 5.3, 5.5 or 14.4 of the Power Purchase Agreement I or Section 5.3, 5.5 or 14.4 of the Power Purchase Agreement II), amendment, supplement or other modification in any material respect of an Assigned Agreement by Dominion Virginia Power and the Assignor shall be effective unless the Collateral Agent has confirmed to the Borrower, the Assignor or Dominion Virginia Power that it has received the certification (and, if applicable, the ratings confirmation), if any, required under the Credit Agreement in connection with such termination, amendment, supplement or other modification. Dominion Virginia Power shall be entitled to rely on evidence of such confirmation received from the Assignor which Dominion Virginia Power reasonably believes to be valid.

3.10. Notices. Dominion Virginia Power will deliver to the Collateral Agent, concurrently with the delivery thereof to the Assignor, a copy of each notice or demand given by Dominion Virginia Power to the Assignor under the Assigned Agreements.

3.11. Limitation of Liability. Except as otherwise expressly provided herein, it is hereby agreed and acknowledged that Dominion Virginia Power shall not have any direct contractual obligations to the Collateral Agent and the Collateral Agent hereby acknowledges that it has not relied upon any direct representations of Dominion Virginia Power, in connection with financing arrangements with the Borrower or the Assignor except as provided herein and in the Assigned Agreements. In addition, the Collateral Agent agrees that except as provided in Section 3.06, Dominion Virginia Power shall not be liable to the Collateral Agent for any Assignor's claims, losses, expenses or damages whatsoever other than liability Dominion Virginia Power may have to the Assignor and its successors and permitted assigns, including the Collateral Agent, under the Assigned Agreements.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES

Dominion Virginia Power represents and warrants that:

(a) it is a public service corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia, with full corporate power and authority to enter into and perform its obligations under the Assigned Agreements and this Consent and Agreement;

(b) the Assigned Agreements and this Consent and Agreement have been duly authorized, executed and delivered by Dominion Virginia Power and the same constitute legal, valid and binding obligations of Dominion Virginia Power enforceable against Dominion Virginia Power in accordance with their respective terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and subject to general principles of equity; and

(c) neither its execution and delivery of the Assigned Agreements or this Consent and Agreement nor its performance of its obligations hereunder or thereunder requires it to obtain, make or take any consent or approval of, any notice to, any registration with, any recording or filing of any document with, or any other action in respect of, any Federal, Virginia or Virginia commission, authority or agency (including the Virginia State Corporation Commission) which has not been obtained, made or taken or which Dominion Virginia Power reasonably believes will be applied for and obtained in due course and at such times so as not to interfere with its performance under the Assigned Agreements.

## ARTICLE V

### MISCELLANEOUS

5.01. Notices. All notices, requests, consents, demands and other communications (collectively, "notices") required or permitted to be given under this Consent and Agreement shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or two (2) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to Dominion Virginia Power:

Virginia Electric and Power Company  
Director—Power Contracts  
5000 Dominion Boulevard  
Glen Allen, Virginia 23060

Facsimile: (804)273-2951

with a copy to:

Virginia Electric and Power Company  
Managing Counsel, Generation & Clearinghouse  
120 Tredegar Street  
Richmond, Virginia 23219  
Facsimile: (804) 819-2202

If to the Collateral Agent:

Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Telephone: (302) 636-6472  
Facsimile: (302) 636-4149  
Attention: Adam Vogelsong

If to the Assignor:

Spruance Genco, LLC  
c/o Energy Investors Funds  
Three Charles River Place  
63 Kendrick Street  
Needham, MA 02494  
Tel: (781) 292-7000  
Fax: (781) 292-7099  
Attention: General Counsel

With a copy to:

Spruance Genco, LLC  
c/o Power Plant Management Services, LLC  
10710 Sikes Place, Suite 300  
Charlotte, NC 28277  
Tel: (704) 815-8000  
Fax: (704) 815-8007  
Attention: Projects General Manager

If to the Borrower:

Windsor Financing, LLC  
c/o Energy Investors Funds  
Three Charles River Place  
63 Kendrick Street  
Needham, MA 02494

Tel: (781) 292-7000  
Fax: (781) 292-7099  
Attention: General Counsel

With a copy to:

Windsor Financing, LLC  
c/o Power Plant Management Services, LLC  
10710 Sikes Place, Suite 300  
Charlotte, NC 28277  
Tel: (704) 815-8000  
Fax: (704) 815-8007  
Attention: Projects General Manager

5.02. Severability. If any provision of this Consent and Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

5.03. Governing Law. THIS CONSENT AND AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

5.04. Counterparts. This Consent and Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument, and it shall not be necessary that any counterpart be signed by all the parties hereto.

5.05. Successors and Assigns. This Consent and Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and assigns, and shall inure to the further benefit of, and be enforceable by, any Transferee.

5.06. Priority of Documents. In the event of any conflict or inconsistency between the Security Agreement and this Consent and Agreement, the terms and conditions of this Consent and Agreement shall control as between Dominion Virginia Power and each of the Collateral Agent and any other person having rights hereunder or pursuant hereto.

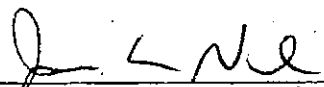
5.07. Amendments. No amendment or waiver of any provision of this Consent and Agreement or consent to any departure by Dominion Virginia Power from any provision of this Consent and Agreement shall be effective unless the same shall be in writing signed by the Collateral Agent and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

5.08. Effect. Except as expressly amended or modified hereby, the Assigned Agreements shall remain in full force and effect.

5.09. Entire Agreement. This Consent and Agreement embodies the complete agreement among the parties hereto with respect to the matters specified herein and supersedes all other oral or written understandings or agreements.

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

VIRGINIA ELECTRIC AND POWER COMPANY

By:   
Name: James L. Neal  
Title: Director Fossil & Hydro Regulated  
Operations

SPRUANCE GENCO, LLC

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

WINDSOR FINANCING, LLC

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

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent

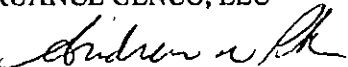
By: \_\_\_\_\_  
Name  
Title:

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

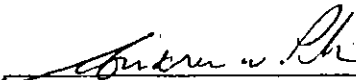
VIRGINIA ELECTRIC AND POWER COMPANY

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

SPRUANCE GENCO, LLC

By:   
Name Andrew N. Pike  
Title: Vice President

WINDSOR FINANCING, LLC

By:   
Name Andrew N. Pike  
Title: Vice President

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent

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

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

VIRGINIA ELECTRIC AND POWER COMPANY

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

SPRUANCE GENCO, LLC

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

WINDSOR FINANCING, LLC

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

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent

By: \_\_\_\_\_  
Name Adam R. Viegelsang  
Title Assistant Vice President



**FILED**

**FEB 28 2013**

Execution Version

Clerk's Office  
N.C. Utilities Commission

*E-100, 506127*

CONSENT AND AGREEMENT

CONSENT AND AGREEMENT, dated as of December 5, 2012, among VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation, doing business in North Carolina as Dominion North Carolina Power (hereinafter referred to as "Dominion North Carolina Power"), EDGECOMBE GENCO, LLC (the "Assignor"), WINDSOR FINANCING, LLC (the "Borrower") and WILMINGTON TRUST, NATIONAL ASSOCIATION, in its capacity as collateral agent (together with its successors, designees and assigns in such capacity, the "Collateral Agent") for the benefit of the Secured Parties (as defined below) under the Security Agreement (as defined below).

RECITALS

A. The Assignor (as assignee of Cogentrix of Rocky Mount, Inc.) and Dominion North Carolina Power are parties to (i) the Amended and Restated Power Purchase Agreement, dated as of October 27, 2005, between the Assignor (as assignee of Cogentrix of Rocky Mount, Inc.) and Dominion North Carolina Power, as amended pursuant to Amendment No. 1, dated as of February 14, 2006, between Cogentrix of Rocky Mount, Inc. and Dominion North Carolina Power, as assigned to Assignor pursuant to the Assignment and Assumption Agreement, dated as of February 14, 2006, between Cogentrix of Rocky Mount, Inc. and the Assignor, and as amended pursuant to Amendment No. 2, dated as of April 17, 2007, between Dominion North Carolina Power and Assignor (as the same may be amended, supplemented or otherwise modified from time to time, the "Power Purchase Agreement"), and (ii) the Memorandum of Amended and Restated Right of First Refusal, dated as of the date hereof, between the Assignor and Dominion North Carolina Power (as the same may be amended, supplemented or otherwise modified from time to time, the "Memorandum of A&R ROFR"); and together with the Power Purchase Agreement, being herein collectively called the "Assigned Agreements"; the right, title and interest of the Assignor in, to and under the Assigned Agreements being hereinafter referred to as the "Assigned Rights").

B. The Borrower, Spruance Genco, LLC, and the Assignor entered into that certain Credit and Guaranty Agreement (as amended, amended and restated, supplemented or otherwise modified from time to time, "Credit Agreement"), dated as of the date hereof, with, *inter alia*, the Collateral Agent and Morgan Stanley Senior Funding, Inc., as the administrative agent, sole bookrunner and sole lead arranger thereunder, to provide for term loans and letters of credit and the repayment terms and conditions to obligations outstanding thereunder.

C. The Assignor, Spruance Genco, LLC, the Borrower, Windsor Financing Holding Company, LLC and the Collateral Agent entered into that certain First Lien Pledge and Security Agreement, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement").

D. Pursuant to the Security Agreement, the Assignor has agreed to collaterally assign all of its Assigned Rights to the Collateral Agent, on behalf of such agent and certain secured creditors represented thereby (collectively, the "Secured Parties"), including lenders, issuing banks, agents, interest rate hedge counterparties, commodity hedge counterparties, and other secured creditors providing financing or otherwise providing credit (whether now or in the

future) to or for the benefit of the Borrower, Spruance Genco, LLC and/or the Assignor pursuant to certain contracts and agreements, each as amended, amended and restated, supplemented, replaced, refinanced or otherwise modified from time to time (collectively, "Financing Documents").

## AGREEMENT

NOW, THEREFORE, the parties hereto hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

1.01. Defined Terms. Unless the context shall otherwise require and except as otherwise specified herein, capitalized terms used herein shall have the meanings assigned to them in the applicable Assigned Agreements.

