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Aug 07 2015

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**VIA ELECTRONIC FILING**

Mrs. Gail L. Mount, Chief Clerk  
North Carolina Utilities Commission  
Dobbs Building  
430 North Salisbury Street  
Raleigh, North Carolina 27603

**Re: Docket No. E-100, Sub 140**

Dear Mrs. Mount:

On behalf of Virginia Electric and Power Company, d/b/a Dominion North Carolina Power ("DNCP"), enclosed for filing in the above-referenced docket is the Reply Comments of Dominion North Carolina Power.

Thank you for your assistance with this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

/s/Andrea R. Kells

ARK:asm

Enclosures

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 140

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of )  
Biennial Determination of Avoided Cost )  
Rates for Electric Utility Purchases from ) **REPLY COMMENTS OF**  
Qualifying Facilities – 2014 ) **DOMINION NORTH CAROLINA**  
 ) **POWER**  
 )

NOW COMES Virginia Electric and Power Company d/b/a Dominion North Carolina Power (“DNCP” or the “Company”) and, pursuant to the North Carolina Utilities Commission’s (“Commission”) January 8, 2015 *Order Establishing Procedural Schedule and Scheduling Public Hearing* (“Phase 2 Scheduling Order”) and the May 29, 2015 *Order Granting Motion for Extension of Time*, submits these Reply Comments in response to the Initial Statement of the Public Staff and the Initial Comments of the North Carolina Sustainable Energy Association (“NCSEA”) and the Southern Alliance for Clean Energy (“SACE”) filed in this proceeding on June 22, 2015.

**I. INTRODUCTION**

As demonstrated by its March 2 filing in this proceeding, numerous responses to data requests, and these reply comments, the avoided cost rates and standard rate schedules and contracts proposed by the Company in this proceeding, as adjusted by these reply comments, are consistent with the Commission’s December 31, 2014 *Order Setting Avoided Cost Parameters* (“Phase 1 Order”) and the January 8, 2015 *Order Establishing Procedural Schedule and Scheduling Public Hearing* (“Phase 2 Scheduling Order”), and should be accepted.

The Company's proposals comply with the Phase 1 Order's directives by, among other things, (1) basing the estimated installed cost of a hypothetical CT on publicly available industry data, adjusted as appropriate to reflect DNCP's experience and the circumstances of its operations in Virginia and North Carolina, (2) reflecting fuel hedging benefits associated with purchases of renewable energy in the avoided energy component of its avoided cost rates, and (3) answering all of the Commission's questions with regard to the LEO form first proposed by the Company during Phase 1 of this proceeding.

Finally, the Company has complied with the directives of the Phase 2 Scheduling Order, which directed each of the utilities to file a set of proposed rates for purchases from QFs, showing all calculations for determining the proposed rates, including inflation rates and discount rates used, and proposed standard form(s) of contract between QFs and the utility, and a description of any differences between the proposed standard form(s) of contract and the currently approved standard form(s) of contract, including the reasons for such differences, and to file their proposed rates and standard form contracts in accordance with the determinations and guidance set forth in the Phase 1 Order.

## II. REPLY COMMENTS

### A. DNCP's avoided capacity cost estimate

#### 1. DNCP's use of the Siemens model combustion turbine relied on publically available industry data sources in estimating the capital costs of a hypothetical CT

The Phase 1 Order required that DNCP and the other utilities "use installed cost of CT per kW from publicly available industry sources, such as the EIA or PJM's cost of new entry studies or comparable data."<sup>1</sup> As detailed in Section III of its March 2 filing,

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<sup>1</sup> Phase 1 Order at 48.

consistent with its 2013 and 2014 integrated resource plans (“IRP”) previously approved by the Commission, the Company used a Siemens SGT6-5000F turbine-generator set (a “Siemens-5000”) as the generating equipment for the hypothetical CT. To calculate the installed cost of the hypothetical CT, the Company used data from two sources. For the cost of the Siemens-5000 turbines, the Company utilized simple-cycle plant prices published in the 2013 Gas Turbine World Handbook (“GTW Handbook”), a widely recognized, respected and publicly available industry source. For the other construction and owner-related costs for the hypothetical CT, the Company used the 2014 Brattle Group study “Cost of New Entry Estimates for Combustion Turbine and Combined Cycle Plants in PJM” (the “Brattle Report”).<sup>2</sup> No party has asserted that the Company’s use of the GTW Handbook or the Brattle Report failed to comply with the Commission’s directive to use costs from publicly available industry sources.

As directed by the Phase 1 Order, and discussed further below, in calculating the installed costs of the hypothetical CT, the Company made adjustments to the publicly available information upon which it relied “only to the extent clearly needed to adapt any such information to the Carolinas and Virginia.”<sup>3</sup> The equipment cost of the Siemens-5000 from the GTW Handbook did not require any Carolinas or Virginia-specific adjustments. The other construction and owner-related costs for the hypothetical CT did require adjustments, which are described on pages 3 through 5 of Section III of the

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<sup>2</sup> See “Cost of New Entry Estimates for Combustion Turbine and Combined Cycle Plants in PJM,” prepared by The Brattle Group and Sargent & Lundy, dated May 15, 2014 (available at <https://www.pjm.com/~media/documents/reports/20140515-brattle-2014-pjm-cone-study.ashx>).

<sup>3</sup> Phase 1 Order at 48, Ordering Paragraph 6.

Company's March 2 filing. The resulting installed cost per kW for the hypothetical CT is \$485/kW.<sup>4</sup>

In their initial comments, NCSEA asks the Commission to direct DNCP to use the GE-7FA turbine<sup>5</sup> and the Public Staff recommends that the Company use either the "GE Model 7FA unit or a comparable unit" for the hypothetical CT instead of the Siemens-5000.<sup>6</sup>

**a. The turbine utilized for avoided capacity cost calculations should be the turbine that is selected as the least cost option in the Company's IRP**

In its IRP process, the Company evaluates future resource alternatives carefully, to provide safe and reliable service to its customers at the lowest reasonable cost. In the Company's 2012 IRP, those evaluations concluded that the GE-7FA turbine was the appropriate least cost CT option. Accordingly, when calculating avoided capacity costs for the 2012 biennial proceeding, the Company used the GE-7FA as the turbine technology for the hypothetical CT.

During 2013, the Company reassessed the cost and performance of the available turbine models for future simple cycle CT installations. This evaluation considered the use of the GE-7FA, the Siemens-5000 and the Mitsubishi Heavy Industries ("MHI") Model 501GAC. Based on that reassessment, the Company selected the Siemens-5000 for IRP modeling for that year. While the total capital cost (in dollars) of the Siemens-5000 and the GE-7FA and other performance factors were roughly equivalent, the

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<sup>4</sup> See March 2 filing, Section III at 1.

<sup>5</sup> See Initial Comments of NCSEA at 24, Docket No. E-100, Sub 140 (June 22, 2015) ("NCSEA Initial Comments").

<sup>6</sup> Public Staff Initial Statement at 42, Docket No. E-100, Sub 140 (June 22, 2015) ("Public Staff Initial Statement").

Siemens-5000 turbines have approximately 57 MW greater capacity than the GE 7FA for an assumed two-unit facility, therefore making the Siemens-5000 far more economical on a per unit basis (lower cost per kW) than the GE-7FA. The MHI turbine also was superior to the GE-7FA on cost per kW basis, but due to a lower MW output on the MHI turbine using fuel oil, DNCP selected the Siemens-5000, which produces virtually the same output whether running on natural gas or fuel oil. In addition, the Siemens turbine was found during this reassessment to have a better heat rate than the GE turbine model. This change in CT technology to the Siemens-5000 was incorporated into the Company's 2013 and 2014 IRPs that were subsequently approved by the Commission. The Company's 2015 IRP update, filed with the Commission on July 1, 2015, also includes the Siemens turbine for the simple cycle CT resource options. No party to those IRP proceedings contested the Company's use of Siemens in any of these IRPs. Consistent with its past practice, because the Siemens-5000 was selected as the least cost CT option in the 2014 IRP, the Company used the Siemens-5000 as the CT technology for a hypothetical CT for this proceeding.

Adoption of the Public Staff's and NCSEA's comments on this issue would result in the Commission ignoring the Company IRP's selection of the Siemens-5000 as the least cost CT option and would, instead, require that the Company use the GE-7FA, which the Company has determined is not the least cost turbine option on a per unit output basis. As noted by the Public Staff, a "utility's projected CT costs must be reasonable so as to comply with PURPA" and "FERC's order implementing Section 210 of PURPA states that the goal is to make ratepayers indifferent between a

utility self-build option or alternative purchase and a purchase from a QF.”<sup>7</sup> Forcing the Company to calculate avoided costs based on the high cost CT option instead of the option demonstrated through the IRP to be the least cost option will not make ratepayers indifferent, but will instead impose avoided cost payments on them well in excess of the Company’s actual avoided costs. Further, such a decision would contradict the Commission’s policy that avoided cost rates should be based on the best information available at the time the estimate is made.

**b. The Brattle Report’s use of the GE turbine model does not dictate that the GE-7FA be used in this proceeding**

The Public Staff asserts that the Company should use the GE-7FA for the hypothetical CT because that is the CT technology used in Brattle Report.<sup>8</sup> The Company disagrees. The purpose of this proceeding as it relates to DNCP is to determine the Company’s avoided cost based on the resource and expansion plans for the Company’s system, not the cost of new entry of a merchant generator to PJM. Unlike the Company’s selection of the Siemens-5000, there is no indication that the Brattle Report’s use of the GE-7FA was made on the basis of least cost planning considerations. In fact, the GE-7FA was used in the Brattle Report because the PJM OATT mandates use of the GE-7FA as the “Reference Resource” for the cost of new entry study.<sup>9</sup> While the authors of the Brattle Report stated that they did not “find a basis to make a change in turbine

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<sup>7</sup> Public Staff Initial Statement at 39 (quoting the Phase 1 Order).

<sup>8</sup> *See id.* at 39-42.

<sup>9</sup> Brattle Report at 7, n. 11; *see also* PJM Tariff, Attachment DD, Section 2.58 (“Reference Resource” shall mean a combustion turbine generating station, configured with two General Electric Frame 7FA turbines with inlet air cooling to 50 degrees, Selective Catalytic Reduction technology all CONE Areas, dual fuel capability, and a heat rate of 10.096 Mmbtu/ MWh.”) (available at <http://www.pjm.com/~media/documents/agreements/tariff.ashx>).

model for PJM in the current study *from the tariff specification*,”<sup>10</sup> the fact remains that the use of the GE-7FA was a PJM requirement. This Commission has imposed no such technology mandate on DNCP or the other utilities, and in light of the Company’s IRP’s selection of the Siemens-5000, the Company’s decision not to adopt the PJM mandated “Reference Resource” is an adjustment “clearly needed to adapt [the Brattle Report information] to the Carolinas and Virginia,” as permitted by the Phase 1 Order.<sup>11</sup>

The Public Staff also states the Brattle Report utilized the GE-7FA “in part because it is the predominant turbine type built in PJM,”<sup>12</sup> and argues that this justifies requiring DNCP to use the GE-7FA. According to the Brattle Report, since 2008, three GE-7FAs have been installed in PJM and 16 have been installed nationally.<sup>13</sup> The Brattle Report apparently does not track the installation of the Siemens-5000 (as opposed to the smaller Siemens-501) as it reports no Siemens-5000 units installed anywhere in the country since 2008. The Company is aware, however that Siemens-5000 units have been installed since 2008. In fact, the *only* large CT facility constructed in either North Carolina or Virginia during the past 5 years was a Siemens turbine at Plant Cleveland, Cleveland County, North Carolina. Plant Cleveland is a 4 unit, dual-fuel, greenfield facility developed by Southern Company, and utilizes Siemens-5000 turbines.

**c. The capacity factor of the GE-7FA is not superior to that of the Siemens-5000**

In support of its advocacy of the GE-7FA, the Public Staff appears to suggest that the GE-7FA has a higher capacity factor (“up to [Begin Confidential] [REDACTED] [End

<sup>10</sup> Brattle Report at 8 (emphasis added).

<sup>11</sup> Phase 1 Order at 48 and Ordering Paragraph 6.

<sup>12</sup> Public Staff Initial Statement at 39.

<sup>13</sup> See Brattle Report at 8. The Brattle Report information was based on data collected between November 2013 and March 2014. See *id.*

**Confidential]**) than the Siemens-5000 capacity factor of **[Begin Confidential]** [REDACTED] **[End Confidential]**.<sup>14</sup> This is incorrect. The Public Staff's statements are apparently based on the Company's initial response to Public Staff Phase 1 Data Request Set 2, number 7, which did in fact project that the GE-7FA may operate at capacity factor of "up to **[Begin Confidential]** [REDACTED] **[End Confidential]**." This initial response was erroneous and was subsequently corrected in a revised Company response to Public Staff Phase 1 Data Request Set 2, number 7 that showed that the GE-7FA would in operate with capacity factors of **[Begin Confidential]** [REDACTED] **[End Confidential]**, the same range as the Siemens 5000. In short, the Company believes that the capacity factors of the Siemens 5000 and the GE-7FA capacity factor would be equivalent, and given its lower cost per kW as discussed further below, the Siemens-5000 is the best option for the hypothetical CT.

**d. Based on the key price metric of dollars per kW, the Siemens turbine is the least cost option for ratepayers.**

Public Staff's opposition to the Company's proposed avoided capacity cost estimate is based, in part, on the fact that it is lower on a per unit output basis than the 2012 cost estimate.<sup>15</sup> First, and generally speaking, the Company cautions against placing too much emphasis on the change in CT installed costs between 2012 and 2015. The fact that the CT installed cost estimate decreased from 2012 to 2015 does not mean that the 2015 estimate is too low or that it is otherwise inaccurate, since it is always the case that future estimates can increase or decrease above or below previous estimates.

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<sup>14</sup> Public Staff Initial Statement at 38.

<sup>15</sup> *See id.* at 23 ("[t]he combination of the lower installed costs and higher MW output of the Siemens CTs, the lower fixed O&M cost rate, and other adjustments reduced DNCP's overall annual avoided capacity costs by 35%, as compared to its 2012 capacity costs."); 40 ("DNCP's installed costs fell by 35%" in comparison to the 2012 avoided cost estimate.).

More specifically, Public Staff's comments reflect a comparison of apples to oranges in two respects. First, comparing the Company's installed CT cost estimate from the 2012 case, which was based on the GE-7FA turbine, to the estimate from this proceeding, which uses the Siemens turbine, ignores the distinctions between those turbines in terms of price per kW and time period. Second, Public Staff's use of the fairly simplistic Producer Price Indices ("PPI") as the measuring stick for installed CT costs is not appropriate, since the PPI simply shows the percentage change in turbine prices from year to year and therefore has limited bearing on the dollars per kW price metric used in the avoided cost calculations that the Company makes in these biennial proceedings. It certainly is not an appropriate comparison to the complex peaker methodology of cost estimation utilized in these proceedings, a methodology that has changed in significant ways, pursuant to the Phase 1 Order, from the methodology employed in the 2012 proceeding.