### ARTICLE II

#### CONSENT TO ASSIGNMENT AND SUBSEQUENT TRANSFERS

2.01. Consents. Dominion North Carolina Power hereby consents to (A) the assignment by the Assignor to the Collateral Agent of the Assigned Rights and (B) any subsequent transfer meeting the requirements of Section 3.04 (a "Subsequent Transfer") of the Assigned Rights by the Collateral Agent to any transferee meeting the requirements of paragraph (b) of this Section 2.01 (a "Transferee") in connection with the Collateral Agent's exercise of its rights and enforcement of its remedies under the Security Agreement, at law, in equity or otherwise; provided that enforcement of (1) the Security Agreement shall be subject to the satisfaction of the conditions set forth in paragraph (a) of this Section 2.01 in the circumstances described therein and (2) each Subsequent Transfer shall be subject to satisfaction of the conditions set forth in paragraph (b) of this Section 2.01:

(a) If, pursuant to the Security Agreement and the Financing Documents, the cogeneration facility subject to the Power Purchase Agreement (herein called the "Facility") is being operated by the Collateral Agent or a Related Agent Party (as defined below), Dominion North Carolina Power shall accept performance of such person under the Assigned Agreements and the Collateral Agent shall be entitled to performance by Dominion North Carolina Power of the Assigned Agreements if, (i) such person shall utilize for such operation a prudent and experienced power plant operator or shall engage for such purposes the services of another person who is so qualified and (ii) the Collateral Agent or such Related Agent Party, either directly or through their respective agents or designees, performs the duties and obligations required of the Assignor under the relevant Assigned Agreements arising during such time and pays to Dominion North Carolina Power any past due amounts payable to Dominion North Carolina Power by the Assignor (other than amounts which are subject to bona fide dispute and for which adequate security (in the reasonable judgment of Dominion North Carolina Power) has been provided) under the Assigned Agreements;

(b) A Transferee (i) shall be a person who (x) is, or whose performance is guaranteed by a person who is, creditworthy and (y) is either a prudent and experienced power plant operator and legally permitted to operate the Facility, or shall have engaged the services of another person who is a prudent and experienced power plant operator, legally permitted to operate the Facility, as the operator of the Facility, and (ii) have paid all amounts then due and payable to Dominion North Carolina Power by the Assignor (other than amounts which are subject to bona fide dispute for which adequate security (in the reasonable judgment of Dominion North Carolina Power) has been provided by the Collateral Agent or such Transferee) pursuant to the Assigned Agreements and shall have expressly assumed in writing for the benefit of Dominion North Carolina Power all other obligations and liabilities of the Assignor under the Assigned Agreements arising from and after the date of such assumption (including the obligation of the Assignor to maintain and operate the Facility in accordance with the requirements of the applicable Assigned Agreement).

Upon a Subsequent Transfer of the Facility to a Transferee, the Transferee shall succeed to all right, title, interest, and obligation of the Assignor, the Collateral Agent, any Related Agent Party, and the Secured Parties under the Assigned Agreements and neither the Collateral Agent, any Related Agent Party, nor the Secured Parties shall have any further liabilities, duties or obligations to Dominion North Carolina Power under this Consent and Agreement or the Assigned Agreements.

2.02. Consent to Qualified Deed of Trust. Dominion North Carolina Power and Assignor acknowledge, agree and consent to the execution and delivery of the Qualified Deed of Trust (as hereinafter defined), whether now or hereafter executed and delivered. For the purposes herein, the "Qualified Deed of Trust" means the First Lien Credit Line Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated as of \_\_\_\_\_, 2012, executed by Assignor (as Grantor), to Chicago Title Insurance Company (as Grantee), for the benefit of Collateral Agent (as Grantee) acting on behalf of the First Lien Secured Parties named therein, securing the principal amount of \$246,000,000 and any other amounts secured thereby. Upon any exercise of the Right of First Refusal to purchase a Transfer Interest in accordance with the terms of the Power Purchase Agreement, at the closing, Dominion North Carolina Power shall be entitled to receive a good and marketable fee simple title to any real property comprising part of the Transfer Interest, and at Dominion North Carolina Power's sole option either (i) to receive title free and clear of all liens, encumbrances, easements, conditions, restrictions and agreements, including the Qualified Deed of Trust which shall be released of record upon payment in full of the indebtedness secured thereby, or (ii) to receive title free and clear of all liens, encumbrances, easements, conditions, restrictions and agreements, except the lien of the Qualified Deed of Trust; in which case title will be conveyed subject to the lien of the Qualified Deed of Trust. The parties hereto understand and agree that the Assignor remains obligated to pay in full the indebtedness secured by the Qualified Deed of Trust until such indebtedness is paid and satisfied in full. The parties hereto understand and agree that notwithstanding any other provision herein or of any agreements between or among the parties and notwithstanding any right the Collateral Agent, Dominion North Carolina Power, the Assignor or any other party may have at law or in equity, the lien of the Qualified Deed of Trust shall remain in existence as a valid and subsisting first lien against the Facility in the full

amount of the indebtedness secured thereby until the indebtedness secured by the Qualified Deed of Trust is paid and satisfied in full and the title acquired by Dominion North Carolina Power, its successors and assigns, is and shall remain subject to the lien of the Qualified Deed of Trust.

### ARTICLE III

#### AGREEMENTS

3.01. Waiver and Assurance. Notwithstanding the terms of any provision of any Assigned Agreement, Dominion North Carolina Power agrees and confirms to the Collateral Agent as security assignee of the Assigned Rights pursuant to the Security Agreement, to each Related Agent Party (as defined below) and to each Transferee, if any, that (a) the assignment of the Assigned Rights pursuant to the Security Agreement and any Subsequent Transfer shall bind Dominion North Carolina Power and be fully effective against Dominion North Carolina Power, (b) neither such assignment nor the exercise of any rights or the enforcement of any remedies by the Collateral Agent pursuant to the Security Agreement nor any Subsequent Transfer shall constitute a breach of or default under any Assigned Agreement, (c) each representation, warranty, covenant and agreement of Dominion North Carolina Power in the Assigned Agreements shall continue in full force and effect, inure to the benefit of and be enforceable by the Collateral Agent and any Transferee to the same extent as if the Collateral Agent or such Transferee were named in the place of the Assignor in the Assigned Agreements, (d) neither such assignment nor any Subsequent Transfer shall relieve the Assignor from any duty, debt or obligation owing to Dominion North Carolina Power under any Assigned Agreement, and (e) Section 5.2 of the Power Purchase Agreement does not provide Dominion North Carolina Power with a unilateral right to extend the Term and Assignor is free to enter into replacement agreements commencing on the expiration of the Term.

3.02. Payments. Dominion North Carolina Power agrees that it will make all payments due and to become due from it to the Assignor under or in connection with the Assigned Agreements directly to the Collateral Agent at the account set forth below, or to such other account or other person or in such other manner as the Collateral Agent may from time to time specify in writing to Dominion North Carolina Power:

Pay To:	Wilmington Trust, National Association
ABA Number:	031100092
Account Number:	103200-000
Account Name:	Windsor Financing, LLC—Revenue Account
Attention:	Adam Vogel song
Reference:	Windsor Financing, LLC—Revenue Account, 103200-000

3.03. Termination of Assigned Agreements; Right to Cure. (a) Dominion North Carolina Power agrees that, notwithstanding any right it may have under any Assigned Agreement, at law, in equity or otherwise so long as the Security Agreement shall be in effect, Dominion North Carolina Power shall not exercise any right that it may have to cancel or terminate or suspend its performance under any Assigned Agreements unless the Collateral Agent shall have received prior written notice of Dominion North Carolina Power's intent to cancel or terminate or suspend its performance under such Assigned Agreements and the

Collateral Agent shall not thereafter cure, or cause to be cured, the condition giving rise to such right of termination within 60 days after Dominion North Carolina Power's provision of notice. Failure of Dominion North Carolina Power to provide such notice to the Collateral Agent shall not constitute a breach of this Consent and Agreement, and the Collateral Agent agrees that Dominion North Carolina Power shall have no liability to the Collateral Agent whatsoever for such failure; provided, however, no termination by Dominion North Carolina Power is effective without such notice being given at least 60 days prior to the termination of the relevant Assigned Agreements.

(b) If a default or other event or circumstance giving rise to a termination right (hereinafter also referred to as a "default") under any Assigned Agreement is of such nature that it cannot practicably be cured without first taking possession of the Facility or if such default is of such a nature that it is not susceptible of being cured by the Collateral Agent (it being understood by the parties hereto that the failure to provide power after the expiration of the cure periods set forth in this Consent and Agreement and defaults of payment obligations under the applicable Assigned Agreement shall be deemed to be susceptible of being cured), then Dominion North Carolina Power shall not terminate such Assigned Agreements by reason of such default if and so long as (i) the Collateral Agent shall proceed diligently to attempt to obtain possession of the Facility pursuant to the rights of the Collateral Agent under the Security Agreement (including possession by a receiver), provided that such attempt does not exceed a period of one year following Dominion North Carolina Power's delivery of notice to the Collateral Agent pursuant to paragraph (a), and (ii) upon obtaining such possession, the Collateral Agent or a Transferee shall (x) proceed diligently to cure such default if such default is susceptible of being cured by the Collateral Agent, such Related Agent Party or such Transferee and (y) within 90 days of the date the Collateral Agent, such Related Agent Party or such Transferee, as the case may be, obtains such possession, cure all such defaults which are susceptible of being cured by the Collateral Agent, such Related Agent Party or such Transferee.

(c) The Collateral Agent shall not be required to continue to proceed to obtain possession, or to continue in possession of the Facility subject to a defaulted Assigned Agreement, pursuant to the foregoing subparagraph (b) if and when such default shall be cured. If the Collateral Agent, a Related Agent Party, or any Transferee shall acquire title to the Facility and shall cure all defaults which are susceptible of being cured by the Collateral Agent, such Related Agent Party, or such Transferee, as the case may be, then any default of the Assignor which is not susceptible of being cured by the Collateral Agent, such Related Agent Party, or such Transferee (it being understood by the Parties hereto that the failure to provide power after the expiration of the cure periods set forth in this Consent and Agreement and defaults of payment obligations under the applicable Assigned Agreement shall be deemed to be susceptible of being cured), as the case may be, shall no longer be deemed to be a default under such Assigned Agreements. If the Collateral Agent or a Related Agent Party assumes any Assigned Agreement as provided above, then the Collateral Agent or such Related Agent Party shall not be personally liable for the performance of the obligations thereunder except to the extent of all of its right, title and interest in and to the Facility.