**e. The Company's avoided capacity cost estimate is consistent with industry price trends**

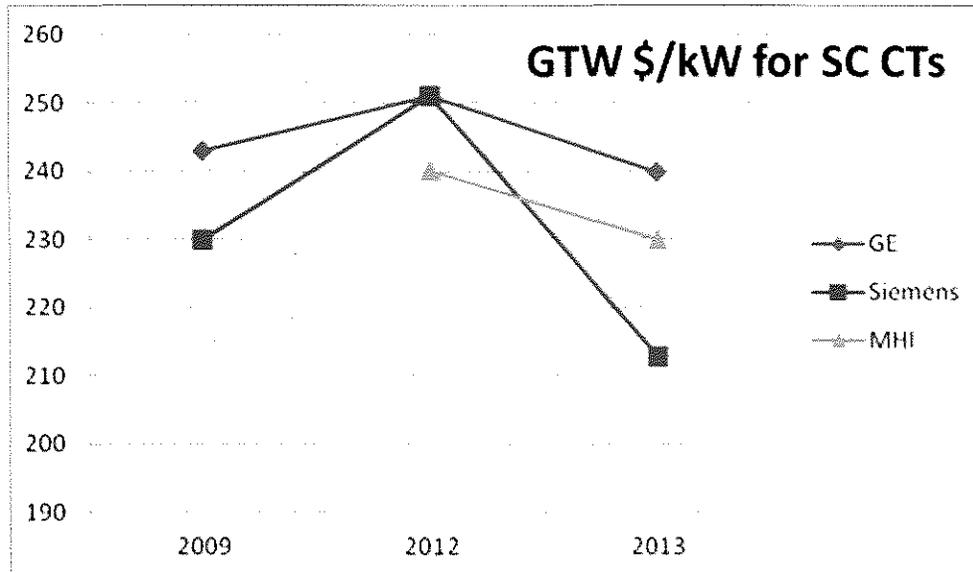
Public Staff's description of the price trends for CTs<sup>16</sup> is inaccurate. While it is true that turbine prices themselves have been relatively stable over the past five years, the price per kW for Siemens turbines as discussed above, as well as GE and MHI turbines, has in fact decreased, as shown by Figure 1 below.<sup>17</sup> Notably, Figure 1 shows that the Siemens turbines have seen the largest reduction in price per kW of the three models. This reduction is due to significant improvements in turbine performance, resulting in higher capacity output and higher efficiency, and therefore resulting in decreased price

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<sup>16</sup> See *id.* at 42.

<sup>17</sup> See 2013 GTW Handbook at 44; 2012 GTW Handbook at 44; 2009 GTW Handbook at 38.

per kW of output. With regard to Siemens models in particular, the prices per kW for the turbines dropped 15% from 2012 to 2013, primarily because the turbine output increased from 208 MW to 232 MW. So, in terms of dollars per kW, turbines are actually cheaper now than they were five years ago; and, it is this metric – the price per kW of a CT – that is important to the Company’s and the Commission’s evaluation of hypothetical CT costs. In evaluating performance and cost of potential turbine options, it is not only the absolute cost of the turbine but also the ratio of that cost to the turbine’s output that is critical.



As evidence of “the relatively stable price trends of CTs,”<sup>18</sup> the Public Staff as discussed above relied on data from the Bureau of Labor Statistics’ PPI for turbine and turbine generator sets over the last fifteen years, contending that “the last couple of years reveals an average cost increase of 1.9% per year in the prices of turbines since 2012.”<sup>19</sup> As discussed above, the PPI, which shows the percentage change in turbine prices from

<sup>18</sup> Public Staff Initial Statement at 42.

<sup>19</sup> *Id.* at 40-41.

year to year, has limited bearing on the dollars per kW price metric used in the avoided cost calculations that the Company makes in these biennial proceedings.

**f. The absence of a Siemens-5000 in the Company's current CT fleet is not grounds for requiring the Company to use the GE-7FA for the hypothetical CT**

In part, the Public Staff bases its opposition to DNCP's use of the Siemens-5000 in the avoided cost calculation on its doubt that the Siemens-5000 would actually be selected by the Company for construction. The Public Staff has provided no evidentiary grounds for this speculation. Yet, the Public Staff and NCSEA ask the Commission to assume that the Company will, in fact, select the GE-7FA as its next CT, while the evidence does not support such an assumption.

DNCP has not constructed a new simple-cycle CT facility—GE model or otherwise—since completing the fifth turbine at the Company's Ladysmith facility in 2009. The initial development at Ladysmith was completed in 2001 when the GE 7FA equipment was the predominant CT equipment in the market. Since 2009, the Company has not purchased a single GE-7FA. Instead, for the recently completed a combined cycle facility at Warren County, Virginia, a combined cycle facility at Brunswick County, Virginia, and a third combined cycle facility at Greensville County, Virginia, the Company selected MHI turbines, because the MHI turbines had better overall cost and performance than either Siemens-5000 or GE 7FA. Indeed, if recent history were the only relevant factor in the selection of CT technology, the Company would have based the avoided capacity cost of a hypothetical CT in this case on MHI turbines, and the result would actually have been even lower cost per kW of capacity than the Siemens-

5000.<sup>20</sup> However, as discussed above, because the MHI turbines did not have extensive demonstrated operating history on dual fuel in a CT facility, the Company selected the Siemens-5000 as the CT option for its 2013, 2014, or 2015 IRPs and, as a result, for this avoided cost proceeding.

The Company cannot of course guarantee that, when the time comes to actually install a CT, it will use a Siemens-5000. The turbine selection will be the subject of a competitive bidding process. If at that time, the MHI turbines have better demonstrated dual-fuel capability, or it is determined that dual-fuel capability is no longer needed, it is possible that DNCP might elect to utilize the MHI turbines, which have a lower cost per kW than the Siemens-5000. Given, however, the cost advantage of both the Siemens and MHI turbines over the GE-7FA, it is highly unlikely at this time that DNCP would select the GE -7FA for the next CT that it constructs.

**2. DNCP has appropriately tailored the publicly available industry data and no additional adjustments are required**

As detailed in the Company's March 2 filing,<sup>21</sup> in order to tailor the Brattle Report results to be consistent with the Phase 1 Order and adapt to the Carolinas and Virginia, the Company applied the following adjustments to the Brattle Report data:

- Eliminated the Selective Catalytic Reduction, which would not be included in a CT constructed by the Company in the Carolinas or Virginia;
- Corrected the construction labor costs to reflect the CT costs adopted by PJM and approved by FERC in its cost of new entry modifications proposed by the

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<sup>20</sup> See Public Staff – DNCP Phase 2 Discovery Request Set 8-5.

<sup>21</sup> See March 2 filing at Section III, pp. 3-4 and Figure 1.

PJM Independent Market Monitor based on analysis from Pasteris Energy and Stantee Consulting Services, Inc.;

- Adjusted sales tax to reflect rates applicable for VA;
- As discussed further below, adjusted electric and gas interconnection costs to reflect costs expected for a CT constructed by DNCP in Virginia or North Carolina and to reflect economies of scale;
- Adjusted fuel costs for startup and inventories to be consistent with fuel cost projections reflected in avoided fuel costs, because forward fuel prices were different in 2015 (when the Schedule 19 rates were being developed) than in 2014 (when the Brattle Report was being developed); and
- Eliminated financing fees as financing costs are already included as part of the costs applied to the CT cost in the ECC calculations.

While NCSEA objects in general to the adjustments DNCP made to the Brattle Report estimates in determining its avoided capacity costs, aside from its complaint regarding the Company's use of a Siemens turbine, NCSEA provided no evidence to support their claim that the Company's adjustments were inappropriate.<sup>22</sup> The Public Staff also reviewed the Company's adjustments and, other than DNCP's selection of the Siemens turbine, "generally [found] them to be reasonable."<sup>23</sup>

NCSEA notes that "each" of the adjustments DNCP made to the Brattle estimates "reduced DNCP's cost per kW below the estimate provided in the Brattle Report."<sup>24</sup> That adjustments reduce the avoided cost does not make those adjustments inappropriate

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<sup>22</sup> See NCSEA Initial Comments at 20-21.

<sup>23</sup> Public Staff Initial Statement at 37.

<sup>24</sup> NCSEA Initial Comments at 20.

or inaccurate. The Company has presented considerable evidence in its filing, in discovery, and in these Reply Comments supporting these adjustments as being appropriate to tailor the estimated CT costs contained in the public available industry sources consulted by DNCP to the Company's own service territory, since they were "clearly needed to adapt [the information] to the Carolinas and Virginia," as permitted by the Phase 1 Order."<sup>25</sup>

For example, NCSEA states that "the Brattle Report estimates that the installed cost of a CT in Dominion's service area is \$977 per kW."<sup>26</sup> The quoted \$977 per kW includes financing costs, which equates to approximately \$954/kW excluding financing costs. This estimate is unrealistically high in light of the fact that the Company can build an entire 3x1 combined cycle plant, which requires considerably more capital expense, for less than this cost. For instance, the Company's recently completed Warren County Combined Cycle plant was constructed for approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] exclusive of financing costs, and the capital cost of a CT plant would be considerably less than that. The adjustments that the Company made to the Brattle Report estimate reflect the Company's extensive experience procuring and constructing combustion turbines for Virginia and North Carolina, and the specific circumstances of installing CTs in simple cycle and combined cycle configurations in its North Carolina and Virginia service territory.

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<sup>25</sup> Phase 1 Order at 48, Ordering Paragraph 6.

<sup>26</sup> NCSEA Initial Comments at 20 (citing Brattle Report at 26 and noting that this estimate "includes AFUDC").

**3. The Company has complied with the Commission's directives regarding economies of scale and scope**

As NCSEA notes,<sup>27</sup> and as DNCP stated in its March 2 filing,<sup>28</sup> the Company adjusted its installed CT cost estimate to account for economies of scale, as permitted by the Commission in the Phase 1 Order.<sup>29</sup> However, since the Company relied on the Brattle Report in its estimation of a hypothetical CT's construction costs, without knowing the underlying assumptions and derivation of the Brattle Report numbers, it is impossible to know whether their estimates included cost savings from economies of scope. Therefore, NCSEA is correct that the Company did not propose any adjustment to this data to remove the impacts of economies of scope,<sup>30</sup> and that is because the Company did not have any basis for doing so. It would not be appropriate to adjust the Company's estimated costs for economies of scope without knowing whether such economies were included in the first place. If the Commission determines that an adjustment is required, then the adjustment should be limited to the "mobilization and start-up category" of the Company's detailed cost sheet because that would be the only cost incurred based on the (Commission required) assumption of installing the turbines one at a time (and such costs would in fact be minimal). The Company notes in addition that the Public Staff did not raise any issues with economies of scope related to the CT cost.

With respect to NCSEA's criticism of DNCP's adjustment to reflect additional economies of scale (for a four-unit site rather than two-unit),<sup>31</sup> the Company's use of this

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<sup>27</sup> See NCSEA Initial Comments at 25.

<sup>28</sup> See March 2 filing at Section III p. 2.

<sup>29</sup> See Phase 1 Order at 48.

<sup>30</sup> See NCSEA Initial Comments at 25-26.

<sup>31</sup> See *id.* at 26.

adjustment was expressly contemplated by the Phase 1 Order.<sup>32</sup> The Brattle Report, which the Company used as the starting point for the construction cost estimate, assumed the construction of a two-unit CT plant. Consistent with the Phase 1 Order, the Company adjusted those estimates to assume a four-unit site.

In response to NCSEA's assertion that DNCP's assumption of a four-unit site "essentially cut the cost estimate for [the categories of electric and gas interconnection] in half, effectively assuming economies of scale are one-to-one[, without] any evidence to support [doing that],"<sup>33</sup> the reductions in the estimated costs associated with electric and gas interconnection indicated by DNCP's Figure 1 to its March 2 filing are actually the result of not just the adjustment for a four-unit site, but also of specific adjustments made to the electric and gas interconnection costs reflected in the Brattle Report. With regard to electric interconnection costs, the Company removed the cost of electric transmission network upgrades as required by the Phase 1 Order,<sup>34</sup> and, with regard to gas interconnection, the Company reduced the assumed length of the natural gas lateral from five miles (assumed in the Brattle Report) to one mile, which approximates the actual expected gas lateral length.

#### **4. DNCP's proposed contingency factor is appropriate**

NCSEA argued that DNCP should be required to use a contingency factor for its estimated avoided capacity costs of at least 15-20% (as opposed to the 10% and 9%

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<sup>32</sup> See Phase 1 Order at 48 ("The Commission agrees with the utilities that it is appropriate to incorporate economies of scale for the construction of up to four CTs at one site in its calculations. The utilities have demonstrated that such a practice is historically supported and reflects the most likely proxy of future hypothetical CT construction.").

<sup>33</sup> See NCSEA Initial Comments at 26.

<sup>34</sup> See Phase 1 Order at Ordering Paragraph 7 ("in the calculation of the installed cost [of] a CT, [the utilities] shall include transmission interconnection costs (but not network upgrade costs) . . .").

factor that the Company applied to EPC and non-EPC costs, respectively).<sup>35</sup> NCSEA also contended that, if the Commission approves DNCP's use of the Siemens turbine for its avoided CT costs, an "even higher contingency factor – 30%, which is the high end of the industry sources – would appropriately reflect [the Company's] lack of experience and the corresponding lack of ability to forecast construction and other risks with accuracy."<sup>36</sup>

Contrary to NCSEA's implication, and as discussed above, constructing a simple cycle CT plant is not a new and risky endeavor. It is a well-known and documented construction process. Switching from GE to Siemens turbines does not change the overall risk profile of the potential project; because of this the same percentage level of contingency is adequate.

Further, no adjustments to DNCP's estimated avoided capacity costs are needed, particularly not to account for what Public Staff terms the Company's "limited experience" with Siemens turbines. The Company's procurement group is active and experienced in the power plant equipment market and maintains regular dialogue with key manufacturers and vendors of equipment. DNCP also has a very experienced construction management department, and a long history of planning, designing, constructing, operating and maintaining CT facilities, as well as completing generation construction projects on-time and in line with its budget estimates. This experience and recent procurement activity supported the Company's conclusion that, as discussed above, the Siemens turbine represents the most likely equipment it would procure for a new CT facility based on the relative cost and performance of alternatives. In addition, especially when it is compared to other more complicated supply options like the

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<sup>35</sup> See NCSEA Initial Comments at 31-32.

<sup>36</sup> *Id.* at 32.

Virginia City coal plant and the Company's three recent gas combined cycle plants, a CT facility is simple to plan, design, and build.

**5. The Company's proposed expected useful life of a Siemens turbine is appropriate**

NCSEA disagreed with the Company's use of a 36-year life span for the Siemens turbine, noting that the Brattle Report assumes a 20-year life span.<sup>37</sup>

The Company uses a 36-year life because that is the assumed life expectancy of a new utility-owned CT facility, as supported by an asset depreciation study that was filed in 2013 with this Commission as well as with the Virginia State Corporation Commission ("VSCC").<sup>38</sup> Gannett Fleming, Inc. (Valuation and Rate Division), an outside consultant that specializes in the preparation of depreciation studies, prepared the study. The study is updated typically every 5 – 6 years; the 2013 study is still in use by the Company. This firm has prepared DNCP's depreciation studies for more than ten years, and is well known generally within the utility industry. The depreciation study states that the "[l]ife spans of 35 to 40 years were estimated for the majority of combustion turbines. These life span estimates are typical for combustion turbines which are used primarily as peaking units and combined cycle units used as base load."<sup>39</sup> In addition, the Company used a 36-year life here because it uses a 36-year expected life to recover the costs of its existing CT plants, and this represents what customers actually pay.