3.04. Right of First Refusal. Dominion North Carolina Power, the Assignor and the Collateral Agent hereby agree that notwithstanding anything to the contrary contained in the Assigned Agreements or the Financing Documents and notwithstanding any rights any of them may have thereunder, at law, in equity or otherwise:

(a) The sale, assignment, transfer or delivery by the Assignor or any of its subsidiaries, affiliates or other related entities of its or their right, title or interest in Facility, or any part thereof, or any other sale, assignment, transfer or delivery that would otherwise constitute a "Transfer Interest" within the meaning of Section 13.4 (including Section 13.4(g)) of the Power Purchase Agreement (any such right, title or interest, a "Secured Party Transfer Interest"), to the Collateral Agent or any person wholly-owned by the Collateral Agent or in whom the Collateral Agent owns a controlling interest (any such party other than the Collateral Agent hereinafter referred to as a "Related Agent Party"), including pursuant to the exercise of rights by the Collateral Agent or the Secured Parties under the Financing Documents, shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the Power Purchase Agreement; provided that any subsequent sale by the Collateral Agent or a Related Agent Party of all or any portion of such Secured Party Transfer Interest shall constitute a Transfer Interest.

(b) The Collateral Agent may exercise its rights under the Financing Documents to foreclose upon, sell, assign, transfer or deliver the whole or any part of the Facility or other Secured Party Transfer Interest to the Collateral Agent, any Related Agent Party, or any Transferee at a price equal to or greater than the Release Amount (as defined below and without incorporating any increases in such amount provided for in Section 3.06) at any time after a foreclosure proceeding has been initiated by the Collateral Agent and such event shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the Power Purchase Agreement if and only if the following conditions have been satisfied:

(i) The Collateral Agent shall by written notice to Dominion North Carolina Power have offered to release the lien created by the Financing Documents and to renounce all right, title and interest in and to the Facility, and the Collateral Agent, on behalf of the Assignor, shall have offered to convey all right, title and interest of the Assignor in the Facility to Dominion North Carolina Power, in consideration of the payment by Dominion North Carolina Power of an amount equal to the lesser of (x) 60.67% of the aggregate amount of indebtedness and other obligations secured by the Security Agreement and (y) an amount established by requisite Secured Parties in accordance with the terms of the Intercreditor Agreement (as defined in the Security Agreement) (such requisite Secured Parties from time to time, the "Required Secured Parties") in their sole and absolute discretion (the "Release Amount"); and

(ii) Dominion North Carolina Power (A) shall have notified the Collateral Agent that it does not wish to purchase the Facility or (B) shall not have notified the Collateral Agent within 30 days after receipt by Dominion North Carolina Power of the notice referred to in paragraph (i) of this Section 3.04(b) of its election (subject to regulatory approval and otherwise revocable) to pay the Release Amount to the Collateral Agent in consideration of the Collateral Agent's release of the lien of the

Financing Documents by the Collateral Agent and the conveyance of title to the Facility by the Assignor or the Collateral Agent on a date specified in such notice of election (such date to be a date within 270 days after the date of such notice of election); and

(iii) Not more than 365 days shall have passed since the failure of Dominion North Carolina Power to notify the Collateral Agent pursuant to clause (B) of paragraph (ii) above.

(c) In the event that the provisions of Section 3.04(b) above or Section 3.07 below are deemed to be unenforceable against the Assignor or a trustee in bankruptcy of the Assignor by a court of competent jurisdiction, or if the Assignor or such trustee shall obtain injunctive relief from any such court which prevents the enforcement of such provisions against the Assignor or such trustee, or such enforcement shall otherwise be effectively stayed, the Collateral Agent may exercise its rights under the Financing Documents to foreclose upon, sell, assign, transfer or deliver the whole or any part of any Secured Party Transfer Interest to the Collateral Agent, any Related Agent Party, or any Transferee, in each case at a price equal to or greater than the Release Amount at a foreclosure proceeding initiated by the Collateral Agent and such sale or transfer shall not constitute a "Transfer Interest" within the meaning of Section 13.4 of the Power Purchase Agreement, provided that if the Collateral Agent purchases the Facility at a foreclosure proceeding it will offer to sell the Facility to Dominion North Carolina Power at a price equal to the Release Amount on the same terms and conditions as set forth in Section 3.04(b) and Section 3.06 hereof.

(d) For a period of 13 months following any sale, assignment, transfer or delivery to the Collateral Agent or a Related Agent Party of a Secured Party Transfer Interest pursuant to the exercise of the Collateral Agent's rights under the Financing Documents, Dominion North Carolina Power agrees that the time periods referred to in Section 13.4 of the Power Purchase Agreement with respect to the amount of time Dominion North Carolina Power shall have to exercise its right of first refusal with respect to any Transfer Interest shall be reduced to 60 days.

3.05. Sale to Dominion North Carolina Power. If Dominion North Carolina Power shall have notified the Collateral Agent of its election to purchase the Facility (subject to regulatory approval and otherwise revocable) as contemplated by clause (B) of Section 3.04(b)(ii), then, subject to the receipt of regulatory approval and otherwise revocable, on the date specified by Dominion North Carolina Power in such notice, Dominion North Carolina Power shall pay the Release Amount to the Collateral Agent and the Collateral Agent shall execute and deliver to Dominion North Carolina Power an appropriate instrument, in form and substance satisfactory to Dominion North Carolina Power, releasing the Facility from the lien of the Financing Documents and renouncing all right, title and interest in and to the Facility and the Assignor or the Collateral Agent shall have conveyed title of the Facility to Dominion North Carolina Power. If Dominion North Carolina Power fails to so pay the Release Amount to the Collateral Agent on such date, Dominion North Carolina Power shall not have any further rights pursuant to Section 13.4 of the Power Purchase Agreement with respect to any sale, assignment, transfer or delivery of the Facility, in whole or in part, by the Collateral Agent or a Related Agent Party.

3.06. Release Price. The parties hereto hereby agree and acknowledge that the offer presented to Dominion North Carolina Power pursuant to Section 3.04(b)(i) may include a schedule of the estimated monthly losses which may be incurred by the Secured Parties in connection with the Facility during the 240 day period beginning 60 days after the date of the election to purchase contemplated by clause (B) of Section 3.04(b)(ii). If Dominion North Carolina Power elects to purchase the Facility as contemplated by clause (B) of Section 3.04(b)(ii), the Release Amount shall be increased on the first day of each 30 day period set forth in such schedule by the amount set forth opposite such date in such schedule. If Dominion North Carolina Power receives regulatory approval for such purchase, Dominion North Carolina Power hereby agrees to pay to the Collateral Agent the Release Amount in effect on the day title to the Facility is conveyed to Dominion North Carolina Power. Dominion North Carolina Power further agrees that if title to the Facility is not conveyed to Dominion North Carolina Power because regulatory approval is not granted for such transaction or because Dominion North Carolina Power revokes its offer to purchase the Facility, Dominion North Carolina Power will pay to the Collateral Agent the excess of (x) the Release Amount then in effect over (y) the original Release Amount named to Dominion North Carolina Power pursuant to clause (i) of Section 3.04(b). Notwithstanding anything to the contrary contained in this Section 3.06, the Release Amount shall be increased pursuant to this Section 3.06 only to the extent that such Release Amount does not exceed the aggregate amount of indebtedness and other obligations secured by the Security Agreement.

3.07. Obligations of the Assignor. (a) The Assignor hereby agrees that the Required Secured Parties may and authorizes the Required Secured Parties to, establish the Release Amount set forth in Section 3.04(b). The Assignor hereby agrees that the Collateral Agent may and authorizes the Collateral Agent to present to Dominion North Carolina Power, on behalf of the Assignor, an offer to convey the title to the Facility at the Release Amount. If Dominion North Carolina Power elects to purchase the Facility as contemplated in clause (B) of Section 3.04(b)(ii), the Assignor hereby agrees to convey title to the Facility to Dominion North Carolina Power pursuant to the provisions of Section 3.05 and in accordance with the terms of Section 3.05 and Section 3.08. The Assignor hereby waives, to the fullest extent permitted by law, all defenses to its obligations under this Consent and Agreement.

(b) The Assignor does hereby irrevocably constitute and appoint the Collateral Agent its true and lawful attorney-in-fact with full and irrevocable power and authority in the place and stead of the Assignor and in the name of the Assignor or in the name of the Collateral Agent, for the purpose of carrying out the terms of this Consent and Agreement, to take any and all action and to execute any and all instruments which may be necessary to accomplish the purposes of this Consent and Agreement. This power-of-attorney is a power coupled with an interest and shall be irrevocable.

3.08. Rights of the Assignor. Dominion North Carolina Power hereby agrees that notwithstanding anything herein to the contrary, (a) the Assignor and the Borrower shall have all rights of redemption to which it is entitled at law or in equity and (b) for a period of 60 days from the date on which Dominion North Carolina Power gives notice to the Collateral Agent of its election to purchase the Facility as contemplated by clause (B) of Section 3.04(b)(ii), the Assignor and the Borrower shall have the right to prevent the sale of the Facility to Dominion North Carolina Power by (x) satisfying in full the indebtedness and other obligations secured by



the Security Agreement or the Financing Documents or (y) obtaining an agreement from the Collateral Agent to abandon the sale of the Facility.

3.09. Amendments to and Termination of Assigned Agreements. Subject to Section 3.03, no termination (other than pursuant to either Section 5.3, 5.5 or 14.4 of the Power Purchase Agreement), amendment, supplement or other modification in any material respect of an Assigned Agreement by Dominion North Carolina Power and the Assignor shall be effective unless the Collateral Agent has confirmed to the Borrower, the Assignor or Dominion North Carolina Power that it has received the certification (and, if applicable, the ratings confirmation), if any, required under the Credit Agreement in connection with such termination, amendment, supplement or other modification. Dominion North Carolina Power shall be entitled to rely on evidence of such confirmation received from the Assignor which Dominion North Carolina Power reasonably believes to be valid.

3.10. Notices. Dominion North Carolina Power will deliver to the Collateral Agent, concurrently with the delivery thereof to the Assignor, a copy of each notice or demand given by Dominion North Carolina Power to the Assignor under the Assigned Agreements.

3.11. Limitation of Liability. Except as otherwise expressly provided herein, it is hereby agreed and acknowledged that Dominion North Carolina Power shall not have any direct contractual obligations to the Collateral Agent and the Collateral Agent hereby acknowledges that it has not relied upon any direct representations of Dominion North Carolina Power, in connection with financing arrangements with the Borrower or the Assignor except as provided herein and in the Assigned Agreements. In addition, the Collateral Agent agrees that except as provided in Section 3.06, Dominion North Carolina Power shall not be liable to the Collateral Agent for any Assignor's claims, losses, expenses or damages whatsoever other than liability Dominion North Carolina Power may have to the Assignor and its successors and permitted assigns, including the Collateral Agent, under the Assigned Agreements.