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<sup>37</sup> See *id.* at 35.

<sup>38</sup> See Gannett Fleming Inc., "Depreciation Study – Calculated Annual Depreciation Accruals Related to Electric Generation Plant as of December 31, 2011" at II25-II27, Docket No. E-22, Sub 493 (Apr. 1, 2013); (the depreciation study was filed with the VSCC in Case No. PUE-2013-00020 on March 28, 2013).

<sup>39</sup> *Id.* at II-25.

## 6. Allocation of avoided capacity costs between seasons

Public Staff recommended that, in the next avoided cost proceeding, the utilities assemble their hourly CT operational data and marginal cost data on a season-specific basis, to determine whether the allocation factors proposed in this proceeding remain reasonable, and stated that it will continue to work with the utilities to determine the exact data needed to inform this evaluation.<sup>40</sup> DNCP does not object to the Public Staff's suggestion.

### B. DNCP's Avoided Energy Cost Estimates

#### 1. Hedging

The Commission's Phase 1 Order "direct[ed] the utilities to calculate and include the fuel hedging benefits associated with purchases of renewable energy in the avoided energy component of its avoided cost rates."<sup>41</sup> The question then becomes how to determine "fuel hedging benefits." For the Company, the most appropriate way to estimate the fuel hedging benefits of renewable energy purchases is to use the cost of avoided brokerage fees related to natural gas financial hedges. To the extent that DNCP buys energy from QFs, it would need to buy less fuel, and therefore the Company could reduce its payments to brokers for financial hedges on fuel. The Company has calculated hedging benefits by dividing \$1 million in avoided broker charges by the total annual non-nuclear energy supply, an appropriate method because it spreads the avoided costs over the entire amount of energy supply that could potentially be displaced by renewable energy QFs. This method results in a 2015 rate of approximately \$0.02/MWh.

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<sup>40</sup> See Public Staff Initial Statement at 44.

<sup>41</sup> Phase 1 Order at 42.

The Company acknowledges that intervenors have concerns about this method, and therefore offers the following alternative method, which is similar in nature to the calculation method suggested by the Public Staff.<sup>42</sup>

Broker Cost of a NYMEX NG futures contract	\$/mmbtu	0.0003
Broker Cost of a NG basis swap	\$/mmbtu	0.0003
Broker Cost of the related NG swing swap	\$/mmbtu	0.0003
Total	\$/mmbtu	0.0009
Applicable heat rate	mmbtu/MWh	7.00
Avoided gas hedging cost	\$/MWh	0.01

The Public Staff recommends that an option pricing model, such as the Black-Scholes model, be used to determine the fuel price hedging benefits of renewable generation.<sup>43</sup> The Company is not aware of any jurisdiction that has employed this methodology for the calculation of avoided costs. More importantly, an approach that attempts to quantify the value of fuel rate stability via option pricing theory would be a very nebulous and theoretical concept that would require difficult modeling and numerous debatable assumptions. For this reason, the Company has concerns about using option pricing theory in its avoided cost tariff, when there has been no model back testing or validation for such a theory. For example, in an answer to a discovery request, the Public Staff showed that it assumed 20% volatility of natural gas prices, without

<sup>42</sup> See Public Staff Initial Statement at 35-36.

<sup>43</sup> See *id.* at 36.

showing any basis for that assumption.<sup>44</sup> The Black-Scholes model results are heavily driven by the volatility assumption, and can produce vastly different answers if one assumes 10% volatility as opposed to 20%. If the Commission were to adopt the Public Staff's proposal, the Commission's requirement to calculate the value of hedging benefits would then be driven by the fuel price volatility assumption, which is not transparent or verifiable.

The Public Staff advocates the method of taking the "at the money" call option price and subtracting the "at the money" put option price, to determine the value of fuel hedge benefits.<sup>45</sup> However, settlement data provided by the Public Staff shows that the nearest "to the money" put option price is actually higher than the corresponding call option price, indicating a negative hedge value.<sup>46</sup> This further shows that Public Staff's suggested approach of using a theoretical value to represent a real cost can be unreliable.

The Company's approach, on the other hand, is to estimate the fuel hedging costs (i.e. brokerage charges related to gas financial transactions) that could be avoided with increasing amounts of renewable energy purchases. This is a reasonable and quantifiable approach that also meets the Commission's directive. Moreover, rather than using a theoretical option pricing model, the Company's approach of using estimated avoided broker fees is more practical, and achieves the same result, because buying swaps through an exchange and paying the brokerage fee is equivalent to buying a call option and selling a put option.

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<sup>44</sup> See DNCP-Public Staff Phase 2 Discovery Request Set 3-2 ("DNCP-PS Set 3-2").

<sup>45</sup> See Public Staff Initial Statement at 36.

<sup>46</sup> See DNCP-PS Set 3-2.

SACE offered several comments on DNCP's proposed approach to reflecting hedging costs in its avoided energy costs. First, with regard to the duration of the fuel hedge savings in the avoided energy rates, the Company agrees that it is reasonable to include the fuel hedging savings in all years of the forecast, not just the first year.<sup>47</sup>

Regarding SACE's request for clarification regarding the \$3.2 million high-end estimate of gas broker transaction costs and financing costs,<sup>48</sup> as noted in discovery responses, the \$3.2 million originally proposed by DNCP was later revised to be less than \$1 million in 2015.<sup>49</sup> This \$1 million amount represents the avoidable broker fees related to the entire DNCP system (both North Carolina and Virginia).

## **2. Energy costs/fuel price forecasts**

In its Initial Comments, NCSEA recommended that the Commission order the Company to use the natural gas prices from the 2014 IRP for its calculation of avoided energy costs.<sup>50</sup> The Company does not believe this is appropriate. When forecasting energy prices in its IRPs, the Company uses 18 months of forward market prices, with an additional 18 months of blended prices to transition to the long term fundamental prices from ICF International. Using forward market prices for a shorter time period is acceptable for IRP modeling, where new resource options are economically compared to each other, in the development of a resource expansion plan.

However, for avoided cost pricing purposes, using forward market prices for a longer time period (in this case, four years, with three years of blended prices) is

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<sup>47</sup> See Initial Comments of SACE at 6, Docket No. E-100, Sub 140 (June 22, 2015) ("SACE Initial Comments").

<sup>48</sup> See *id.* at 5.

<sup>49</sup> See Public Staff-DNCP Phase 2 Discovery Request Set 5-4.

<sup>50</sup> See NCSEA Initial Comments at 6-8, 11-12.

appropriate in this case because the Company is determining actual contract rates to be paid to a counterparty in a 15-year power supply contract. The market forward prices are current, relevant, transactable, and are a more accurate representation of the Company's avoided energy costs at the time of the filing. Therefore, a longer price blending period is appropriate in this case because it results in a more accurate forecast of long-term avoided costs than prices derived from long-term fundamental forecasts. The Company notes that in its Initial Comments, the Public Staff agreed (with respect to DEC and DEP's fuel price forecasts) that the market forward prices are appropriate up to five years prior to using the fundamental long term forecast.

Moreover, it would be inappropriate for DNCP to use the price forecasts from its 2014 IRP because, first, the commodity price assumptions used in the 2014 IRP were developed in May 2014, in preparation for a September, 2014 IRP filing. Due to the extension of the Sub 140 docket, with rates filed in March 2015, the prices from the 2014 IRP were nearly a year out of date, so DNCP used the best available (*i.e.*, more current) data when calculating the avoided energy cost rates. Second, the gas prices shown in Figure 4 of NCSEA's initial comments included the effect of CO2 regulations. This would not be appropriate, since in the Phase 1 Order the Commission ruled that "it is inappropriate for ratepayers to shoulder such costs until they become known and verifiable,"<sup>51</sup> and this would result in electric customers paying too much for these power purchases from small projects. In sum, the Company appropriately used current price estimates, a longer price-blending period, and used the commodity price inputs from the no-CO2 scenario, in the calculation of the avoided energy rates.

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<sup>51</sup> Phase 1 Order at 44.

NCSEA also suggests that the Company's projected natural gas prices are understated because they do not reach the long term trend line of gas prices,<sup>52</sup> but historical gas prices are not relevant in the avoided energy cost context. Avoided energy costs have always been based on forward-looking estimates, not on historical trend lines that have little bearing on the natural gas market today or in the future. The 20 years of gas price history presented by NCSEA show an upward sloping price curve with long term prices above those used by DNCP, but a similar analysis can just as easily select fewer years of historical data and show a flat or downward sloping price curve, resulting in a long term price line below the prices used in the avoided energy cost calculations.

Finally, with regard to NCSEA's assertion that the Utilities ignored the "high probability" of increased gas prices and "disregarded the possibility these spot prices may be a temporary aberration,"<sup>53</sup> NCSEA has provided no evidence to suggest (a) that there is a high probability of an upswing in gas prices, (b) that future gas prices will revert to the high historical levels, or (c) that the current forward gas prices are a temporary aberration. On the subject of ratepayer indifference, moreover, DNCP's fuel price estimates are, as discussed herein, as accurate as possible and are appropriate for inclusion in its proposed avoided energy costs. Ratepayers will be indifferent when the avoided energy rates truly reflect the Company's expected avoided energy costs; the Company's proposals best meet that goal.

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<sup>52</sup> See NCSEA Initial Comments at 8.

<sup>53</sup> *Id.* at 11.

## C. Proposed Schedule 19-FP and Schedule 19-LMP

### 1. “Firm” vs. “non-firm” terminology

In response to SACE’s comments,<sup>54</sup> the term “Non-firm” has been replaced in both the Schedule 19-FP tariff (Exhibit A hereto) and the Schedule 19-FP standard power purchase agreement (“PPA”) (attached as Exhibit C hereto) with the term “Energy-Only.” The Company has also modified Schedule 19-FP to make the effect of a QF election of the Energy-Only (formerly “Non-firm”) option clearer. Specifically, with the election of the Energy-Only mode for delivery of energy, the QF will receive energy prices that are not fixed for the duration of the PPA term; the rates will change with each revision of the schedule, and there is no payment for capacity.

### 2. Geographical Limitations

#### a. SACE Clarifications

SACE commented that the 1-mile rule and the 5000 kW restriction in Schedule 19 should only apply when the two proposed facilities are under common ownership and use the same energy resource. SACE also stated that for purposes of the 1-mile rule, the distance between facilities is measured from the electrical generating equipment of each facility.<sup>55</sup> The Company agrees with SACE’s comments, and has modified its proposed Schedule 19-FP and Schedule 19-LMP accordingly, as shown at Exhibits A and B hereto, to read as follows:

This schedule is not available or applicable to a QF that utilizes a renewable resource, such as hydroelectric, solar, or wind power facilities, which is owned by a developer, or affiliate of a developer, who is selling or will sell power to the

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<sup>54</sup> See SACE Initial Comments at 6 (“Schedule 19 does not provide a definition of ‘firm’ or ‘non-firm,’ leaving QFs with no guidance to determine whether or not they are qualified to provide firm capacity and energy when designating their mode of operation”).

<sup>55</sup> See *id.* at 7.

Company from another QF using the same renewable energy resource located within one mile if the combined output of such renewable resource QFs will exceed 5,000 kW (ac). For purposes of this paragraph, distance between QFs shall be measured from the electrical generating equipment of the QFs.

**b. NCSEA Comments.**

NCSEA recommended that the Commission make the geographical limitation for renewable resource QFs the same as it is for non-renewable resource QFs (i.e., one-half mile).<sup>56</sup> The Commission should reject NCSEA's proposal.

The purpose of the proximity or single-facility limitation, which has long been contained in Schedule 19, is to ensure that Schedule 19 is available only to the small QFs for which it is intended (i.e., QFs with a net capacity not greater than 5,000 kW).<sup>57</sup> Further, Schedule 19 has long applied different proximity limitations to non-renewable resource QFs and renewable resource QFs. For example, Section I of currently effective Schedule 19-FP provides that the 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; 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.**

(emphasis added).

In its proposed addition to Schedule 19, the Company has simply made clear what "geographic siting limitations" apply to renewable resource QFs. Specifically, the

<sup>56</sup> See NCSEA Initial Comments at 41.

<sup>57</sup> See, e.g., *In the Matter of Biennial Determination of Avoided Cost Rates for Electric Utility Purchases from Qualifying Facilities -1994*, Order Establishing Standard Rates and Contract Terms for Qualifying Facilities at 8, 28, Docket No. E-100, Sub 74 (June 23, 1995).

geographic siting limitation for the purpose of determining the size of renewable resource QFs under Schedule 19 is the same one-mile test used by FERC in 18 C.F.R. § 292.204(a) to determine the size of a small power production QF such as a solar QF.<sup>58</sup>

**D. Proposed standard contract terms and conditions**

**1. Consent to Assignment**

NCSEA proposed that Section I of the Schedule 19 Terms and Conditions be revised to require that DNCP not unreasonably withhold consent to a proposed assignment.<sup>59</sup> The Company agrees to revise Section I of the Schedule 19-FP and Schedule 19-LMP Terms and Conditions such that it will not unreasonably withhold its consent to assignment of the PPA, provided that the assignment does not require any amendment of the terms and conditions of the PPA other than the notice provisions (see Exhibits C and D hereto, respectively).

**2. Cap on Reimbursement of Assignment Related Costs**

Section I of the currently-effective Schedule 19 Terms and Conditions also requires that QFs reimburse the Company for the “actual costs incurred by [the] Company in connection with such assignment [of the PPA] up to a maximum amount equal of \$10,000 per assignment.” In its March 2 filing, the Company proposed to increase this cap from \$10,000 to \$12,000. In its comments, NCSEA erroneously refers to the \$10,000/\$12,000 amount as an assignment fee.<sup>60</sup> As the plain language of the provision states, the \$10,000/\$12,000 amount is not a fee imposed on QFs, but rather a

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<sup>58</sup> Section 292.204(a) implements Section 201 of PURPA, which defined an SPP, *inter alia*, as a solar facility that “has a power production capacity which, together with any other facilities located at the same site (as determined by [FERC]) is not greater than 80 megawatts.” 16 U.S.C. § 796(17)(A) (2010).

<sup>59</sup> See NCSEA Initial Comments at 38-39.

<sup>60</sup> See *id.* at 39.

maximum cap on the cost for which a QF is liable even if the actual cost incurred by the Company in connection with as assignment exceeds that amount. With regard to NCSEA's opposition to the Company's proposal, because the amount of the reimbursement cap will be locked in for a period of up to 15 years under the standard contract options available to QFs, the Company believes that a \$2,000 increase in the cap is conservative and reasonable.