#### ARTICLE IV

##### REPRESENTATIONS AND WARRANTIES

Dominion North Carolina Power represents and warrants that:

(a) it is a public service corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia, with full corporate power and authority to enter into and perform its obligations under the Assigned Agreements and this Consent and Agreement;

(b) the Assigned Agreements and this Consent and Agreement have been duly authorized, executed and delivered by Dominion North Carolina Power and the same constitute legal, valid and binding obligations of Dominion North Carolina Power enforceable against Dominion North Carolina Power in accordance with their respective terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and subject to general principles of equity; and

(c) neither its execution and delivery of the Assigned Agreements or this Consent and Agreement nor its performance of its obligations hereunder or thereunder requires it to obtain, make or take any consent or approval of, any notice to, any registration with, any recording or filing of any document with, or any other action in respect of, any Federal, Virginia or Virginia commission, authority or agency (including the Virginia State Corporation Commission) which has not been obtained, made or taken or which Dominion North Carolina Power reasonably believes will be applied for and obtained in due course and at such times so as not to interfere with its performance under the Assigned Agreements.

## ARTICLE V

### MISCELLANEOUS

5.01. Notices. All notices, requests, consents, demands and other communications (collectively, "notices") required or permitted to be given under this Consent and Agreement shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or two (2) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to Dominion North Carolina Power:

Virginia Electric and Power Company  
Director—Power Contracts  
5000 Dominion Boulevard  
Glen Allen, Virginia 23060  
Facsimile: (804)273-2951

with a copy to:

Virginia Electric and Power Company  
Managing Counsel, Generation & Clearinghouse  
120 Tredegar Street  
Richmond, Virginia 23219  
Facsimile: (804) 819-2202

If to the Collateral Agent:

Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Telephone: (302) 636-6472  
Facsimile: (302) 636-4149  
Attention: Adam Vogelsong

If to the Assignor:

Edgecombe Genco, LLC  
c/o Energy Investors Funds  
Three Charles River Place  
63 Kendrick Street  
Needham, MA 02494  
Tel: (781) 292-7000  
Fax: (781) 292-7099  
Attention: General Counsel

With a copy to:

Edgecombe Genco, LLC  
c/o Power Plant Management Services, LLC  
10710 Sikes Place, Suite 300  
Charlotte, NC 28277  
Tel: (704) 815-8000  
Fax: (704) 815-8007  
Attention: Projects General Manager

If to the Borrower:

Windsor Financing, LLC  
c/o Energy Investors Funds  
Three Charles River Place  
63 Kendrick Street  
Needham, MA 02494  
Tel: (781) 292-7000  
Fax: (781) 292-7099  
Attention: General Counsel

With a copy to:

Windsor Financing, LLC  
c/o Power Plant Management Services, LLC  
10710 Sikes Place, Suite 300  
Charlotte, NC 28277  
Tel: (704) 815-8000  
Fax: (704) 815-8007  
Attention: Projects General Manager

5.02. Severability. If any provision of this Consent and Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

5.03. Governing Law. THIS CONSENT AND AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

5.04. Counterparts. This Consent and Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument, and it shall not be necessary that any counterpart be signed by all the parties hereto.

5.05. Successors and Assigns. This Consent and Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and assigns, and shall inure to the further benefit of, and be enforceable by, any Transferee.

5.06. Priority of Documents. In the event of any conflict or inconsistency between the Security Agreement and this Consent and Agreement, the terms and conditions of this Consent and Agreement shall control as between Dominion North Carolina Power and each of the Collateral Agent and any other person having rights hereunder or pursuant hereto.

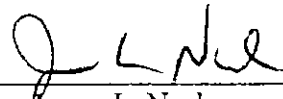
5.07. Amendments. No amendment or waiver of any provision of this Consent and Agreement or consent to any departure by Dominion North Carolina Power from any provision of this Consent and Agreement shall be effective unless the same shall be in writing signed by the Collateral Agent and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

5.08. Effect. Except as expressly amended or modified hereby, the Assigned Agreements shall remain in full force and effect.

5.09. Entire Agreement. This Consent and Agreement embodies the complete agreement among the parties hereto with respect to the matters specified herein and supersedes all other oral or written understandings or agreements.

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

VIRGINIA ELECTRIC AND POWER COMPANY

By:   
Name: James L. Neal  
Title: Director Fossil & Hydro Regulated  
Operations

EDGECOMBE GENCO, LLC

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

WINDSOR FINANCING, LLC

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

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent.

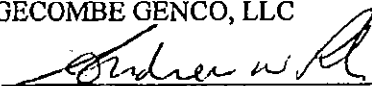
By: \_\_\_\_\_  
Name  
Title:

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

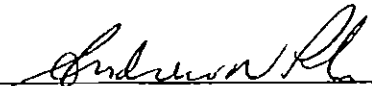
VIRGINIA ELECTRIC AND POWER COMPANY

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

EDGECOMBE GENCO, LLC

By:   
Name Andrew N. Pike  
Title: Vice President

WINDSOR FINANCING, LLC

By:   
Name Andrew N. Pike  
Title: Vice President

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent

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

IN WITNESS WHEREOF, the undersigned have caused this Consent and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

VIRGINIA ELECTRIC AND POWER COMPANY

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

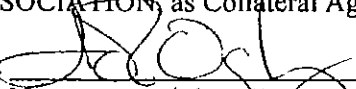
EDGECOMBE GENCO, LLC

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

WINDSOR FINANCING, LLC

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

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Collateral Agent

By:  \_\_\_\_\_  
Name Adam R. Vogelsong  
Title Assistant Vice President

*E-100, Sub 127*

**FILED**

**FEB 28 2013**

Clerk's Office  
N.C. Utilities Commission

**AMENDMENT NO. 3 TO  
THE AGREEMENT FOR THE SALE  
OF ELECTRICAL OUTPUT TO  
VIRGINIA ELECTRIC AND POWER COMPANY**

THIS AMENDMENT No. 3 to the Agreement for the Sale of Electrical Output to Virginia Electric and Power Company dated December 22, 2010, (the "Agreement") is made and entered into this 19th day of December, 2012, by and between the **VIRGINIA ELECTRIC AND POWER COMPANY, d/b/a Dominion North Carolina Power**, a Virginia public service company with its principal office in Richmond, Virginia, hereinafter referred to as "Dominion North Carolina Power," and **510 REPP One, LLC**, a North Carolina Corporation, with its principal office in Washington, DC, hereinafter referred to as "510 REPP One." Dominion North Carolina Power and 510 REPP One may hereinafter be referred to collectively as the "Parties."

**WITNESSETH:**

WHEREAS, the Parties hereto have previously entered into the Agreement for the Sale of Electrical Output to Virginia Electric and Power Company dated December 22, 2010 (the "Original Agreement"), as amended on November 14, 2011 (Amendment No. 1) and further amended on May 31, 2012 (Amendment No. 2) wherein 510 REPP One agreed to sell to Dominion North Carolina Power and Dominion North Carolina Power agreed to purchase all of the electrical output made available for sale from a Qualifying Facility (consisting of solar panels and 3 inverters) to be constructed and owned by 510 REPP One and located in the state of North Carolina; and



WHEREAS, 510 REPP One has notified Dominion North Carolina Power of its inability to meet the construction commencement and commercial operations dates established in the Agreement; and

WHEREAS, the Parties agree to amend in part paragraph EIGHTH, and in its entirety paragraph I of Exhibit B of the Agreement.

NOW, THEREFORE, the Parties hereto, intending to be legally bound, agree as follows:

- (1) Sections (i) and (ii) of paragraph EIGHTH are deleted in its entirety and replaced with the following wording:

"(i) failure to commence construction of the Facility, as defined below, and provide Dominion North Carolina Power with written notice thereof by March 31, 2013, (ii) failure to achieve Commercial Operations Date by June 30, 2013,"

and

- (2) The last sentence of paragraph EIGHTH is deleted and replaced with the following:

"The Anticipated Commercial Operations Date is June 30, 2013."

and

- (3) Section I-Assignments of Exhibit B General Terms and Conditions is deleted in its entirety and replaced with the following wording:

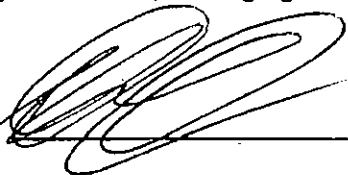
"Operator agrees not to assign this Agreement without the prior written consent of Dominion North Carolina Power. Dominion North Carolina Power may withhold such consent if it determines, in its sole discretion, that such

assignment would not be in the best interests of Dominion North Carolina Power or its customers. Any attempted assignment that Dominion North Carolina Power has not approved in writing shall be null and void and ineffective for all purposes. In the event of assignment by Operator, Operator shall pay Company within thirty (30) days of the effective date of the assignment an amount equal to the actual costs incurred by Company in connection with such assignment up to a maximum amount of \$10,000 per assignment; provided, however, assignment of this Agreement by Operator in connection with an initial financing arrangement which is finalized and for which consent of Company is requested within nine months of the execution date of this Amendment No. 3 to the Agreement for Sale shall not be subject to the payment requirement provided herein."

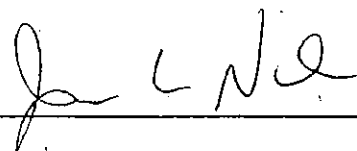
IN ALL OTHER RESPECTS, the Agreement shall remain unchanged and in full force and effect, including Amendment Nos. 1 and 2, fully executed on November 15, 2011 and June 7, 2012, respectively.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 3 to be executed by their duly authorized officials.

510 REPP One, LLC  
Reginald Parker, Managing Member

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

VIRGINIA ELECTRIC AND POWER COMPANY  
James L. Neal, Authorized Representative

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

**FILED**

**FEB 28 2013**

Clerk's Office  
N.C. Utilities Commission

Page 1 of 18

*E-100, Sub 127*

**AGREEMENT FOR THE SALE  
OF ELECTRICAL OUTPUT TO  
VIRGINIA ELECTRIC AND POWER COMPANY**

THIS AGREEMENT, effective this 28<sup>th</sup> day of December, 2012, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service company with its principal office in Richmond, Virginia, doing business in Virginia as Dominion Virginia Power, and in North Carolina as Dominion North Carolina Power, hereinafter called "Dominion North Carolina Power" or "Company", and W.E.Partners I, LLC, a North Carolina Limited Liability Company, with its principal office at 104 Mellen Road, New Bern, NC, 28562, hereinafter called "Operator", operator of the Cofield Biomass Cogeneration Facility, hereinafter called the "Facility":

**RECITALS**

WHEREAS, the North Carolina Utilities Commission has adopted a rate schedule described in this Agreement below as **Schedule 19-LMP** applicable to Qualifying Facilities (or "QF" as that term is defined in 18 C.F.R. 292 which can provide Contracted Capacity (a) up to 5000 kW from a hydroelectric generating facility, (b) up to 5000 kW from a generating facility fueled by trash or methane derived from landfills, hog waste, poultry waste, solar, wind or non-animal forms of biomass, or (c) up to 3000 kW for all other QFs; and

WHEREAS, the parties hereto wish to contract for the sale of electrical output from such a QF to be operated by Operator,

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto contract and agree with each other as follows:

**Article 1: Parties Purchase and Sale Obligations**

Dominion North Carolina Power or its agent, assignee, or successor will purchase from Operator all of the electrical output (energy and Contracted Capacity) made available for sale from the Facility on an excess sale arrangement. In addition, Operator has elected to contract under the LMP Method for determining the Company's avoided cost as described more fully in Article 5 and Exhibit C. Operator elects to provide for the Supply of energy and capacity per Schedule 19-LMP paragraph III. A, up to the Facility's Contracted Capacity. The Facility is located in Dominion North Carolina Power's retail service area in New Bern, Hertford County, North Carolina.

**Article 2: Term and Commercial Operations Date**

This Agreement shall commence on the Effective Date and shall continue in effect for a period of four years from the Commercial Operations Date. Unless written notice to terminate is given by either Party to the other Party at least sixty (60) days prior to the end of the initial period this Agreement shall automatically renew for successive one month periods and shall

continue to renew on a month by month basis unless written notice to terminate is given by either Party to the other Party at least thirty (30) days prior to the conclusion of the then current period. The Commercial Operations Date shall be the first date that all of the following conditions have been satisfied:

- a) The Facility has been permanently constructed, synchronized with and has delivered electrical output to the Dominion North Carolina Power system and such action has been witnessed by an authorized Dominion North Carolina Power employee;
- b) After completion of item a) above, Dominion North Carolina Power has received written notice from Operator specifying the Commercial Operations Date and certifying that the Facility is ready to begin commercial operations as a Qualifying Facility;
- c) Operator and Dominion North Carolina Power (or the PJM Interconnection, LLC or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an Interconnection Agreement to be included herewith as Exhibit A;
- d) Operator has provided to Dominion North Carolina Power Qualifying Facility Certification to be included herewith as Exhibit E; and
- e) Operator either has received from the North Carolina Utilities Commission a Certificate of Public Convenience and Necessity or has filed the notice required by G.S. 62-110.1(g) and is not legally required to obtain such a certificate for the construction and operation of the Facility.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power on substantially the same terms and conditions and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Dominion North Carolina Power's then avoided cost rates and other relevant factors or (2) set by arbitration.

### **Article 3: Contracted Capacity**

The Facility, consisting of one generator, will have a combined nameplate rating of approximately 500 kW. The Facility's Contracted Capacity shall be 100.0 kW.

#### **Article 4: Attachments**

The following documents are attached hereto and are made a part hereof:

- Exhibit A: Executed Interconnection Agreement (attached for information but not as a part of this Agreement)
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-LMP, Power Purchases from Cogeneration and Small Power Production Qualifying Facilities and applicable to the QF who chooses the LMP Method (effective January 1, 2013, sometimes referred to as "Schedule 19-LMP" herein)
- Exhibit D: Map and related written description identifying the specific location of the Facility in the City or County designated in Article 1.
- Exhibit E: "Qualifying Facility" Certification (if Facility is less than 1MW, Owner submission that the Facility qualifies as a Qualifying Facility (QF) under federal law)
- Exhibit F: Certificate of Public Convenience and Necessity (or evidence that no such certificate was required under North Carolina law)

#### **Article 5: Pricing**

Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions and rate determination methodologies for payments in Schedule 19-LMP included herewith as Exhibit C and pursuant to Operator elections within such Schedule 19-LMP, if any, as stated in Article 1 hereof. Operator will be permitted a one-time switch to Schedule 19 - FP on the first day of its second year under its contract, subject to 90 days prior written notice to Company, and in so doing commence a whole new contract with pricing in accordance with the Schedule 19 - FP in effect at the time of the initial Schedule 19 - LMP contract date and with a choice of term, i.e., 5, 10, or 15 years less the days elapsed between the commencement of the original Schedule 19 - LMP contract and the time of execution of the new Schedule 19 - FP contract. This one-time option to switch shall only be permitted contingent on Schedule 19-FP being in effect on the first day of the QF's second year under contract. Payments for all energy and Contracted Capacity purchased hereunder shall be on a cents per kilowatt-hour basis.

Payments for energy will begin on the Commercial Operations Date. All energy delivered prior to the Commercial Operations Date shall be paid pursuant to the attached Schedule 19-LMP tariff.

Operator shall not be paid for capacity above the Contracted Capacity level in any hour during which the generation exceeds the Contracted Capacity level specified in Article 3.

### **Article 6: Regulatory Pricing Adjustment and Refund**

Should the North Carolina Utilities Commission (NCUC), Virginia State Corporation Commission (SCC) or other regulatory or other legal body having jurisdiction (such as the Federal Energy Regulatory Commission) 1) not allow any future payments to non-utility generators (generally or to Operator specifically) for energy or capacity (including Contracted Capacity) or both to be included in Dominion North Carolina Power/Dominion Virginia Power's rates charged to customers, 2) at any time prohibit Dominion North Carolina Power/ Dominion Virginia Power from recovering from its customers sums related to payments previously made to non-utility generators (generally or to Operator specifically), or 3) order Dominion North Carolina Power/ Dominion Virginia Power to pay back to its customers sums related to amounts collected as a result of payments to non-utility generators (generally or to Operator specifically) (hereinafter the sums referred to in both 2) and 3) above shall be referred to individually and collectively as the "Disallowed Payments"), Operator shall be required both to accept from the effective date of the Order from the NCUC, SCC, or other regulatory or legal body having jurisdiction ("Commission Order") payments at the level of rates that will be allowed to be recovered in rates charged to Dominion North Carolina Power/ Dominion Virginia Power's customers and to refund to Dominion North Carolina Power, A) the identified dollar amount of the Disallowed Payments specifically identified in the Commission Order as resulting from payments made to Operator hereunder, or B) if the Disallowed Payments are not specifically identified, Operator's pro-rata share of the Disallowed Payments which shall be equal to the product of (1) the total amount of payments made under this Agreement for the period of time such Disallowed Payments have been calculated, and (2) a fraction whereby the numerator is the Disallowed Payments and the denominator is the total amount of payments made to all Non-utility Generators, that were considered in the Commission Order, for the same period of time that such Disallowed Payments have been calculated. Operator shall pay any amounts due as a result of the Commission Order within 28 days of notice by Dominion North Carolina Power or, provided that more than three years remain in the term of the Agreement, then, at Operator's option, Dominion North Carolina Power shall collect such amounts due with interest from the date of any such Commission Order by reducing payments to Operator at a monthly amount projected to complete the refund of the Disallowed Amount with interest in the two year period following such notice. Such interest shall be calculated at the rate of Dominion North Carolina Power/ Dominion Virginia Power's most recent issue of long-term debt at the time of the Commission Order. If, for any reason, at the end of the two year period, the reduction in payments does not recover in full such amounts due, then such remaining amount shall be due immediately.

### **Article 7: Operator's Pre-COD Obligations**

After execution of this Agreement and until the Commercial Operations Date, Operator shall prepare a quarterly status report for Dominion North Carolina Power showing the current progress on completing the project. This status report shall be delivered to Dominion North Carolina Power on or before the following dates each year, January 15, April 15, July 15, and October 15. Such status report shall discuss the progress of the project in a format, which is acceptable to Dominion North Carolina Power.

The Facility will be considered to have commenced construction on the first day upon which all of the following have occurred: (1) the issuance by Operator to its construction contractor for the Facility of a written unconditional Notice-to-Proceed; (2) the mobilization of major construction equipment and construction facilities on the Facility site; and (3) the commencement of major structural excavation and structural concrete work relating to a major component of the Facility such as the power island consistent with having commenced a continuous process of construction relating to the Facility. Dominion North Carolina Power shall have no obligation to accept a declaration of Commercial Operations prior to January 1, 2013. The anticipated Commercial Operations Date is February 1, 2013.

#### **Article 8: Default and Early Termination**

Operator and Dominion North Carolina Power agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Dominion North Carolina Power having the right to immediate cancellation, without a cure period, of this Agreement: (i) failure to commence construction of the Facility, as defined below, and provide Dominion North Carolina Power with written notice thereof by January 31, 2013; (ii) failure to achieve Commercial Operations Date by April 1, 2013; (iii) failure to provide two (2) consecutive status reports pursuant to Article 7; (iv) delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor; (v) failure to meet those requirements necessary to maintain Qualifying Facility status; (vi) failure at any time to have in effect a valid Interconnection Agreement with Dominion North Carolina Power (or its successor as operator of the Dominion North Carolina transmission system); or (vii) failure to generate and deliver power from the Facility to Dominion North Carolina Power for more than 180 consecutive days, at any time after the Commercial Operations Date; or (viii) failure to maintain QF certification. In the event Operator fails to perform in any way, materially or non-materially, any other obligations not specifically listed above, Operator shall be given notice and thirty (30) days to cure such non-performance. Notwithstanding any cure period, Dominion North Carolina Power shall not be obligated to purchase any energy or Contract Capacity under this Agreement while any such breach remains uncured. If Operator fails to cure its non-performance within thirty (30) days of Dominion North Carolina Power's notice, Dominion North Carolina Power shall have the right to cancel this Agreement. Operator agrees that if this Agreement is canceled by Dominion North Carolina Power for Operator's non-performance prior to the end of the initial term of this Agreement, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity.

#### **Article 9: Representations and Warranties**

Operator represents and warrants that it has the right to operate the Facility in accordance with the terms of this Agreement. Operator further represents and warrants that all permits, approvals, and/or licenses necessary for the operation of the Facility will be obtained prior to the Commercial Operations Date and shall be maintained throughout the Term of this Agreement. Operator shall provide such documentation and evidence of such right, permits, approvals and/or licenses as Dominion North Carolina Power may reasonably request, including without limitation air permits, leases and/or purchase agreements.

### Article 10: Notices and Payments

All correspondence and payments concerning this Agreement shall be to the following addresses. Either Party may change the address by providing written notice to the other Party.

OPERATOR:  
W.E. Partners I, LLC  
104 Mellon Road  
New Bern  
North Carolina, 28562

DOMINION NORTH CAROLINA POWER:  
Virginia Electric and Power Company  
Power Contracts (3SE)  
5000 Dominion Boulevard  
Glen Allen, Virginia 23060-6711

### Article 11: Integration of Entirety of Agreement

This Agreement is intended by the Parties as the final expression of their Agreement and is intended also as a complete and exclusive statement of the terms of their Agreement with respect to the purchase and sale of electrical output generated by the Facility. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are hereby abrogated and withdrawn.