### **3. Opportunities to cure/termination rights**

DNCP responds to NCSEA's objections to the Company's proposed inclusion of certain events of default in Article 7(a) of the standard Schedule 19-FP and 19-LMP contracts as follows.

#### **a. Status Reports**

NCSEA objected to Article 7(a)(ii) of the Company's proposed PPA, which made a QF's failure to provide consecutive status a non-curable default.<sup>61</sup> In response, the Company has modified Article 7 to provide a QF an opportunity to cure its failure to provide a status report within 30 days of receiving notice of default from the Company.

#### **b. Commencement of Construction Criteria**

The Company has revised Article 6(b) of the PPA to clarify the criteria for commencement of construction for a solar QF. In addition, in order to provide DNCP with sufficient time to plan for the injection of the QF's power onto its system, the Company modified this provision to clarify the earliest date at which the Company must accept a declaration of Commercial Operations.

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<sup>61</sup> See *id.* at 43.

**c. Termination for failure to Commence Construction**

In its initial comments, NCSEA asserted a lack of certainty regarding the deadline for commencement of construction, and argued that a QF should be entitled to cure its failure to commence construction by the commencement deadline.<sup>62</sup> In response to NCSEA's comments, the Company proposes to modify Article 7(a)(i) of both the FP and LMP standard contracts to clarify that the deadline for commencement of construction (as defined in Section 6(b), discussed above) is the "later of fourteen (14) months from the Effective Date of this Agreement or thirty (30) days after the Company tenders an Interconnection Agreement for execution by [the QF]." Given these lengthy timeframes, the Company continues to believe that a cure period is inappropriate.

**d. Interconnection Agreement**

NCSEA expressed concern that failure to maintain an Interconnection Agreement was a default that could not be cured.<sup>63</sup> In response, DNCP proposes to make failure to maintain an Interconnection Agreement a curable default and to modify the description of the default as follows:

termination of the Interconnection Agreement or suspension of Operator's right to interconnect the Facility under the Interconnection Agreement unless such failure is due to a breach of the Interconnection Agreement by a party other than the Operator.

**e. PURPA Section 201(m)**

The Company agrees with NCSEA that a termination of the PPA due to a FERC grant of a PURPA Section 210(m) petition should not be considered a termination for

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<sup>62</sup> See *id.* at 40.

<sup>63</sup> See *id.* at 43.

default.<sup>64</sup> Accordingly, consistent with NCSEA's comments, the Company proposes to move the PURPA Section 210(m) provision from the default article in the 19-FP and 19-LMP PPAs to the end of Article 2 (Term and Commercial Operations Date) to those agreements.

#### 4. Clarification of terms

NCSEA notes that the terms "net capacity" and "net electrical capacity" are used throughout the Company's standard rate schedules and contracts and are not defined, and that, according to the Company's response to a data request propounded by NCSEA, the terms have the same meaning.<sup>65</sup> Consistent with this data response and to address this issue, DNCP will revise this language such that only the term "Net Capacity" will be used in its standard rate schedules and contracts, with the meaning of "Net Capacity" being that provided in the data response ("the maximum net electrical output of the Facility measured in kW alternating current, determined in accordance with Section 7 of FERC Form 556"). The Company has also revised Article 3 (Contracted Capacity) and Article 7(a)(iii) of the Schedule 19 standard contracts to reflect this definition.

#### 5. Line loss

NCSEA contests the Company's proposal to eliminate the QF's option to request a site-specific line loss allowance based on a study conducted at the QF's cost.<sup>66</sup> In 2010 the Company considered whether three (3.0) percent was still a valid number to use for line loss for all QFs up to 5,000 kW. This evaluation was guided by the Commission's desire to keep standard contracts free of negotiations and controversy, and to have the

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<sup>64</sup> *See id.*

<sup>65</sup> *See id.* at 40-41 (citing NCSEADR3-5, included at p. 26 to Exh. 1 to NCSEA's Initial Comments).

<sup>66</sup> *See id.* at 41-42.

schedule and associated PPA easily understood and consistent for all QFs for which the schedule is applicable. The Company's internal discussions with its subject experts revealed that there are assumptions involved in the calculations that determine line loss, including the assumption of what level of generation is used as input kW. A number of example calculations performed by the Company team resulted in a range of line loss levels between approximately 1.83% and 3.08%. The Company also learned that the losses can in fact become a negative number depending on the position of the QF on the Company's distribution system, which would have the effect of reducing the payments to the QF by subtracting losses and not adding them to the energy payments the QF would receive from the Company. Because of the uncertainty of the outcome of the calculated loss component, and a desire to avoid disputes over the results, the Company agreed that three percent continued to represent a fair number to all the applicable QFs. For this reason, the Company believes it is no longer necessary to offer site-specific line losses upon request of the QF. However, in the event that the Commission should mandate that the Company accepts requests for individual studies, then the Company believes that the QF seeking such a study should reimburse the Company's actual costs in performing the study and be bound by the results of such study whether negative or not.

**E. LEO form**

In its initial filing, DNCP proposed a legally enforceable obligation ("LEO") form that would provide transparency and clarity to QFs seeking to fulfill the Commission's requirement that, in order to establish an LEO, a QF must both have obtained a CPCN (or filed a RPC) for its facility and have committed to sell its output to the utility. In response to the comments filed with respect to the proposed LEO form, the Company

replies as follows. The revised proposed LEO form as discussed below is attached hereto as Exhibit E.

**a. Use of the LEO form should be required to make a commitment to sell**

The Company disagrees with NCSEA's contention that the use of the LEO form must be permissive.<sup>67</sup> If approved by the Commission, the LEO form should be the exclusive means by which a QF can satisfy the commitment to sell prong of the Commission's LEO test. The entire point of developing the LEO form, as made clear by the numerous discussions of the form that have occurred during both phases of this proceeding to date, is to increase the transparency and simplicity of the process of establishing an LEO. If a QF is not required to use the LEO form but can instead make a commitment to sell by some other means, or were the Commission to adopt the rebuttable presumption suggested by NCSEA, that simply leaves the door open to the same types of disputes regarding the establishment of an LEO that the Commission has been addressing for the last couple of years. The clear language proposed by the Company and suggested by the Public Staff to publicize the requirement to submit the form, where to find the form, and where and how to send the form, should make it clear to any developer seeking to establish an LEO what it must do; there is no reason to allow LEOs to be established other than through use of the form.

**b. The LEO form should contain sufficient detail to make clear when the LEO arises**

The Company also disagrees with NCSEA's contention that the form DNCP has proposed is too complicated, especially given the modifications to the form that the

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<sup>67</sup> See *id.* at 64-65.

Company proposes to make as detailed below, in response to the initial comments and other discussions with the parties.<sup>68</sup> The alternative form suggested by NCSEA does not contain certain information that is needed in order to communicate exactly how and when the LEO will arise, and to provide for appropriate LEO termination rules, among other things. Adoption of NCSEA's alternative form proposal would lead to continued disputes between developers and utilities, or require that these subjects be discussed and agreed upon, therefore delaying the execution of a PPA and potentially creating more disputes before this Commission.

**c. Location of LEO form**

Consistent with the Public Staff's comments,<sup>69</sup> the Company proposes to remove the LEO form from its standard rate schedules and simply make the form available on its website. In addition, the Company agrees to modify its website consistent with the Public Staff's comments regarding the contents of the utilities' web sites pertaining to the LEO form.<sup>70</sup> Specifically, the Company will include the approved LEO form on the sections of its website dealing with Interconnection Agreements and PPAs, and on those web pages, the Company will include language that makes clear to developers how to

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<sup>68</sup> See *id.* at 61, 66-68.

<sup>69</sup> See Public Staff Initial Statement at 51.

<sup>70</sup> See *id.* at 49. The Company is currently making changes to its website in order to improve the experience of anyone seeking information for any part of the broad spectrum of the Company's activities. As an interim procedure, until the Company has developed a new location on its web dealing with PPAs and LEOs, the Company will incorporate the Public Staff's suggestions within the existing web page titled "North Carolina Interconnection Standards" (<https://www.dom.com/business/dominion-north-carolina-power/b2b-services/using-our-facilities/parallel-generation-and-interconnection>). At this web page, the Company will include links to the LEO form, the standard PPAs, and contact information regarding which department must be contacted to initiate the PPA process.

establish an LEO and which departments must be contacted to negotiate Interconnection Agreements and PPAs.

**d. Clarification that interconnection request does not constitute commitment to sell**

The Company also agrees, pursuant to the Public Staff proposal, to include the following language in the notification that it sends out to an interconnection customer confirming receipt of an interconnection request, as well as to include the statement on its interconnection website:

“The submission of an interconnection request does not constitute an indication of a customer's commitment to sell the output of a facility to the utility. For information on submitting a legally enforceable obligation (LEO) form or requesting a power purchase agreement (PPA), please see the following website: (the Company will provide the relevant website link).”<sup>71</sup>

**e. Title of the LEO Form**

Consistent with the Public Staff's comments regarding the LEO form's title,<sup>72</sup> and in response to NCSEA's comments on this topic,<sup>73</sup> the Company has revised the LEO form title such that it is now called a “notice of commitment,” and has made corresponding changes throughout the Schedule 19 rate schedules.

**f. Copies of Documents/Communicating size of facility**

The Company agrees to remove the requirement to provide a copy of the CPCN application or report of proposed construction (“RPC”), as applicable, from the LEO form, consistent with the Public Staff's suggestion.<sup>74</sup> In order to clarify the size of the

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<sup>71</sup> *Id.* at 49-50.

<sup>72</sup> *See id.* at 51.

<sup>73</sup> *See* NCSEA Initial Comments at 67-68.

<sup>74</sup> *See* Public Staff Initial Statement at 52.

facility making the commitment to sell to the Company, DNCP proposes to insert a space in Section 3(a) of the LEO form for the QF to note its size in kW (ac) net.

**g. Removal of listing requirement**

In response to the comments of the Public Staff<sup>75</sup> and NCSEA,<sup>76</sup> the Company agrees to remove the requirement from Section 4 of the LEO form that a QF that is requesting a standard contract list the names and locations of any QFs owned or under development by the developer or its affiliates that will be located within one mile of the facility.

**h. Submittal date as effective date**

In response to NCSEA's comments regarding effective date of the LEO Form,<sup>77</sup> the Company has revised section 4 of the LEO form to indicate that the Notice of commitment takes effect on the "Submittal Date," defined as follows:

Submittal Date means (a) the receipted date of deposit of this Notice of Commitment with the U.S. Postal Service for certified mail delivery to the Company, (b) the receipted date of deposit of this Notice of Commitment with a third-party courier (e.g., Federal Express, United Parcel Service) for trackable delivery to the Company, (c) the receipted date of hand delivery of this Notice of Commitment to the Company at the address set forth in paragraph 1, above, or (d) the date on which an electronic copy of this Notice of Commitment is sent via email to the Company if such email is sent during regular business hours (9:00 a.m. to 5:00 p.m.) on a business day (Monday through Friday excluding federal and state holidays). Emails sent after regular business hours or on days that are not business days shall be deemed submitted on the next business day.

The Company has made changes corresponding to this modification as needed in the LEO form.

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<sup>75</sup> See *id.* at 53.

<sup>76</sup> See NCSEA Initial Comments at 67.

<sup>77</sup> See *id.* at 68-72.

**i. Seller acknowledgements**

In response to NCSEA's comments in opposition to the Seller acknowledgements or representations contained in the LEO form,<sup>78</sup> other than those items discussed below, DNCP believes that such acknowledgements and representations are entirely appropriate. DNCP notes that, with the exception of the modifications discussed below, the Public Staff did not raise a concern with the other representations and acknowledgements contained in the form.

Based on discussions with the parties, DNCP proposes to remove the acknowledgement, previously contained at section 5(a), that states that the Company cannot enter into a PPA with a QF that has not received a CPCN or filed a Report of Proposed Construction with the Commission. While the statement accurately reflects Commission policy,<sup>79</sup> which the Company will continue to follow, acknowledgement of this rule is not necessary for purposes of the LEO form.

DNCP also proposes to modify section 5(b) (which will now be section 5(a)) to more accurately reflect both the requirements of 18 C.F.R. § 292.304(d) and the Commission's policy implementing that rule.

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<sup>78</sup> See *id.* at 67-68.

<sup>79</sup> See *In the Matter of Determination of Rates for Purchase and Sale of Electricity between Electric Utilities and Qualifying Cogenerators or Small Power Producers*, Order Requiring Electric Utilities to Notify Potential Cogenerators and Small Power Producers of G.S. 62-110.1 Concerning Certificates of Public Convenience and Necessity to Construct Electric Generating Facilities at 2, Docket E-100, Sub 41 (Aug. 17, 1983) (directing utilities to "institute internal procedures designed to ensure that a potential [QF] has in fact applied for and been granted a [CPCN] . . . prior to such time as the company enters into a contract to purchase electric power from such facility.").

In response to NCSEA's comment regarding section 5(e) of the proposed LEO form,<sup>80</sup> the Company agrees that this provision is not necessary and has removed subsection (e) from Section 5. Correspondingly, the Company has removed subsection 6(a), which had referenced this provision, from section 6 of the form.

**j. LEO termination**

Consistent with the suggestion of the Public Staff, the Company has revised Section 6(c) of the LEO Form,<sup>81</sup> which previously stated that the LEO would terminate for a Schedule 19-eligible QF if the QF did not sign a PPA before the next biennial filing, such that the LEO would now terminate if the QF does not execute a PPA within thirty (30) days of the Company's delivery of an "executable" PPA to the QF. The Company proposes to define "executable PPA" as a PPA delivered to the QF by the Company that contains all information necessary for execution and that the Company has requested that the QF execute and return. For QFs not covered by Schedule 19, the Company is proposing modifications to clarify the length of the potential extension of time allowed to execute a PPA related to tendering of an Interconnection Agreement, and to clarify that, for PPAs that are the subject of complaint or arbitration proceedings, it will be the Commission that sets the deadline for execution of a PPA, and.

**k. Removal of survival clause**

As suggested by the Public Staff,<sup>82</sup> the Company agrees to remove the survival clause previously contained at Section 7 of the proposed LEO form.

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<sup>80</sup> See NCSEA Initial Comments at 67.

<sup>81</sup> See Public Staff Initial Statement at 53-54.

<sup>82</sup> See *id.* at 54.

**I. Duly authorized signatory**

Finally, consistent with the Public Staff's<sup>83</sup> and NCSEA's<sup>84</sup> comments, the Company has modified the form to indicate that the person who signs the form on behalf of the seller is duly authorized to execute the form for the Seller.

**III. CONCLUSION**

WHEREFORE, Dominion North Carolina Power respectfully requests that the Commission accept these Reply Comments to the Initial Comments of the Public Staff, NCSEA and SACE and issue an order accepting the avoided cost rates and contracts, terms and conditions proposed by the Company in its March 2, 2015 filing, as amended by these Reply Comments.

Respectfully submitted,

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<sup>83</sup> See *id.* at 50.

<sup>84</sup> See NCSEA Initial Comments at 73.

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*Attorneys for Virginia Electric and Power Company*

August 7, 2015

# Exhibit A

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

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I. APPLICABILITY AND AVAILABILITY

Subject to the limitations of this Section I, 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, 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).