IN WITNESS WHEREOF, the Parties hereto have caused their names to appear below, signed by authorized representatives as of the date first shown above.

W.E. PARTNERS I, LLC

By: 

Title: *President*

Date: *12/28/12*

VIRGINIA ELECTRIC AND POWER COMPANY

By: 

Title: *DIR, FIRM REGULATED MARKET OPERATIONS*

Date: *1/4/13*



**EXHIBIT A**  
**GENERATOR INTERCONNECTION GUIDANCE AND AGREEMENT**

Dominion North Carolina Power's procedures for generator interconnection are available through the Internet at the Company's website with draft interconnection agreements for non-FERC jurisdictional generators (as approved by the NCUC included as Attachments 1, 2 and 3 thereto). For FERC jurisdictional generators interconnection shall be in accordance with FERC and PJM requirements.

The specific Internet address for these procedures <https://www.dom.com/dominion-north-carolina-power/customer-service/rates-and-tariffs/pdf/term24.pdf>. The Internet site contains links to the Generator Interconnection Procedures along with the Generator Interconnection Request Form. Once an Interconnection Agreement is executed it will be included herewith as part of this Exhibit A.

## EXHIBIT B General Terms and Conditions

### I - Assignments

Operator agrees not to assign this Agreement without the prior written consent of Dominion North Carolina Power. Dominion North Carolina Power may withhold such consent if it determines, in its sole discretion, that such assignment would not be in the best interests of Dominion North Carolina Power or its customers. Any attempted assignment that Dominion North Carolina Power has not approved in writing shall be null and void and ineffective for all purposes. In the event of assignment by Operator, Operator shall pay Company within thirty (30) days of the effective date of the assignment an amount equal to the actual costs incurred by Company in connection with such assignment up to a maximum amount of \$10,000 per assignment; provided, however, assignment of this Agreement by Operator in connection with an initial financing arrangement which is finalized and for which consent of Company is requested within nine months of the Effective Date of this Agreement shall not be subject to the payment requirement provided herein

### II - Indemnity

Operator shall indemnify and save harmless and, if requested by Dominion North Carolina Power, defend Dominion North Carolina Power, its officers, directors and employees from and against any and all losses and claims or demands for damages to real property or tangible personal property (including the property of Dominion North Carolina Power) and injury or death to persons arising out of, resulting from, or in any manner caused by the presence, operation or maintenance of any part of Operator's Facility; provided, however, that nothing herein shall be construed as requiring Operator to indemnify Dominion North Carolina Power for any injuries, deaths or damages caused by the sole negligence of Dominion North Carolina Power. Operator agrees to provide Dominion North Carolina Power written evidence of liability insurance coverage, which is specifically and solely for the Facility, prior to the operation of the Facility. Operator agrees to have Dominion North Carolina Power named as an additional insured, and shall keep such coverage current throughout the term of this Agreement.

### III - QF Certification

Operator represents and warrants that its Facility meets the Qualifying Facility requirements established as of the Effective Date of this Agreement by the Federal Energy Regulatory Commission's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to remain a Qualifying Facility throughout the term of this Agreement. Operator will submit prior to delivery of electrical output from the Facility to Dominion North Carolina Power evidence of Qualifying Facility certification. After the Commercial Operations Date, if requested by Dominion North Carolina Power prior to March 1 of any year, Operator agrees to provide information annually by July 1 of the same year to Dominion North Carolina Power for the preceding year sufficient for Dominion North

Carolina Power to determine the Operator's continuing compliance with its QF requirements, including but not limited to:

- (a) All information required by FERC Form 556.
- (b) Copy of the Facility's QF Certification and any subsequent revisions or amendments;
- (c) Provide a copy of any contract executed with a thermal host.
- (d) Identification of the amount of each type of fuel used per month and average heating value for each type of fuel, which will be used to determine the Total Energy Input. These values should be verifiable by auditing supporting documentation.
- (e) Identification of each of the QF's useful thermal output(s) for each month, including temperature, pressure, amount of thermal output delivered, temperature and amount of condensate returned (if applicable) and the conversion to Btus. These values should be verifiable by auditing supporting documentation.
- (f) Identification of the QF's useful power output, for each month. These values should be verifiable by auditing supporting documentation.
- (g) Provide drawings, heat balance diagrams and a sufficiently detailed narrative describing the delivery of useful thermal output including the location, description, and calibration data for all metering equipment used for QF calculations.
- (h) Provide any other information which the QF believes will facilitate Dominion North Carolina Power's monitoring of the QF requirements.
- (i) Dominion North Carolina Power may request additional information, as needed, to monitor the QF requirements.

#### IV - Consequential Damages

In no event shall either Party be liable to the other for any special, indirect, incidental or consequential damages whatsoever, except that the foregoing shall not apply to any promises of indemnity or obligations to reimburse the Parties expressly set forth in this Agreement.

#### V - Amendments, Waivers, Severability and Headings

This Agreement, including the appendices thereto, can be amended only by agreement between the Parties in writing. The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment

of any such right or any other right hereunder. In the event any provision of this Agreement, or any part or portion thereof, shall be held to be invalid, void or otherwise unenforceable, the obligations of the Parties shall be deemed to be reduced only as much as may be required to remove the impediment. The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.

#### VI - Compliance with Laws

Operator covenants that it shall comply with all applicable provisions of Executive Order 11246, as amended; § 503 of the Rehabilitation Act of 1973, as amended; § 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended; and implementing regulations set forth in 41 C.F.R. §§ 60.1, 60-250, and 60-741 and the applicable provisions relating to the utilization of small minority business concerns as set forth in 15 U.S.C. § 637, as amended. Operator agrees that the equal opportunity clause set forth in 41 C.F.R. § 60-1.4 and the equal opportunity clauses set forth in 41 C.F.R. § 60-250.5 and 41 C.F.R. 60-§741.5 and the clauses relating to the utilization of small and minority business concerns set forth in 15 U.S.C. § 637(d)(3) and 48 C.F.R. § 52-219.9 are hereby incorporated by reference and made a part of this Agreement. If this Agreement has a value of more than \$500,000, Operator shall adopt and comply with a small business and small disadvantaged business subcontracting plan which shall conform to the requirements set forth in 15 U.S.C. § 637(d)(6). The provisions of this section shall apply to Operator only to the extent that:

- (a) Such provisions are required of Operator under existing law,
- (b) Operator is not otherwise exempt from said provisions and
- (c) Compliance with said provisions is consistent with and not violative of 42 U.S.C. § 2000 et seq., 42 U.S.C. § 1981 et seq., or other acts of Congress.

#### VII - Interconnection and Operation

Operator shall be responsible for the design, installation, and operation of its Facility. Operator shall be responsible for obtaining an Interconnection Agreement. Interconnection guidelines and agreement requirements are set forth in Exhibit A of this Agreement.

Operator shall: (a) maintain the Facility and the Interconnection Facilities on Operator's side of the Interconnection Point, except Dominion North Carolina Power-owned Interconnection Facilities, in conformance with all applicable laws and regulations and in accordance with operating procedures; (b) obtain any governmental authorizations and permits required for the construction and operation thereof and keep all such permits and authorizations current and in effect; and (c) manage the Facility in a safe and prudent manner. If at any time Operator does not hold such authorizations and permits, Dominion North Carolina Power may refuse to accept deliveries of power hereunder.

Dominion North Carolina Power may enter Operator's premises (a) to inspect Operator's protective devices at any reasonable time; (b) to read or test meters and metering equipment; and (c) to disconnect, without notice, the Facility if, in Dominion North Carolina Power's opinion, a hazardous condition exists and such immediate action is necessary to protect persons, or Dominion North Carolina Power facilities or other customers' facilities from damage or interference caused by Operator's Facility or lack of properly operating protective devices. Dominion North Carolina Power will endeavor to notify Operator as quickly as practicable if disconnection occurs as provided in (c) above. Any inspection of Operator's protective devices shall not impose on Dominion North Carolina Power any liabilities with respect to the operation, safety or maintenance of such devices.

Operator shall not operate the Facility in parallel with Dominion North Carolina Power's system prior to (a) an inspection of the installed Interconnection Facilities by an authorized Dominion North Carolina Power representative and (b) receiving written authorization from an authorized Dominion North Carolina Power representative to begin parallel operation.

#### VIII - Metering

Dominion North Carolina Power will meter all electrical output delivered from the Facility on the high voltage side of the step up transformer.

Operator agrees to pay an administrative charge to Dominion North Carolina Power to reflect all reasonable costs incurred by Dominion North Carolina Power for meter reading and billing, also referred to as metering charges. The monthly meter reading and billing charge shall change from time to time when the NCUC approves a different charge in Schedule 19-LMP.

In addition, Operator agrees to pay any fees required to provide and maintain leased telephone lines required for meter reading by Dominion North Carolina Power.

#### IX - Billing and Payment

Dominion North Carolina Power shall read the meter in accordance with its normal meter reading schedule. Within twenty-eight (28) days thereafter, Dominion North Carolina Power shall send Operator payment for energy and Contracted Capacity delivered. At Dominion North Carolina Power's option, (i) Dominion North Carolina Power may make such payments net of the monthly metering charges, Interconnection Facilities charges, and charges for sales of electricity to the Operator, or (ii) Dominion North Carolina Power may invoice Operator for such charges separately. Payment by Dominion North Carolina Power shall include verification showing the billing month's ending meter reading, on-peak and off-peak kWh, and the amount paid. If in any month the monthly metering and Interconnection Facilities charges are in excess of any payments due Operator, Dominion North Carolina Power shall bill Operator for the difference and Operator shall make such payment within 28 days of the invoice date. Failure by Operator to make such payments may result in disconnection of the Facility. In no event shall such disconnection relieve Operator of its obligation to pay monthly metering charges and Interconnection Facilities charges under this Agreement.

In the event that any data required for billing purposes hereunder are unavailable when required for such billing, the unavailable data shall be estimated by Dominion North Carolina Power, based upon historical data. Such billing shall be subject to any required adjustment in a subsequent billing month.

Operator agrees that Dominion North Carolina Power shall be entitled to withhold sufficient amounts due pursuant to this Agreement to offset (a) any damages to Dominion North Carolina Power resulting from any breach of this Agreement by Operator, and (b) any other amounts Operator owes Dominion North Carolina Power, including amounts arising from sales of electricity by Dominion North Carolina Power to Operator, metering charges and Interconnection Facilities charges.