Unless otherwise provided by a Commission order setting forth different availability dates, this schedule is available to any Qualifying Facility (otherwise eligible pursuant to the terms hereof) that, no later than the date on which proposed rates are filed in the next biennial avoided cost proceeding after Docket No. E-100, Sub 140, (a) has obtained a certificate of public convenience and necessity for its facility from the Commission or filed a report of proposed construction with the Commission pursuant to Commission Rule R8-65, and (b) has submitted to the Company a duly executed "Notice of Commitment to Sell the Output of a Qualifying Facility to Dominion North Carolina Power Company ("Notice of Commitment"). The form of the Notice of Commitment can be found on the Company's website through the following link: \_\_\_\_\_ . Alternatively, a QF may request a Notice of Commitment form via email to PowerContracts@dom.com.

Where the Qualifying Facility (QF) elects to be compensated for firm deliveries in accordance with this schedule, the amount of capacity under contract (the "Contracted Capacity") 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 Contracted 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

(Continued)

Filed 03-02-15  
Electric-North Carolina

Superseding Amending Filing Effective For Usage  
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greater than 5,000 kWh. The initial term of contract for such a QF shall be for a period of five, 10, or 15 years, at the option of the QF

- B. Where the QF is not defined under Paragraph I.A., the amount of Contracted 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.

Where the QF elects to be compensated for firm or non-firm deliveries in accordance with this schedule, the QF must begin deliveries to the Company within thirty months of the Commission's order in Docket No. E-100, Sub 140 approving this Schedule 19-FP to retain eligibility for the rates contained in this schedule; provided, however, a QF may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner. 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 available or 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.

This schedule is not available or applicable to a QF that utilizes a renewable resource, such as hydroelectric, solar, or wind power facilities, which is owned by a developer, or affiliate of a developer, who is selling or will sell power to the Company from another QF using the same renewable energy resource located within one mile if the combined output of such renewable resource QFs will exceed 5,000 kW (ac). For purposes of this paragraph, distance between QFs shall be measured from the electrical generating equipment of the QFs.

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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

III. DEFINITION OF ON- AND OFF-PEAK HOURS

A. For Option A Rates the On-Peak Hours are:

Summer

- (i) For the periods beginning at 12:00 midnight March 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 10:00 a.m. and 10:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

Non-Summer

- (ii) For the periods beginning at 12:00 midnight September 30 and ending at 12:00 midnight March 31:

The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., plus 4:00 p.m. through 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

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B. For Option B Rates the On-Peak Hours are:

Summer

- (i) For the periods beginning at 12:00 midnight May 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 1:00 p.m. and 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

Non-Summer

- (ii) For the periods beginning at 12:00 midnight September 30 and ending at 12:00 midnight May 31:

The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

**Note: Option B Rates and Hours are Applicable Only to QFs Electing the Firm Mode of Operation**

C. Off-Peak Hours:

The off-peak hours in any month are defined as all hours not specified above as on-peak hours. All hours for the following holidays will be considered as off-peak: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day. When one of the above holidays falls on a Saturday, the Friday before the holiday will be considered off-peak; when the holiday falls on a Sunday, the following Monday will be considered off-peak.

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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. Non-Reimbursement Mode. The QF may contract for the delivery of energy to the Company without reimbursement, designated as the Non-reimbursement Mode of Operation.
- B. Energy-Only, Non-time-differentiated or the Energy-Only, Time-differentiated Mode. The QF may contract for the delivery of energy-only energy to the Company (energy-only payments are not fixed for the duration of the PPA term; the rates will change with each revision of this schedule, and there is no payment for capacity to QFs selecting the energy-only option). Where the QF's generation facilities have an aggregate nameplate rating of 100 kW or less the QF may designate the energy-only, Non-time-differentiated Mode of Operation. Regardless of nameplate rating the QF may designate the energy-only, Time-differentiated Mode of Operation.
- C. Firm Mode. The QF may contract for the delivery of both energy and capacity to the Company under Firm Mode. 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.

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V. PAYMENT FOR COMPANY PURCHASES OF ENERGY-ONLY

The QF may contract to receive payment for energy-only determined with each revision of this schedule. These rates will be based upon the QF's Mode of Operation as described below. There are no capacity payments for the QFs that contract for energy-only energy.

- 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-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 energy-only, Non-time-differentiated Mode of Operation, the following rates in cents per kWh are applicable:

3.297

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

On-peak (as defined in Section III.A)	3.769
Off-peak	3.035

The rates in both B and C above will be redetermined on a biennial basis on each revision of this schedule. Further, for clarity, the Energy-only rates in C above are identical to the Variable Rates shown below in Section VI. A.

All energy purchase rates regardless of Mode of Operation will be further increased by 3.0% to account for line losses avoided by the Company.

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VI. PAYMENT FOR COMPANY PURCHASES OF FIRM ENERGY

QFs designating the Firm Mode of Operation will be eligible to receive capacity payments in addition to energy rates under this Section VI – Firm Energy. 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. Capacity payments to the QF will be paired with the option the QF selects for firm energy payments (e.g., if the QF selects Option A for firm energy payments, the QF will be paid Option A capacity payments).

In lieu of fixed rates, a QF that selects the Firm Mode of Operation may contract to receive payment for time-differentiated 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 delivery of energy until the next biennial filing, are as shown in the price tables below under the heading Variable Rate:

- A. Option A: The QF may contract to receive energy purchase payments for the delivery of firm energy based upon fixed prices, as shown below in cents per kWh:

		<u>Fixed Long-Term Rate</u>		
	<u>Variable Rate</u>	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh)	3.769	3.900	4.390	4.756
Off-Peak (¢/kWh)	3.035	3.132	3.605	3.903

- B. Option B: The QF may contract to receive energy purchase payments for the delivery of firm energy based upon fixed prices, as shown below in cents per kWh:

		<u>Fixed Long-Term Rate</u>		
	<u>Variable Rate</u>	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh)	3.773	3.930	4.442	4.838
Off-Peak (¢/kWh)	3.164	3.259	3.730	4.032

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Operator shall be paid for energy up to 5% above the Contracted Capacity in any hour at the then applicable energy-only rates under Schedule 19-FP except no payment shall be made for generation in excess of 5,000 kW or 3,000 kW as applicable pursuant to Section I.A. or I.B.

All energy purchase rates will be further increased by 3.0% to account for line losses avoided by the Company.

VII. PAYMENT FOR COMPANY PURCHASES OF CAPACITY

Company purchases of capacity are applicable only where the QF elects the Firm Mode of Operation. The QF will receive payments for capacity based on Option A below if the QF selected Option A for firm energy payments. The QF will receive capacity payment based on Option B below if the QF selected Option B for firm energy payments. Capacity payments are applicable during on-peak hours only. Such QFs shall receive capacity purchase payments based on the applicable leveled capacity purchase price below, in cents per kWh, corresponding to the contract length in years. Contract terms of 10 or 15 years are available only for QFs described in Paragraph I.A.

**Option A:**

For hydroelectric facilities with no storage capability and no other type of generation:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	3.761	3.903	4.032
On-Peak (¢/kWh) Non-summer	2.507	2.602	2.688

For all other facilities:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	2.257	2.342	2.419
On-Peak (¢/kWh) Non-summer	1.504	1.561	1.613

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**Option B:**

For hydroelectric facilities with no storage capability and no other type of generation:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	8.628	8.954	9.250
On-Peak (¢/kWh) Non-summer	3.326	3.452	3.566

For all other facilities:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	5.177	5.373	5.550
On-Peak (¢/kWh) Non-summer	1.996	2.071	2.140

Payments will be made to the QF by applying the appropriate levelized capacity purchase price above to all kWh delivered to the Company during each on-peak hour, up to the 100% of the Contracted Capacity in such hour. There will be no compensation for capacity in excess of the QF's Contracted Capacity in an hour. This capacity price will be in accordance with the length of rate term for capacity sales so established in the contract.

#### 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.

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- B. The sale of power to the Company by a QF at avoided cost rates pursuant to this Schedule 19-FP does not convey ownership to the Company of the renewable energy credits or green tags associated with the QF facility.
- C. Upon request by the Company, the Cogenerator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.
- D. The QF is responsible for obtaining an interconnection service agreement for delivery of capacity and energy generated by its facility onto the Company's electrical system. Information on interconnection procedures for the QF's generation interconnection is provided through the Internet at the Company's website:

<https://www.dom.com/library/domcom/pdfs/north-carolina-power/rates/terms-and-conditions/term24.pdf>

If the interconnection is subject to FERC jurisdiction, the interconnection will be in accordance with FERC and PJM Interconnection, L.L.C. requirements.

- E. The QF must have submitted a Notice of Commitment to the Company.

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.

If the QF terminates its contract to provide Contracted Capacity and energy 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 and energy payments.

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Such excess payments will be calculated by taking the difference between (1) the total capacity and energy payments already made by the Company to the QF and (2) capacity and energy payments calculated based on the levelized capacity and energy purchase price found in Paragraph VI and 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.

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I. APPLICABILITY AND AVAILABILITY

Subject to the limitations of this Section I, 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, 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).

Unless otherwise provided by a Commission order setting forth different availability dates, this schedule is available to any Qualifying Facility (otherwise eligible pursuant to the terms hereof) that, no later than the date on which proposed rates are filed in the next biennial avoided cost proceeding after Docket No. E-100, Sub 140, (a) has obtained a certificate of public convenience and necessity for its facility from the Commission or filed a report of proposed construction with the Commission pursuant to Commission Rule R8-65, and (b) has ~~delivered~~submitted to the Company a duly executed ~~Offer~~“Notice of Commitment to Sell the Output of a Qualifying Facility to and Request for Power Purchase Agreement with Dominion North Carolina Power by a Qualifying Facility (the Company’s “LEO Form”) shown in Exhibit A hereto Company (“Notice of Commitment”). The form of the Notice of Commitment can be found on the Company’s website through the following link: . Alternatively, a QF may request a Notice of Commitment form via email to PowerContracts@dom.com.

Where the Qualifying Facility (QF) elects to be compensated for firm deliveries in accordance with this schedule, the amount of capacity under contract (the “Contracted Capacity”) 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 Contracted Capacity subject to

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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 five, 10, or 15 years, at the option of the QF.

~~I. APPLICABILITY AND AVAILABILITY (Continued)~~

B. Where the QF is not defined under Paragraph I.A., the amount of Contracted 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.

Where the QF elects to be compensated for firm or non-firm deliveries in accordance with this schedule, the QF must begin deliveries to the Company within thirty months of the Commission's order in Docket No. E-100, Sub 140 approving this Schedule 19-FP to retain eligibility for the rates contained in this schedule; provided, however, a QF may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner. 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 available or 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.

This schedule is not available or applicable to a QF that utilizes a renewable resource, such as hydroelectric, solar, or wind power facilities, which is owned by

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a developer, or affiliate of a developer, who is selling or will sell power to the Company from another QF using the same renewable energy resource—QF located within one mile if the combined output of such renewable resource QFs will exceed 5,000 kW (ac). For purposes of this paragraph, distance between QFs shall be measured from the electrical generating equipment of the QFs.

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

III. ~~DEFINITION OF ON- AND OFF-PEAK HOURS—APPLICABLE ONLY TO QFS ELECTING THE FIRM MODE OF OPERATION~~

A. For Option A Rates the On-Peak Hours are:

Summer

- (i) For the periods beginning at 12:00 midnight March 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 10:00 a.m. and 10:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

Non-Summer

- (ii) For the periods beginning at 12:00 midnight September 30 and ending at 12:00 midnight March 31:

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The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., plus 4:00 p.m. through 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

~~III. DEFINITION OF ON AND OFF PEAK HOURS APPLICABLE ONLY TO QFS ELECTING THE FIRM MODE OF OPERATION (Continued)~~

B. For Option B Rates the On-Peak Hours are:

Summer

- (i) For the periods beginning at 12:00 midnight May 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 1:00 p.m. and 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

Non-Summer

- (ii) For the periods beginning at 12:00 midnight September 30 and ending at 12:00 midnight May 31:

The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

**Note: Option B Rates and Hours are Applicable Only to QFs Electing the Firm Mode of Operation**

C. Off-Peak Hours:

The off-peak hours in any month are defined as all hours not specified above as on-peak hours. All hours for the following holidays will be considered as off-peak: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day. When one of the above holidays falls on a Saturday, the Friday before the holiday will be considered off-peak;

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when the holiday falls on a Sunday, the following Monday will be considered off-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. Non-Reimbursement Mode. The QF may contract for the delivery of energy to the Company without reimbursement, designated as the Non-reimbursement Mode of Operation.
- B. ~~Non-firm~~Energy-Only, Non-time-differentiated or the Non-firm~~Energy-Only, Time-differentiated Mode~~. The QF may contract for the delivery of ~~non-firm~~energy-only energy to the Company (energy-only payments are not fixed for the duration of the PPA term; the rates will change with each revision of this schedule, and there is 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.~~ to QFs selecting the energy-only option). Where the QF's generation facilities have an aggregate nameplate rating of 100 kW or less the QF may designate the ~~Non-firm~~energy-only, Non-time-differentiated Mode of Operation. Regardless of nameplate rating the QF may designate the ~~Non-firm~~energy-only, Time-differentiated Mode of Operation.
- C. Firm Mode. The QF may contract for the delivery of ~~firm~~both energy and capacity to the Company under Firm Mode. 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.

V. PAYMENT FOR COMPANY PURCHASES OF ~~NON-FIRM ENERGY-ONLY~~

The QF may contract to receive payment for energy ~~at rates to be~~only determined with each revision of this schedule. These rates will be based upon

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the QF's Mode of Operation as described below. There are no capacity payments for the QFs that contract for ~~non-firm energy~~ only energy.

~~V. PAYMENT FOR COMPANY PURCHASES OF NON-FIRM ENERGY~~  
(Continued)

- 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-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~~energy-only Non-time-differentiated Mode of Operation, the following rates in cents per kWh are applicable:

3.297

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

On-peak (as defined in Section III.A)	3.769
Off-peak	3.035

**The rates in both B and C above will be redetermined on a biennial basis on each revision of this schedule. Further, for clarity, the Energy-only rates in C above are identical to the Variable Rates shown below in Section VI. A.**

All energy purchase rates regardless of Mode of Operation will be further increased by 3.0% to account for line losses avoided by the Company.

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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 capacity payments in addition to energy rates under this Section VI – Firm Energy. 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. Capacity payments to the QF will be paired with the option the QF selects for firm energy payments (e.g., if the QF selects Option A for firm energy payments, the QF will be paid Option A capacity payments).

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

In lieu of fixed rates, a QF that selects the Firm Mode of Operation may contract to receive payment for firm time-differentiated energy at rates to be determined with each revision of this schedule (~~Variable Rate~~). These rates in cents per kWh, which reflect the Company's estimated avoided energy cost for delivery of firm energy during 2015 or 2016, until the next biennial filing, are as shown in the price tables below under the heading Variable Rate:

- A. Option A: The QF may contract to receive energy purchase payments for the delivery of firm energy based upon fixed prices, as shown below in cents per kWh:

		<u>Fixed Long-Term Rate</u>		
	<u>Variable Rate</u>	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh)	3.769	3.900	4.390	4.756
Off-Peak (¢/kWh)	3.035	3.132	3.605	3.903

- B. Option B: The QF may contract to receive energy purchase payments for the delivery of firm energy based upon fixed prices, as shown below in cents per kWh:

		<u>Fixed Long-Term Rate</u>		
	<u>Variable Rate</u>	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>

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On-Peak (¢/kWh)	3.773	3.930	4.442	4.838
Off-Peak (¢/kWh)	3.164	3.259	3.730	4.032

Operator shall be paid for energy up to ~~105%~~ 5% of above the Contracted Capacity in any hour at the then applicable ~~non-firm energy~~ only rates under Schedule 19-FP except no payment shall be made for generation in excess of 5,000 kW or 3,000 kW as applicable pursuant to Section I.A. or I.B.

All energy purchase rates will be further increased by 3.0% to account for line losses avoided by the Company.

VII. PAYMENT FOR COMPANY PURCHASES OF CAPACITY

Company purchases of capacity are applicable only where the QF elects the Firm Mode of Operation. The QF will receive payments for capacity based on Option A below if the QF selected Option A for firm energy payments. The QF will receive capacity payment based on Option B below if the QF selected Option B for firm energy payments. Capacity payments are applicable during on-peak hours only. 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. Contract terms of 10 or 15 years are available only for QFs described in Paragraph I.A.

**Option A:**

For hydroelectric facilities with no storage capability and no other type of generation:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	3.761	3.903	4.032
On-Peak (¢/kWh) Non-summer	2.507	2.602	2.688

For all other facilities:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>

(Continued)

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On-Peak (¢/kWh) Summer	2.257	2.342	2.419
On-Peak (¢/kWh) Non-summer	1.504	1.561	1.613

VII. ~~PAYMENT FOR COMPANY PURCHASES OF CAPACITY (Continued)~~

**Option B:**

For hydroelectric facilities with no storage capability and no other type of generation:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	8.628	8.954	9.250
On-Peak (¢/kWh) Non-summer	3.326	3.452	3.566

For all other facilities:

	<u>Capacity Price</u>		
	<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak (¢/kWh) Summer	5.177	5.373	5.550
On-Peak (¢/kWh) Non-summer	1.996	2.071	2.140

Payments will be made to the QF by applying the appropriate levelized capacity purchase price above to all kWh delivered to the Company during each on-peak hour, up to the 100% of the Contracted Capacity in such hour. There will be no compensation for capacity in excess of the QF's Contracted Capacity in an hour. This capacity price will be in accordance with the length of rate term for capacity sales so established in the contract.

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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. The sale of power to the Company by a QF at avoided cost rates pursuant to this Schedule 19-FP does not convey ownership to the Company of the renewable energy credits or green tags associated with the QF facility.
- C. Upon request by the Company, the Cogenerator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.
- D. The QF is responsible for obtaining an interconnection service agreement for delivery of capacity and energy generated by its facility onto the Company's electrical system. Information on interconnection procedures for the QF's generation interconnection ~~are~~is provided through the Internet at the Company's website:

<https://www.dom.com/library/domcom/pdfs/north-carolina-power/rates/terms-and-conditions/term24.pdf>.

If the interconnection is subject to FERC jurisdiction, the interconnection will be in accordance with FERC and PJM Interconnection, L.L.C. requirements.

- E. ~~The Company's LEO Form referenced in Section I is shown in Exhibit A. The executed LEO Form must be delivered to the address stated on the LEO Form.~~ **QF must have submitted a Notice of Commitment to the Company.**

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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.

If the QF terminates its contract to provide Contracted Capacity and energy 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 and energy payments.

Such excess payments will be calculated by taking the difference between (1) the total capacity and energy payments already made by the Company to the QF and (2) capacity and energy payments calculated based on the levelized capacity and energy purchase price found in Paragraph VI and 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.

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EXHIBIT A

~~OFFER TO SELL TO AND REQUEST FOR POWER PURCHASE  
AGREEMENT WITH DOMINION NORTH CAROLINA POWER  
BY A QUALIFYING FACILITY~~

~~Instructions to QF: The QF shall deliver, via certified mail, courier, hand delivery or email, its executed LEO Form to:~~

~~Director—Power Contracts  
Dominion North Carolina Power  
5000 Dominion Boulevard, 3 SE  
Glen Allen, Virginia 23060  
powerecontracts@dom.com~~

~~1. [ ] (“Seller”) hereby requests that Virginia Electric and Power Company d/b/a Dominion North Carolina Power (the “Company”) enter into a power purchase agreement (“PPA”) and purchase the electricity supplied to Company’s system by Seller’s “Qualifying Cogeneration/Small Power Production Facility” located at \_\_\_\_\_, North Carolina (the “Facility”).~~

~~2. The name, address, and contact information for Seller is:~~

~~\_\_\_\_\_ Telephone:  
\_\_\_\_\_  
\_\_\_\_\_ Facsimile:  
\_\_\_\_\_  
\_\_\_\_\_ Email:  
\_\_\_\_\_~~

~~3. By execution and submittal of this offer to sell and request for a PPA (“Offer and Request”), Seller certifies as follows:~~

~~a. Seller desires to and hereby offers to sell the output of its Facility to the  
(Continued)~~

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Company:

- ~~b. Seller is a qualifying facility ("QF") of the type and size described in the self-certification of QF status filed with the Federal Energy Regulatory Commission attached as Exhibit 1 hereto.~~
- ~~e. (Select the applicable certification below)~~
  - ~~i. Seller has received a certificate of public convenience and necessity ("CPCN") for the construction of the Facility from the North Carolina Utilities Commission ("NCUC") pursuant to North Carolina General Statute § 62-110.1 and NCUC Rule R8-64, which CPCN was approved on \_\_\_\_\_ in Docket No. \_\_\_\_\_, and is attached as Exhibit 2, hereto;~~
  - ~~ii. Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and has filed a report of proposed construction with the NCUC pursuant to NCUC Rule R8-65 ("Report of Proposed Construction"). A copy of that Report Of Proposed Construction is attached as Exhibit 3, hereto;~~
  - ~~iii. Seller has applied for a CPCN for the construction of its Facility and will provide the Company with a copy of its CPCN upon issuance by the NCUC; or~~
  - ~~iv. Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and will file a Report of Proposed Construction with the NCUC pursuant to NCUC Rule R8-65 and will provide the Company with a copy of the same upon filing.~~

4. Seller desires to enter into a PPA with the Company pursuant to (Select one):

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- a. ~~\_\_\_\_\_~~ Schedule 19-LMP
- b. ~~\_\_\_\_\_~~ Schedule 19-FP
- c. ~~\_\_\_\_\_~~ Negotiated terms and conditions for QFs with a net capacity in excess of applicable kW limits in Section I or otherwise ineligible for Schedule 19 (e.g., QFs with a net capacity in excess of 5,000 kW).

If the Seller selects a. or b., above, on a separate sheet attached hereto, please provide the names and locations of any QF facilities that are owned or under development by Seller or its affiliates that will be located within one mile of the Facility for which this Offer and Request is being submitted.

5. ~~\_\_\_\_\_~~ By execution and submittal of this Offer and Request Seller acknowledges that:
- a. ~~\_\_\_\_\_~~ Company cannot enter into a PPA with a QF that has not received a CPCN from the NCUC or filed a Report of Proposed Construction with the NCUC, as applicable.
- b. ~~\_\_\_\_\_~~ The legally enforceable obligation date ("LEO Date") for an Offer and Request will be determined in accordance with subsections (c) or (d) below. If Seller is seeking a Schedule 19 PPA, the LEO Date will be used to determine Seller's eligibility for a PPA under the currently effective Schedule 19. If the Seller's Facility is too large to qualify for Schedule 19, the Company will develop avoided cost rates for the PPA using data available as of the LEO Date.
- c. ~~\_\_\_\_\_~~ If on the date an Offer and Request is received by Company the Seller has a CPCN from or has filed a Report of Proposed Construction with the NCUC for the Facility, the LEO Date will be the date of the Company's receipt of the Offer and Request.
- d. ~~\_\_\_\_\_~~ If on the date an Offer and Request is received by Company the Seller does not have CPCN for the Facility or has not filed a Report of Proposed Construction with NCUC for the Facility, the LEO Date will be the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.
- e. ~~\_\_\_\_\_~~ If, prior to execution of a PPA, Seller desires to withdraw its Offer and Request, Seller shall provide written notice of such withdrawal to the Company. If Seller thereafter desires to sell the output of its Facility to

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~~the Company, Seller must submit a new Offer and Request for the Facility. A new LEO Date will be established in connection with each new Offer and Request, which will be the later of: (i) the date of the new Offer and Request or (ii) the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.~~

~~6. Except as provided in Section 7, this Offer and Request shall automatically terminate and be of no further force and effect in the following circumstances:~~

- ~~a. Upon withdrawal of the Offer and Request by Seller pursuant to Section 5(e), above;~~
- ~~b. Upon execution of a PPA between Seller and Company;~~
- ~~c. For a Seller eligible for Schedule 19, if such Seller does not execute a PPA prior to the date set by the NCUC for the filing of updated Schedule 19 rates and contracts; and~~
- ~~d. For a Seller that is not eligible for Schedule 19, if such Seller does not execute a PPA within six months after the Company's submittal of the PPA to the QF; provided, however, if the PPA proposed by the Company is the subject of an arbitration proceeding before the NCUC, such six month deadline may be extended as directed by the NCUC.~~

~~7. The acknowledgements of Seller pursuant to Section 5, above, shall survive termination of this Offer and Request.~~

~~[NAME OF QF OWNER]~~

~~\_\_\_\_\_  
[Name]~~

~~\_\_\_\_\_  
[Title]~~

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# Exhibit B

Schedule 19 - LMP  
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I. APPLICABILITY AND AVAILABILITY

Subject to the limitations of this Section I, 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, 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).

Unless otherwise provided by a Commission order setting forth different availability dates, this schedule is available to any Qualifying Facility (otherwise eligible pursuant to the terms hereof) that, no later than the date on which proposed rates are filed in the next biennial avoided cost proceeding after Docket No. E-100, Sub 140, (a) has obtained a certificate of public convenience and necessity for its facility from the Commission or filed a report of proposed construction with the Commission pursuant to Commission Rule R8-65, and (b) has submitted to the Company a duly executed Notice of Commitment to Sell the Output of a Qualifying Facility Company ("Notice of Commitment"). The form of Notice of Commitment can be found on the Company's website through the following link: \_\_\_\_\_ . Alternatively, a QF may request a Notice of Commitment form via email to PowerContracts@dom.com.

Where the Qualifying Facility (QF) elects to be compensated for deliveries in accordance with this schedule, the amount of capacity under contract (the "Contracted Capacity") 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 Contracted Capacity subject to compensation shall be no greater than 5,000 kW, and the amount

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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 of five, 10, or 15 years, at the option of the QF.

- B. Where the QF is not defined under Paragraph I.A., the amount of Contracted 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 of five years.

Where the QF elects to be compensated for deliveries in accordance with this schedule, the QF must begin deliveries to the Company within thirty months of the Commission's order in Docket No. E-100, Sub 140 approving this Schedule 19-LMP to retain eligibility for the rates contained in this schedule; provided, however, a QF may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner. 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 available or 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.

This schedule is not available or applicable to a QF that utilizes a renewable resource, such as hydroelectric, solar, or wind power facilities, which is owned by a developer, or affiliate of a developer, who is selling or will sell power to the

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Company from another QF using the same renewable energy resource located within one mile if the combined output of such renewable resource QFs will exceed 5,000 kW (ac). For purposes of this paragraph, distance between QFs shall be measured from the electrical generating equipment of the QFs.

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

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.

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- B. 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.

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. Operator shall be paid for energy up to 105% of Contracted Capacity in any hour except no payment shall be made for generation in excess of contracted capacity of 5,000 kW or 3,000 kW as applicable pursuant to Section I.A. or I.B. There will be no reimbursement for any energy delivered above 105% of such QF's Contracted Capacity.
2. All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company.

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

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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. Capacity Payment shall not be made for generation in any hour that exceeds the Contracted Capacity.

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. In the event there are multiple products and prices for the applicable PJM Base Residual Auction, DNCP will pay Operator the price associated with the capacity product most applicable to the QF resource type and performance.

Using the applicable 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.

(Continued)

Filed 03-02-15  
Electric-North Carolina

Superseding Amending Filing Effective For Usage  
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POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

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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.
- B. All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company .

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-LMP does not convey ownership to the Company of the renewable energy credits or green tags associated with the QF facility.

Upon request by the Company, the Cogenerator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.

(Continued)

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- C. The QF is responsible for obtaining an interconnection service agreement for delivery of capacity and energy generated by its facility onto the Company's electrical system. Information on interconnection procedures for the QF's generation interconnection are provided through the Internet at the Company's website:

<https://www.dom.com/library/domcom/pdfs/north-carolina-power/rates/terms-and-conditions/term24.pdf>.

If the interconnection is subject to FERC jurisdiction, the interconnection will be in accordance with FERC and PJM Interconnection, L.L.C. requirements.

- D. The QF must have submitted a Notice of Commitment to the Company.

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 five, 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.

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Schedule 19 - LMP  
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I. APPLICABILITY AND AVAILABILITY

Subject to the limitations of this Section I, 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, 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).

Unless otherwise provided by a Commission order setting forth different availability dates, this schedule is available to any Qualifying Facility (otherwise eligible pursuant to the terms hereof) that, no later than the date on which proposed rates are filed in the next biennial avoided cost proceeding after Docket No. E-100, Sub 140, (a) has obtained a certificate of public convenience and necessity for its facility from the Commission or filed a report of proposed construction with the Commission pursuant to Commission Rule R8-65, and (b) has ~~delivered~~submitted to ~~the~~ Company a duly executed Offer to Sell to and Request for Power Purchase Agreement with Dominion North Carolina Power by a Qualifying Facility (the Company's "LEO Form") shown in Exhibit A hereto Notice of Commitment to Sell the Output of a Qualifying Facility Company ("Notice of Commitment"). The form of Notice of Commitment can be found on the Company's website through the following link: \_\_\_\_\_ . Alternatively, a QF may request a Notice of Commitment form via email to PowerContracts@dom.com.

Where the Qualifying Facility (QF) elects to be compensated for firm deliveries in accordance with this schedule, the amount of capacity under contract (the "Contracted Capacity") 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

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by trash or methane derived from landfills, hog waste, poultry waste, solar, wind, and non-animal forms of biomass, the amount of Contracted 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 five, 10, or 15 years, at the option of the QF.

I. ~~APPLICABILITY AND AVAILABILITY (Continued)~~

- B. Where the QF is not defined under Paragraph I.A., the amount of Contracted 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 five years.

Where the QF elects to be compensated for ~~firm or non-firm~~ deliveries in accordance with this schedule, the QF must begin deliveries to the Company within thirty months of the Commission's order in Docket No. E-100, Sub 140 approving this Schedule 19-LMP to retain eligibility for the rates contained in this schedule; provided, however, a QF may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner. 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 available or 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

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same host, and the host has multiple operations with distinctly different or separate thermal needs.