In no event shall Dominion North Carolina Power be liable to Operator for any Contracted Capacity payments in excess of the amounts contracted for herein, regardless of the ultimate length of this Agreement or revisions to Schedule 19-LMP or successor schedules. Operator hereby agrees to accept the Contracted Capacity payments as set forth herein as its sole and complete compensation for delivery of Contracted Capacity to Dominion North Carolina Power.

#### X - Force Majeure

Neither Party shall be considered in default under this Agreement or responsible to the other Party in tort, strict liability, contract or other legal theory for damages of any description for any interruption or failure of service or deficiency in the quality or quantity of service or any other failure to perform any of its obligations hereunder to the extent such failure occurs without fault or negligence on the part of that Party and is caused by factors beyond that Party's reasonable control, which by the exercise of reasonable diligence that Party is unable to prevent, avoid, mitigate or overcome, including without limitation storm, flood, lightning, earthquake, explosion, equipment failure, civil disturbance, labor dispute, act of God or public enemy, action or inaction of a court or public authority, fire, sabotage, war, explosion, curtailments, unscheduled withdrawal of facilities from operation for maintenance or repair or any other cause of similar nature beyond the reasonable control of that Party (any such event, "Force Majeure"). Solely economic hardship of either Party shall not constitute Force Majeure under this Agreement. Nor shall anything contained in this paragraph or elsewhere in this Agreement excuse Operator or Dominion North Carolina Power from strict compliance with the obligation of the Parties to comply with the terms of Article IX of this Exhibit B relating to timely payments.

Each Party shall have the obligation to operate in accordance with Good Utility Practice (as defined below) at all times and to use due diligence to overcome and remove any cause of failure to perform.

If a Party relies on the occurrence of an event of Force Majeure described above as a basis for being excused from performance of its obligations under this Agreement, then the Party relying on the Force Majeure event shall:

a) Provide within forty-eight (48) hours written notice of such Force Majeure event or potential Force Majeure to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations hereunder;

b) Exercise all reasonable efforts to continue to perform its obligations under this Agreement;

c) Expeditiously take action to correct or cure the Force Majeure event excusing performance; provided, however, that settlement of strikes or other labor disputes will be completely within the sole discretion of the Party affected by such strike or labor dispute;

d) Exercise all reasonable efforts to mitigate or limit damages to the other Party; and

e) Provide prompt notice to the other Party of the cessation of the Force Majeure event giving rise to its excuse from performance. All performance obligations hereunder shall be extended by a period equal to the term of the resultant delay.

If a Party responding to a Force Majeure event has the ability to obtain, for additional expenditures, expedited material deliveries or labor production which would allow a response to the event in a manner that is above and beyond Good Utility Practice, and such a response could shorten the duration of the Force Majeure event, the Party responding to the event may, at its discretion, present the other Party with the option of funding the expenditures for expediting material deliveries or labor production in an effort to reduce the duration of the event and economic hardship. Each such opportunity will be negotiated on a case-by-case basis by the Parties.

For purposes of this Agreement, "Good Utility Practice" shall mean any of the applicable practices, methods, standards, guides or acts: required by any governmental authority, regional or national reliability council, or national trade organization, including NERC, SERC, or the successor of any of them, as they may be amended from time to time whether or not the Party whose conduct is at issue is a member thereof; otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period which in the exercise of reasonable judgment in light of the facts known or that should have been known at the time a decision was made, could have been expected to accomplish the desired result in a manner consistent with law, regulation, good business practices, generation, transmission and distribution reliability, safety, environmental protection, economy and expediency. Good Utility Practice is intended to be acceptable practices, methods, or acts generally accepted in the region, or any other acts or practices as are reasonably necessary to maintain the reliability of the Transmission System (as defined in the Interconnection Agreement), or of the Facility, and is not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others.

**EXHIBIT C**

**Exhibit C is a copy of Schedule 19-LMP**



Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

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I. APPLICABILITY AND AVAILABILITY

This schedule is applicable to any qualifying Cogenerator or Small Power Producer (Qualifying Facility) which desires to provide all of its net electrical output to the Company on an energy and capacity, or energy only basis, and which has either (1) generating facilities designated as new capacity as defined by 18 C.F.R. 292.304(b)(1), or (2) hydroelectric generating facilities that meet the criteria of being owned or operated by a small power producer as defined in G.S. 62-3(27a) and enters into an agreement for the sale of electrical output to the Company (Agreement).

Where the Qualifying Facility (QF) elects to be compensated for the provision of its electrical energy in accordance with this schedule, the amount of capacity under contract and the initial term of contract shall be limited as follows:

- A. Where the QF operates hydroelectric generating facilities that meet the criteria of being owned or operated by a small power producer as defined in G.S. 62-3(27a), or where the QF operates non-hydroelectric QFs fueled by trash or methane derived from landfills, hog waste, poultry waste, solar, wind, and non-animal forms of biomass, the amount of capacity subject to compensation shall be no greater than 5,000 kW, and the amount of energy purchased during a given hour shall be no greater than 5,000 kWh. The initial term of contract for such a QF shall be for a period not to exceed fifteen (15) years.
- B. Where the QF is not defined under Paragraph I.A., the amount of capacity subject to compensation shall be no greater than 3,000 kW, and the amount of energy purchased during a given hour shall be no greater than 3,000 kWh. The initial term of contract for such a QF shall be for a period not to exceed fifteen (15) years.

Filed 11-01-12

Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 08-26-11. This Filing Effective For Usage  
On and After 01-01-13.

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

I. APPLICABILITY AND AVAILABILITY (Continued)

Where the QF elects to be compensated for the provision of its electric energy in accordance with this schedule, the QF must enter into a contract and begin deliveries to the Company on or before December 31, 2014. Where the QF elects an initial contract term of 10 or more years, such contract may be renewed for subsequent term(s), at the Company's option, based on substantially the same terms and provisions and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration the Company's then avoided cost rates and other relevant factors or (2) set by arbitration.

This schedule is not applicable to a QF owned by a developer, or an affiliate of a developer, who sells power to the Company from another facility located within one-half mile unless: 1) each facility provides thermal energy to different, unaffiliated hosts, or 2) each facility provides thermal energy to the same host, and the host has multiple operations with distinctly different or separate thermal needs, or 3) each facility utilizes a renewable resource which may be subject to geographic siting limitations, such as hydroelectric, solar or wind power facilities.

II. MONTHLY BILLING TO THE QF

All sales to the QF will be in accordance with any applicable filed rate schedule. In addition, where the QF contracts for sales to the Company, the QF will be billed a monthly charge equal to one of the following to cover the cost of meter reading and processing:

<u>Metering required</u>	<u>Charge</u>
One non-time-differentiated meter	\$ 17.24
One time-differentiated meter	\$ 35.55
Two time-differentiated meters	\$ 41.16

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

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III. CONTRACT OPTIONS

QFs with a design capacity of 10 kW or less shall elect, from the following two options, the manner in which the QF shall operate and provide its electrical output to the Company. This election shall be contracted for and made a part of the QF's Agreement. QFs with a design capacity greater than 10 kW must contract for the supply of both energy and capacity to the Company, in accordance with Paragraph III. A., below. Purchase payments, if any, to the QF for the supply of energy and/or capacity to the Company shall be based on this contractual designation.

- A. Supply of Energy and Capacity. A QF shall contract for the supply of both energy and capacity to the Company, except as may be permitted pursuant to Paragraph III. B., below. The level of capacity that the QF contracts for shall not exceed the capacity limits outlined in Paragraph I. The supply of both energy and capacity shall require the installation of one (or two, if necessary) time differentiated meter(s) to measure the hourly output of the QF's generation facility.

Supply of Energy Only. A QF with a design capacity of 10 kW or less may elect to contract for the supply of energy only to the Company. A QF electing this option will not be eligible for capacity payments. Election of this option shall require the installation of a non-time-differentiated meter to measure the monthly output of the QF's generation facility.

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

IV. PAYMENT FOR COMPANY PURCHASES OF ENERGY AND CAPACITY

A QF that supplies both energy and capacity to the Company, in accordance with Paragraph III.A., above, shall receive purchase payments as follows:

A. Energy Purchase Payments

1. Purchase payments for the supply of energy by the QF to the Company will be based on an hourly energy purchase price (cents per kWh) that is calculated using the hourly \$/MWh PJM Interconnection, LLC (PJM) Dom Zone Day Ahead Locational Marginal Price (DA LMP) divided by 10, and multiplied by the hourly net generation as recorded on the Company's time-differentiated meter.
2. All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company, except that upon the effective date of any Schedule 19 that is subsequently amended and approved by the Commission, the line loss percentage applied shall be the percentage stated in the then-current Schedule 19. In lieu of 3.0% or the line loss percentage stated in the then-current Schedule 19, the QF may request that a site specific line loss percentage be determined with the QF bearing the cost of the study required.

B. Capacity Purchase Payments

Purchase payments for the supply of capacity by the QF to the Company will be made based upon the QF's daily net on-peak generation multiplied by that corresponding day's on-peak capacity purchase price, as calculated below. If applicable, the purchase payment for capacity may be modified by application of the Summer Peak Performance Factor (SPPF), as described below. The on-peak hours for every day are from 7 AM to 11 PM. Off-peak hours are defined as all other hours.

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

IV. PAYMENT FOR COMPANY PURCHASES OF ENERGY AND CAPACITY  
(Continued)

Effective each June 1, PJM will establish the Reliability Pricing Model capacity resource clearing price for each PJM zone, shown as \$/MW/day price, that will be applicable through the following May 31. Such prices will be the clearing results from PJM's Base Residual Auction. Using the price for the Dom Zone, the Company will calculate an on-peak capacity purchase price (cents per kWh) for each day by dividing the Dom Zone \$/MW/day price by 16 hours, and further dividing the result by 10, rounded to the nearest one-thousandth cent. The resulting cents per kWh on-peak capacity purchase price will be applied to the QF's net on-peak generation for the corresponding day, to provide for the daily capacity purchase amount. The sum of the daily capacity purchase amounts for the billing month will constitute the monthly capacity purchase payment to the QF, unless modified by application of the SPPF, below.

Initially, a QF's SPPF will be 1. Once a QF has achieved Commercial Operations and such operation encompasses at least a full Summer (defined by PJM as June 1 through September 30), the following January billing month, and for each January billing month thereafter, an SPPF will be calculated that is based on the QF's operation during the five (5) PJM coincident peak hours ("CP Hours"), as posted by PJM, during the Summer of the previous calendar year. The QF's SPPF is equal to the number of CP Hours in which the QF generated at or greater than 75% of its Contracted Capacity, divided by 5. Therefore, the SPPF could be 0, 0.2, 0.4, 0.6, 0.8, or 1.0. The QF's SPPF will be applied to the monthly capacity purchase payment for each billing month of the current calendar year.