This schedule is not available or applicable to a QF that utilizes a renewable resource, such as hydroelectric, solar, or wind power facilities, which is owned by a developer, or affiliate of a developer, who is selling or will sell power to the Company from another QF using the same renewable energy resource QF located within one mile if the combined output of such renewable resource QFs will exceed 5,000 kW. **(ac). For purposes of this paragraph, distance between QFs shall be measured from the electrical generating equipment of the QFs.**

## 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

## 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.

(Continued)

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- 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.
- B. 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.

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. Operator shall be paid for energy up to 105% of Contracted Capacity in any hour except no payment shall be made for generation in excess of contracted capacity of 5,000 kW or 3,000 kW as applicable pursuant to Section I.A. or I.B. There will be no reimbursement for any energy delivered above 105% of such QF's Contracted Capacity.
  2. All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company.

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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. Capacity Payment shall not be made for generation in any hour that exceeds the Contracted Capacity.

~~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. In the event there are multiple products and prices for the applicable PJM Base Residual Auction, DNCP will pay Operator the price associated with the capacity product most applicable to the QF resource type and performance.

Using the applicable 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.

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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.

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.
- B. All energy purchase prices per kWh will be increased by 3.0% to account for line losses avoided by the Company .

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;

(Continued)

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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-LMP does not convey ownership to the Company of the renewable energy credits or green tags associated with the QF facility.

Upon request by the Company, the Cogenerator or Small Power Producer must demonstrate that the facility is a Qualifying Facility as defined by PURPA.

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

- C. The QF is responsible for obtaining an interconnection service agreement for delivery of capacity and energy generated by its facility onto the Company's electrical system. Information on interconnection procedures for the QF's generation interconnection are provided through the Internet at the Company's website:

<https://www.dom.com/library/domcom/pdfs/north-carolina-power/rates/terms-and-conditions/term24.pdf>.

If the interconnection is subject to FERC jurisdiction, the interconnection will be in accordance with FERC and PJM Interconnection, L.L.C. requirements.

- D. ~~The Company's LEO Form referenced in Section I is shown in Exhibit A. The executed LEO Form must be delivered to the address stated on the LEO Form.~~ **QF must have submitted a Notice of Commitment to the Company.**

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

(Continued)

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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 five, 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.

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(Continued)

- a. ~~Seller desires to and hereby offers to sell the output of its Facility to the Company.~~
- b. ~~Seller is a qualifying facility ("QF") of the type and size described in the self-certification of QF status filed with the Federal Energy Regulatory Commission attached as Exhibit 1 hereto.~~
- c. ~~(Select the applicable certification below)~~
  - i. ~~Seller has received a certificate of public convenience and necessity ("CPCN") for the construction of the Facility from the North Carolina Utilities Commission ("NCUC") pursuant to North Carolina General Statute § 62-110.1 and NCUC Rule R8-64, which CPCN was approved on \_\_\_\_\_ in Docket No. \_\_\_\_\_, and is attached as Exhibit 2, hereto;~~
  - ii. ~~Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and has filed a report of proposed construction with the NCUC pursuant to NCUC Rule R8-65 ("Report of Proposed Construction"). A copy of that Report Of Proposed Construction is attached as Exhibit 3, hereto;~~
  - iii. ~~Seller has applied for a CPCN for the construction of its Facility and will provide the Company with a copy of its CPCN upon issuance by the NCUC; or~~
  - iv. ~~Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and will file a Report of Proposed Construction with the NCUC pursuant to NCUC Rule R8-65 and will provide the Company with a copy of the same upon filing.~~

4. ~~Seller desires to enter into a PPA with the Company pursuant to (Select one):~~

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(Continued)

- a. ~~\_\_\_\_\_~~ Schedule 19-LMP
- b. ~~\_\_\_\_\_~~ Schedule 19-FP
- e. ~~\_\_\_\_\_~~ Negotiated terms and conditions for QFs with a net capacity in excess of applicable kW limits in Section I or otherwise ineligible for Schedule 19 (e.g., QFs with a net capacity in excess of 5,000 kW).

~~If the Seller selects a. or b., above, on a separate sheet attached hereto, please provide the names and locations of any QF facilities that are owned or under development by Seller or its affiliates that will be located within one mile of the Facility for which this Offer and Request is being submitted.~~

5. ~~By execution and submittal of this Offer and Request Seller acknowledges that:~~
- a. ~~Company cannot enter into a PPA with a QF that has not received a CPCN from the NCUC or filed a Report of Proposed Construction with the NCUC, as applicable.~~
- b. ~~The legally enforceable obligation date ("LEO Date") for an Offer and Request will be determined in accordance with subsections (c) or (d) below. If Seller is seeking a Schedule 19 PPA, the LEO Date will be used to determine Seller's eligibility for a PPA under the currently effective Schedule 19. If the Seller's Facility is too large to qualify for Schedule 19, the Company will develop avoided cost rates for the PPA using data available as of the LEO Date.~~
- c. ~~If on the date an Offer and Request is received by Company the Seller has a CPCN from or has filed a Report of Proposed Construction with the NCUC for the Facility, the LEO Date will be the date of the Company's receipt of the Offer and Request.~~
- d. ~~If on the date an Offer and Request is received by Company the Seller does not have CPCN for the Facility or has not filed a Report of Proposed Construction with NCUC for the Facility, the LEO Date will be the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable. e.~~
- ~~If, prior to execution of a PPA, Seller desires to withdraw its Offer and Request, Seller shall provide written notice of such withdrawal~~

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(Continued)

~~to the Company. If Seller thereafter desires to sell the output of its Facility to the Company, Seller must submit a new Offer and Request for the Facility. A new LEO Date will be established in connection with each new Offer and Request, which will be the later of: (i) the date of the new Offer and Request or (ii) the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.~~

- ~~6. Except as provided in Section 7, this Offer and Request shall automatically terminate and be of no further force and effect in the following circumstances:
 
  - ~~a. Upon withdrawal of the Offer and Request by Seller pursuant to Section 5(e), above;~~
  - ~~b. Upon execution of a PPA between Seller and Company;~~
  - ~~c. For a Seller eligible for Schedule 19, if such Seller does not execute a PPA prior to the date set by the NCUC for the filing of updated Schedule 19 rates and contracts; and~~
  - ~~d. For a Seller that is not eligible for Schedule 19, if such Seller does not execute a PPA within six months after the Company's submittal of the PPA to the QF; provided, however, if the PPA proposed by the Company is the subject of an arbitration proceeding before the NCUC, such six month deadline may be extended as directed by the NCUC.~~~~
- ~~7. The acknowledgements of Seller pursuant to Section 5, above, shall survive termination of this Offer and Request.~~

[NAME OF QF OWNER]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

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# Exhibit C

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

THIS AGREEMENT, effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation 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 the "Company," and \_\_\_\_\_ [Operator Corporate Name], a [State & Form, e.g., "North Carolina Corporation"], with its principal office in \_\_\_\_\_ [City], \_\_\_\_\_ [State], hereinafter called "Operator." Both Dominion North Carolina Power and Operator also are herein individually referred to as "Party" and collectively referred to as "Parties":

RECITALS

WHEREAS, the North Carolina Utilities Commission ("Commission") has adopted a rate schedule described in this Agreement below as **Schedule 19-FP** applicable to Qualifying Facilities (or "QF" as that term is defined in 18 C.F.R. § 292) which can provide Contracted Capacity (as defined in Schedule 19-FP) (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;

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission ("Commission") in Docket No. SP-\_\_\_\_\_ ("CPCN"); and

or [The inapplicable recital will be deleted]

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the report of proposed construction notice ("RPCN") filed with the Commission in Docket No. SP-\_\_\_\_ and

WHEREAS, the Facility is located in Dominion North Carolina Power's retail service area in [address, city, county], North Carolina, and the Parties hereto wish to contract pursuant to Schedule 19-FP 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 [Operator to choose] \_\_\_ a simultaneous purchase and sale arrangement OR \_\_\_ an excess sale arrangement. The Mode of Operation that the Operator elects to operate the Facility is. [Operator to select Mode of Operation]:

- \_\_\_ Non-Reimbursement Mode as described in Section IV.A of Schedule 19-FP;
- \_\_\_ Energy-Only, Non-time-differentiated Mode of Operation as described in Section IV.B of Schedule 19-FP;
- \_\_\_ Energy-Only, Time-differentiated Mode of Operation) as described in Section IV.B of Schedule FP; or
- \_\_\_ Firm Mode of Operation as described in Section IV.C of Schedule 19-FP

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

This Agreement shall commence on the Effective Date and, unless earlier terminated under any other provision of this Agreement, shall continue in effect for a period of \_\_\_\_\_ ( ) years from the commercial operations date ("COD"). The COD 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 COD and certifying that the Facility is ready to begin commercial operations as a QF;
- (c) Operator and Dominion North Carolina Power (or the PJM Interconnection, L.L.C. or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an interconnection service agreement for delivery of capacity and energy generated by the Facility onto the Company's electrical system ("Interconnection

Agreement”), a copy of which has been provided to Company;

- (d) The Facility is a QF as evidenced by Operator providing a copy of its currently effective Form 556 self-certification or formal FERC QF certification order; and
- (e) The CPCN or RPCN, as applicable, is in full force and effect.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power in accordance with Section I of Schedule 19-FP.

PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission (“FERC”) for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC’s regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. QM\_\_-1-000. If the FERC grants Company’s application with respect to the Facility, the Company’s obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. **[Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]**

### Article 3: Contracted Capacity

The Facility, consisting of \_\_\_\_\_ generator(s), has an aggregate maximum net power production capacity (calculated in accordance with FERC Form 556) of approximately \_\_\_\_ kW alternating current (“ac”). The Facility’s Contracted Capacity shall be \_\_\_\_ kW ac.

### Article 4: Attachments

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

- Exhibit A: Quarterly Status Report Contents
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-FP
- 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: Evidence of QF Status on the Effective Date

Exhibit F: Copy of CPCN or RPCN, as applicable.

### Article 5: Price

Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions for payments in Schedule 19-FP included herewith as Exhibit C and pursuant to Operator elections within such Schedule 19-FP as stated in Article 1 hereof. Payments for all energy and Contracted Capacity purchased hereunder shall be on a cents per kilowatt-hour basis.

### Article 6: Operator's Pre-COD Obligations

(a) Status Report. After execution of this Agreement and until the COD, Operator shall deliver a quarterly status report to the Company with the information set forth in Exhibit A. 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.

(b) Commencement of Construction. 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 with unrestricted construction activities for the Facility; (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 a power island or the ground mounting systems for solar panels and inverters 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 earlier than four (4) months prior to the anticipated COD date. The anticipated COD is \_\_\_\_\_, 20\_\_.

### Article 7: Early Termination

(a) Defaults with No Cure Period. Operator and Company agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Company's right to early termination of this Agreement upon written notice to Operator, but without being subject to a cure period, provided however, that Company shall be obligated to pay for any capacity and energy delivered by Facility prior to termination of this Agreement at the rates stated herein.

(i) failure to commence construction of the Facility, as defined in Section 6(b), within the later of fourteen (14) months from the Effective Date of this

Agreement or thirty (30) days after the Company tenders an Interconnection Agreement for execution by Operator;

(ii) delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor;

(iii) Operator increases the aggregate maximum net power production capacity (calculated in accordance with FERC Form 556) of the Facility above the Contracted Capacity without the prior written approval of Company;

(iv) failure to generate and deliver any energy and capacity from the Facility for more than 180 consecutive days at any time after COD; provided, however, if such failure is due to Force Majeure as defined in Exhibit B and Operator has complied with the requirements of Exhibit B with respect to such Force Majeure, then Company may not terminate this Agreement unless the failure lasts for three hundred sixty-five consecutive days.

(b) Defaults with Cure Period. Operator and Company agree that the following events if not cured by Operator within thirty days of notice from Company shall constitute a default giving Company the right to terminate this Agreement:

(i) failure to meet the requirements necessary to maintain QF status (formal or self-certification at the Operator's option) or revocation of its QF status (formal or self-certification, as applicable) for any reason;

(ii) failure to provide a status report in accordance with Section 6(a);

(iii) termination of the Interconnection Agreement or suspension of Operator's right to interconnect the Facility under the Interconnection Agreement unless such failure is due to a breach of the Interconnection Agreement by a party other than the Operator; or

(iv) failure to perform in any material way, any other obligations, which failure would not constitute an individual event of default under Section 7(a) or Section 7(c).

Notwithstanding any cure period, Company shall not be obligated to purchase any energy or Contracted Capacity under this Agreement while such default remains uncured.

(c) Delay in COD. Company shall have the right to terminate this Agreement if Operator fails to achieve Commercial Operations Date within thirty months from the date of a Commission Order approving the Schedule 19-FP rates filed by the Company in Docket No. E-100, Sub 140; provided, however, an Operator may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question

are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner.

Operator agrees that if this Agreement is canceled by Dominion North Carolina Power prior to the end of the initial term of this Agreement for nonperformance by the QF, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity.

**Article 8: 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 COD 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 9: Notices and Payments**

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

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

**Article 10: 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.

[SIGNATURE PAGE FOLLOWS]

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

(Operator)

By:

Title:

Date:

VIRGINIA ELECTRIC AND POWER COMPANY

By:

Title:

Date:

EXHIBIT A

The quarterly status reports required by Article 6 shall include the following information and any additional information that may be reasonably requested by Company.

- Status of financing and expected closing date
- Notification and status of any plans to change control or ownership of the project
- Site location and acreage
- EIA Plant Code
- Description of construction status
- Timeline of construction to include:
  - Start date of construction
  - Construction completion date
  - Date for start-up and testing
- Timeline for interconnection through completion
- Current interconnection status
- Status of required permits
- Notice of any changes, modifications, or assignment of CPCN, RCPN and QF Status
- Summary of anticipated design components including transformer voltages and maximum output in AC & DC
- Estimated COD

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, which consent shall not be unreasonably withheld, provided, that such assignment does not require any amendment of the terms and conditions of the Agreement, other than the notice provisions, thereof. 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 the 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 \$12,000 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 the 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 QF requirements established as of the Effective Date of this Agreement by the FERC's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to maintain QF status throughout the term of this Agreement. Operator agrees to provide copies, at the time of submittal, of all correspondence and filings with the Federal Energy Regulatory Commission relating to status of the Facility as a QF. If requested by Dominion North Carolina Power prior to May 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 currently effective FERC Form 556 or formal FERC certification, as applicable and any subsequent revisions or amendments;
- (c) Where applicable, a copy of any contract executed with a thermal host;
- (d) Where applicable, 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) Where applicable, 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) Where applicable, 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; and
- (h) 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.

Operator shall: (a) maintain the Facility 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.

#### 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(s).

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-FP.

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 via mail Operator payment for energy and Contracted Capacity delivered, except if payment is made via wire transfer then payment shall be made within thirty-one (31) days thereafter. 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-FP 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-FP.

### EXHIBIT D

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

EXHIBIT E

Exhibit E is a copy of the Operator Form 556 or formal FERC certification of QF status in effect as of the Effective Date.