Virginia Electric and Power Company

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

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V. PAYMENT FOR COMPANY PURCHASES OF ENERGY ONLY

A QF that supplies only energy to the Company, in accordance with its election in Paragraph III. B., above, shall receive purchase payments as follows:

- A. Purchase payments for the supply of energy only by the QF to the Company will be based on an energy purchase price (cents per kWh) that is calculated using the average of the hourly \$/MWh Dom Zone DA LMP for the QF's billing month, divided by 10, and multiplied by the net generation as recorded on the Company's non-time-differentiated meter.

All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company except that upon the effective date of any Schedule 19 that is subsequently amended and approved by the Commission, the line loss percentage applied shall be the percentage stated in the then-current Schedule 19. In lieu of 3.0% or the line loss percentage stated in the then-current Schedule 19, the QF may request that a site specific line loss percentage be determined with the QF bearing the cost of the study required.

VI. PROVISIONS FOR COMPANY PURCHASE OF THE QF GENERATION

- A. The QF shall own and be fully responsible for the costs and performance of the QF's:
1. Generating facility in accordance with all applicable laws and governmental agencies having jurisdiction;
  2. Control and protective devices as required by the Company on the QF's side of the meter.
- B. The sale of power to the Company by a QF at avoided cost rates pursuant to this Schedule 19-DRR does not convey ownership to the Company of the renewable energy credits or green tags associated with the QF facility.

Filed 11-01-12  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 08-26-11. This Filing Effective For Usage  
On and After 01-01-13.

Virginia Electric and Power Company

Schedule 19 - LMP  
POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

(Continued)

VI. PROVISIONS FOR COMPANY PURCHASE OF THE QF GENERATION (continued)

- C. Upon request by the Company, the Co-generator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.
- D. Interconnection procedures for the QF's generation interconnection are provided through the Internet at the Company's website:

<http://www.dom.com/dominion-north-carolina-power/customer-service/rates-and-tariffs/pdf/term24.pdf>

VII. MODIFICATION OF RATES AND OTHER PROVISIONS HEREUNDER

The provisions of this schedule, including the rates for purchase of electricity by the Company, are subject to modification at any time in the manner prescribed by law, and when so modified, shall supersede the rates and provisions hereof.

VIII. TERM OF CONTRACT

The term of contract shall be such as may be mutually agreed upon but for not less than one year. A QF that initially chooses Schedule 19 - LMP will be permitted a one-time switch to Schedule 19-FP on the first day of its second year under its contract, with 90 days written notice, and in so doing, enter into a new contract with pricing in accordance with the Schedule 19-FP in effect at the time of the initial contract date and with a choice of term of 5, 10, or 15 years, less the days elapsed between the commencement of the original contract and the time of execution of the new contract. This one-time option to switch shall only be permitted contingent on Schedule 19 - FP being in effect on the first day of the QF's second year under contract.

Filed 11-01-12  
Electric-North Carolina

Superseding Filing Effective For Usage On and  
After 08-26-11. This Filing Effective For Usage  
On and After 01-01-13.

**EXHIBIT D**

**Exhibit D is a map and written description identifying the specific location of the Facility and is provided by the Operator.**



## Exhibit D Map and Written Description

### 1. Facility Description

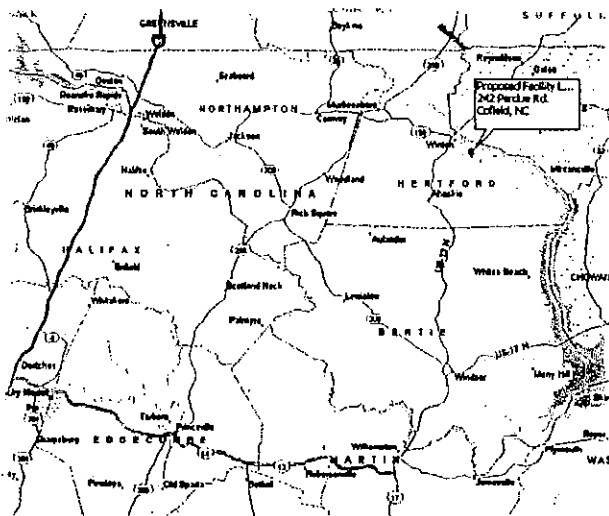
The facility is a biomass cogeneration facility consisting of two (2) 29 MMBtu/hr biomass fired boilers, in conjunction with a 375 ekW steam turbine gen-set, located at 242 Perdue Rd., Cofield, North Carolina. Cofield is located in Hertford County. The project is a biomass cogeneration facility and as such provides saturated steam to the adjacent facility, which is owned by Perdue Farms, and will provide electricity to Dominion Power.

The facility is permitted to combust biomass materials, including logging residues and sawdust.

### 2. Location

The proposed facility is located at 242 Perdue Rd., Cofield, North Carolina. Cofield is located in Hertford County. The facility is approximately 1 mile north of the intersection of state route 45 and 1403.

Wide Area Map of Proposed Location



Local Map of Proposed Location

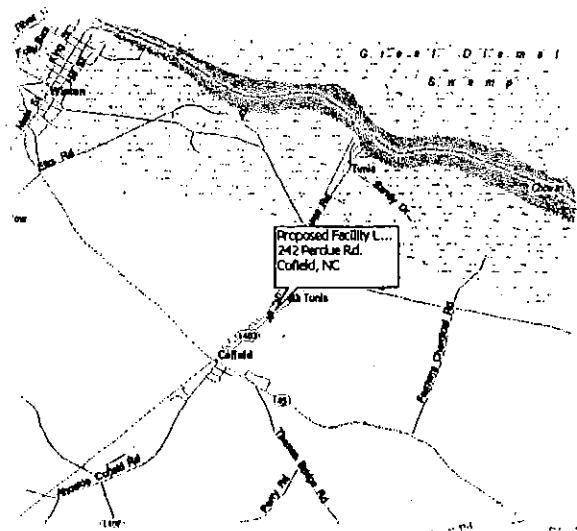


EXHIBIT E

Exhibit E is the "Qualifying Facility" Certification to be provided by the Operator.

OR

If Facility is less than 1MW, Owner may submit the following statement as Exhibit F that the Facility qualifies as a Qualifying Facility (QF) under federal law.

Federal law exempts small power production or cogeneration facilities with net power production capacities of 1 MW or less from certain certification requirements in order to qualify as a qualifying facility ("QF" or "Qualifying Facility"). Therefore, W.E. Partners I, LLC [QF Name Here] submits the Facility is exempt from the certification requirements, but submits that the Facility qualifies as a Qualifying Facility under federal law set forth in the Public Utility Regulatory Policies Act of 1978 ("PURPA") (codified at 16 U.S.C. § 824a-3.

  
Name

President  
Title

**EXHIBIT F**

**Exhibit F is the Certificate of Public Convenience and Necessity to be provided by the Operator, or evidence that no such certificate is required under North Carolina law.**

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. SP-729, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of W.E. Partners I, LLC, for Registration of a New Renewable Energy Facility	) ORDER ACCEPTING AMENDED ) REGISTRATION STATEMENT OF NEW ) RENEWABLE ENERGY FACILITY
--------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------

BY THE CHAIRMAN: On September 17, 2012, the Commission issued an Order on Request for Declaratory Ruling and Notice of Intent to Revoke Registration of New Renewable Energy Facility in Docket No. SP-729, Sub 1. The Order noticed the Commission's intent to revoke the registration filed by W.E. Partners I, LLC (WEP), for a combined heat and power (CHP) facility located in Cofield in Hertford County, North Carolina, unless WEP filed an amended registration statement with the Commission indicating that: (1) WEP is in compliance with the September 17, 2012 Order which denied WEP's request for a declaratory ruling that WEP could provide electricity free of charge to its steam host and not be subject to regulation as a public utility under G.S. 62-3(23)a.1; and (2) demonstrating that WEP will produce electricity net of "station service" as defined in the Commission's July 1, 2010 Order Adopting Interim Operating Procedures for REC Tracking System, issued in Docket No. E-100, Sub 121, and further clarified in the Commission's August 10, 2012 Order on Request for Declaratory Ruling and Notice of Intent to Revoke Registration of New Renewable Energy Facility in this docket.

On September 24, 2012, WEP filed an amendment to its registration statement indicating that its CHP facility had been modified and would now produce electricity net of station service in the range of 40 to 50 kW per hour. WEP further stated that its CHP facility will interconnect with Dominion North Carolina Power (Dominion), rather than provide its electrical output free of charge to its steam host, Perdue Agribusiness, Inc. (Perdue). WEP indicated that the interconnection is expected to be in place, and that WEP will begin exporting power, within the next 90 to 120 days.

On October 4, 2012, the Public Staff filed the recommendation required by Commission Rule R8-66(e) stating that WEP's amended registration statement as a new renewable energy facility should be accepted and recommending that the Commission not revoke the CHP facility's registration as a new renewable energy facility. The Public Staff further recommended that once the CHP facility is placed in service and exporting electricity derived from a renewable energy resource to Dominion, the facility should be eligible to earn renewable energy certificates (RECs) for both its thermal and electric generation and not be subject to regulation as a public utility.

Based upon the foregoing and the entire record in this proceeding, including the source of fuel stated in the registration statement, the Chairman finds good cause to

accept the amended registration of WEP's biomass-fueled CHP facility as a new renewable energy facility. Pursuant to G.S. 62-133.8(a)(7), a renewable energy facility includes a CHP facility fueled by a renewable energy resource, but does not include a biomass-fueled boiler producing steam without also generating electricity. Therefore, once the facility interconnects with Dominion and begins generating useful and measurable steam and electricity net of "station service," WEP will be eligible to earn RECs for both the electric and thermal energy captured from the waste heat and used by Perdue. As stated in the Commission's March 13, 2012 Order on Public Staff's Motion for Reconsideration in Docket No. SP-100, Sub 9, only the thermal energy that is a byproduct of the electrical generation, that, if not captured and used, would be wasted, is eligible to earn RECs. WEP shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year. WEP will be required to participate in the NC-RETS REC tracking system ([www.ncrets.org](http://www.ncrets.org)) in order to facilitate the issuance of RECs.

IT IS, THEREFORE, ORDERED as follows:

1. That the amended registration by WEP for its biomass-fueled CHP facility located in Cofield in Hertford County, North Carolina as a new renewable energy facility shall be, and is hereby, accepted.
2. That WEP shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year.

ISSUED BY ORDER OF THE COMMISSION.

This the 10<sup>th</sup> day of October, 2012.

NORTH CAROLINA UTILITIES COMMISSION

*Gail L. Mount*

Gail L. Mount, Chief Clerk

Bh101012.02