OR

If Facility is less than 1MW, Operator may submit the following statement as Exhibit E 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, [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 (codified at 16 U.S.C. § 824a-3).

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

EXHIBIT F

Exhibit F is the CPCN or RPCN for the Facility, as applicable.

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

THIS AGREEMENT, effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation 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 the "Company," and \_\_\_\_\_ [Operator Corporate Name], a [State & Form, e.g., "North Carolina Corporation"], with its principal office in \_\_\_\_\_ [City], \_\_\_\_\_ [State], hereinafter called "Operator." Both Dominion North Carolina Power and Operator also are herein individually referred to as "Party" and collectively referred to as "Parties":

RECITALS

WHEREAS, the North Carolina Utilities Commission ("Commission") has adopted a rate schedule described in this Agreement below as **Schedule 19-FP** applicable to Qualifying Facilities (or "QF" as that term is defined in 18 C.F.R. § 292) which can provide Contracted Capacity (as defined in Schedule 19-FP) (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;

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission ("Commission") in Docket No. SP-\_\_\_\_\_ ("CPCN"); and

or [The inapplicable recital will be deleted]

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the report of proposed construction notice ("RPCN") filed with the Commission in Docket No. SP-\_\_\_\_\_ and

WHEREAS, the Facility is located in Dominion North Carolina Power's retail service area in [address, city, county], North Carolina, and the Parties hereto wish to contract pursuant to Schedule 19-FP 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 [Operator to choose] \_\_\_ a simultaneous purchase and sale arrangement OR \_\_\_ an excess sale arrangement. The Mode of Operation that the Operator elects to operate the Facility is. [Operator to select Mode of Operation]:

- \_\_\_ Non-Reimbursement Mode as described in Section IV.A of Schedule 19-FP;
- \_\_\_ ~~Non-firm~~**Energy-Only**, Non-time-differentiated Mode of Operation as described in Section IV.B of Schedule 19-FP;
- \_\_\_ ~~Non-firm~~**Energy-Only**, Time-differentiated Mode of Operation) as described in Section IV.B of Schedule FP; or
- \_\_\_ Firm Mode of Operation as described in Section IV.C of Schedule 19-FP

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

This Agreement shall commence on the Effective Date and, unless earlier terminated under any other provision of this Agreement, shall continue in effect for a period of \_\_\_\_\_ ( ) years from the commercial operations date ("COD"). The COD 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 COD and certifying that the Facility is ready to begin commercial operations as a QF;
- (c) Operator and Dominion North Carolina Power (or the PJM Interconnection, L.L.C. or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an interconnection service agreement for delivery of capacity and energy generated by the Facility onto the Company's electrical system ("Interconnection

Agreement”), a copy of which has been provided to Company;

- (d) The Facility is a QF as evidenced by Operator providing a copy of its currently effective Form 556 self-certification or formal FERC QF certification order; and
- (e) The CPCN or RPCN, as applicable, is in full force and effect.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power in accordance with Section I of Schedule 19-FP.

PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission (“FERC”) for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC’s regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. OM -1-000. If the FERC grants Company’s application with respect to the Facility, the Company’s obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. [Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]

### Article 3: Contracted Capacity

The Facility, consisting of \_\_\_\_\_ generator(s), ~~will have a combined net output~~ has an aggregate maximum net power production capacity (calculated in accordance with FERC Form 556) of approximately \_\_\_\_ kW alternating current (“ac”). The Facility’s Contracted Capacity shall be \_\_\_\_ kW ac.

### Article 4: Attachments

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

- Exhibit A: Quarterly Status Report Contents
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-FP
- 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: Evidence of QF Status on the Effective Date

Exhibit F: Copy of CPCN or RPCN, as applicable.

### Article 5: Price

Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions for payments in Schedule 19-FP included herewith as Exhibit C and pursuant to Operator elections within such Schedule 19-FP as stated in Article 1 hereof. Payments for all energy and Contracted Capacity purchased hereunder shall be on a cents per kilowatt-hour basis.

### Article 6: Operator's Pre-COD Obligations

(a) Status Report. After execution of this Agreement and until the COD, Operator shall deliver a quarterly status report to the Company with the information set forth in Exhibit A. 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.

(b) Commencement of Construction. 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 with unrestricted construction activities for the Facility; (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 or the ground mounting systems for solar panels and inverters 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 \_\_\_\_\_, 20\_\_ [NOTE: Dominion North Carolina Power to determine]. earlier than four (4) months prior to the anticipated COD date. The anticipated COD is \_\_\_\_\_, 20\_\_.

### Article 7: Early Termination

(a) Defaults with No Cure Period. Operator and Company agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Company's right to early termination of this Agreement upon written notice to Operator, but without being subject to a cure period, provided however, that Company shall be obligated to pay for any capacity and energy delivered by Facility prior to termination of this Agreement at the rates stated herein.

(i) failure to commence construction of the Facility, as defined in Article 6, and provide Dominion North Carolina Power with written notice thereof by

~~\_\_\_\_\_~~, 20 Section 6(b), within the later of fourteen (14) months from the Effective Date of this Agreement or thirty (30) days after the Company tenders an Interconnection Agreement for execution by Operator;

~~(ii) failure to provide two (2) consecutive status reports in accordance with Article 6;~~

~~(ii)~~ ~~(iii)~~ delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor;

~~(iii)~~ ~~(iv)~~ Operator increases the ~~net electrical aggregate maximum net power production~~ capacity (calculated in accordance with FERC Form 556) of the Facility above the Contracted Capacity without the prior written approval of Company;

~~(v) failure at any time following COD to maintain the Interconnection Agreement in full force and effect unless such failure is due to Company's breach of the Interconnection Agreement; or~~

~~(iv)~~ ~~(vi)~~ failure to generate and deliver any energy and capacity from the Facility for more than 180 consecutive days at any time after COD; provided, however, if such failure is due to Force Majeure as defined in Exhibit B and Operator has complied with the requirements of Exhibit B with respect to such Force Majeure, then Company may not terminate this Agreement unless the failure lasts for three hundred sixty-five consecutive days.

~~(vii) PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission ("FERC") for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC's regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. QM\_\_1-000. If the FERC grants Company's application with respect to the Facility, the Company's obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. [Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]~~

(b) Defaults with Cure Period. Operator and Company agree that the following events if not cured by Operator within thirty days of notice from Company shall constitute a default giving Company the right to terminate this Agreement:

(i) failure to meet the requirements necessary to maintain QF status (formal or self-certification at the Operator's option) or revocation of its QF status (formal or self-certification, as applicable) for any reason; or

**(ii) failure to provide a status report in accordance with Section 6(a);**

**(iii) termination of the Interconnection Agreement or suspension of Operator's right to interconnect the Facility under the Interconnection Agreement unless such failure is due to a breach of the Interconnection Agreement by a party other than the Operator; or**

**(iv) ~~(ii)~~ failure to perform in any material way, any other obligations, which failure would not constitute an individual event of default under Section 7(a) or Section 7(c).**

Notwithstanding any cure period, Company shall not be obligated to purchase any energy or Contracted Capacity under this Agreement while such default remains uncured.

(c) Delay in COD. Company shall have the right to terminate this Agreement if Operator fails to achieve Commercial Operations Date within thirty months from the date of a Commission Order approving the Schedule 19-FP rates filed by the Company in Docket No. E-100, Sub 140; provided, however, an Operator may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner.

Operator agrees that if this Agreement is canceled by Dominion North Carolina Power prior to the end of the initial term of this Agreement for nonperformance by the QF, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity.

### **Article 8: 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 COD 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 9: Notices and Payments**

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

POWER: OPERATOR: DOMINION NORTH CAROLINA

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

**Article 10: 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.

**[SIGNATURE PAGE FOLLOWS]**

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

(Operator)

By:

Title:

Date:

VIRGINIA ELECTRIC AND POWER COMPANY

By:

Title:

Date:

## EXHIBIT A

The quarterly status reports required by Article 6 shall include the following information and any additional information that may be reasonably requested by Company.

- Status of financing and expected closing date
- Notification and status of any plans to change control or ownership of the project
- Site location and acreage
- EIA Plant Code
- Description of construction status
- Timeline of construction to include:
  - Start date of construction
  - Construction completion date
  - Date for start-up and testing
- Timeline for interconnection through completion
- Current interconnection status
- Status of required permits
- Notice of any changes, modifications, or assignment of CPCN, RCPN and QF Status
- Summary of anticipated design components including transformer voltages and maximum output in AC & DC
- Estimated COD

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.~~ **which consent shall not be unreasonably withheld, provided, that such assignment does not require any amendment of the terms and conditions of the Agreement, other than the notice provisions, thereof.** 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 the 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 \$12,000 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 the 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 QF requirements established as of the Effective Date of this Agreement by the FERC's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to maintain QF status throughout the term of this Agreement. Operator agrees to provide copies, at the time of submittal, of all correspondence and filings with the Federal Energy Regulatory Commission relating to status of the Facility as a QF. If requested by

Dominion North Carolina Power prior to May 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 currently effective FERC Form 556 or formal FERC certification, as applicable and any subsequent revisions or amendments;
- (c) Where applicable, a copy of any contract executed with a thermal host;
- (d) Where applicable, 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) Where applicable, 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) Where applicable, 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; and
- (h) 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.

Operator shall: (a) maintain the Facility 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.

#### 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(s).

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-FP.

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 via mail Operator payment for energy and Contracted Capacity delivered, except if payment is made via wire transfer then payment shall be made within thirty-one (31) days thereafter. 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-FP 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-FP.

EXHIBIT D

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

EXHIBIT E

Exhibit E is a copy of the Operator Form 556 or formal FERC certification of QF status in effect as of the Effective Date.

OR

If Facility is less than 1MW, Operator may submit the following statement as Exhibit E 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, [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 (codified at 16 U.S.C. § 824a-3).

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

EXHIBIT F

Exhibit F is the CPCN or RPCN for the Facility, as applicable.

# Exhibit D

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

THIS AGREEMENT, effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation 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 \_\_\_\_\_ [Operator Corporate Name], a [State & Form, e.g., "North Carolina Corporation"], with its principal office in \_\_\_\_\_ [City], \_\_\_\_\_ [State], hereinafter called "Operator." Both Dominion North Carolina Power and Operator also are herein individually referred to as "Party" and collectively referred to as "Parties":

RECITALS

WHEREAS, the North Carolina Utilities Commission ("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 (as defined in Schedule 19-LMP) (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 Operator is the owner of the [Name of Facility] (the "Facility") described in the Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission ("Commission") in Docket No. SP-\_\_\_\_ ("CPCN"); and

or [The inapplicable recital will be deleted]

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the report of proposed construction notice ("RPCN") filed with the Commission in Docket No. SP-\_\_\_\_, and

WHEREAS, the Facility is located in Dominion North Carolina Power's retail service area in [address, city, county], North Carolina, and the Parties hereto wish to contract pursuant to Schedule 19-LMP 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 [Operator to choose] \_\_\_ a simultaneous purchase and sale arrangement OR \_\_\_ an excess sale arrangement. The Mode of Operation that the Operator elects to operate the Facility is. [Operator to select Mode of Operation]:

- \_\_\_ Supply of energy and capacity per Schedule 19-LMP paragraph III.A, or  
\_\_\_ Energy only per Schedule 19-LMP paragraph III.B.

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

This Agreement shall commence on the Effective Date and, unless earlier terminated under any other provision of this Agreement, shall continue in effect for a period of \_\_\_\_\_ ( ) years from the commercial operations date ("COD"). The COD 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 COD and certifying that the Facility is ready to begin commercial operations as a QF;
- (c) Operator and Dominion North Carolina Power (or the PJM Interconnection, L.L.C. or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an interconnection service agreement for delivery of capacity and energy generated by the Facility onto the Company's electrical system ("Interconnection Agreement"), a copy of which has been provided to Company;
- (d) The Facility is a QF as evidenced by Operator providing a copy of its currently effective Form 556 self-certification or formal FERC QF certification order; and

- (e) The CPCN or RPCN, as applicable, is in full force and effect.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power in accordance with Section I of Schedule 19-LMP.

PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission ("FERC") for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC's regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. QM\_\_-1-000. If the FERC grants Company's application with respect to the Facility, the Company's obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. [Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]

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

The Facility, consisting of \_\_\_ generator(s), has an aggregate maximum net power production capacity (calculated in accordance with FERC Form 556) of approximately \_\_\_ kW alternating current ("ac"). The Facility's Contracted Capacity shall be \_\_\_ kW ac.

### **Article 4: Attachments**

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

- Exhibit A: Quarterly Status Report Contents
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-LMP
- 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: Evidence of QF Status on the Effective Date
- Exhibit F: Copy of CPCN or RPCN, as applicable.

### **Article 5: Price**

Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions and rate determination methods 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 -subject to the terms of Section VIII of Schedule 19-LMP.

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 Paragraph V (Energy Only).

### **Article 6: Operator's Pre-COD Obligations**

(a) Status Report. After execution of this Agreement and until the COD, Operator shall deliver a quarterly status report to the Company with the information set forth in Exhibit A. 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.

(b) Commencement of Construction. 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 with unrestricted construction activities for the Facility; (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 a power island or ground mounting systems for solar panels and inverters 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 earlier than four (4) months prior to the anticipated COD date. The anticipated COD is \_\_\_\_\_, 20\_\_.

### **Article 7: Early Termination**

(a) Defaults with No Cure Period. Operator and Company agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Company's right to early termination of this Agreement upon written notice to Operator, but without being subject to a cure period, provided however, that Company shall be obligated to pay for any capacity and energy delivered by Facility prior to termination of this Agreement at the rates stated herein.

(i) failure to commence construction of the Facility, as defined in Section 6(b), within the later of fourteen (14) months from the Effective Date of this Agreement or thirty (30) days after the Company tenders an Interconnection Agreement for execution by Operator.

(ii) delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor;

(iii) Operator increases the aggregate maximum net power production capacity (calculated in accordance with FERC form 556) of the Facility above the Contracted Capacity without the prior written approval of Company; or

(iv) failure to generate and deliver any energy and capacity from the Facility for more than 180 consecutive days at any time after COD; provided, however, if such failure is due to Force Majeure as defined in Exhibit B and Operator has complied with the requirements of Exhibit B with respect to such Force Majeure, then Company may not terminate this Agreement unless the failure lasts for three hundred sixty-five consecutive days.

(b) Defaults with Cure Period. Operator and Company agree that the following events if not cured by Operator within thirty days of notice from Company shall constitute a default giving Company the right to terminate this Agreement:

(i) failure to meet the requirements necessary to maintain QF status (formal or self-certification at the Operator's option) or revocation of its QF status (formal or self-certification, as applicable) for any reason;

(ii) failure to provide a status report in accordance with Section 6(a);

(iii) termination of the Interconnection Agreement or suspension of Operator's right to interconnect the Facility under the Interconnection Agreement unless such failure is due to a breach of the Interconnection Agreement by a party other than the Operator; or

(iv) failure to perform in any material way, any other obligations, which failure would not constitute an individual event of default under Section 7(a) or Section 7(c).

Notwithstanding any cure period, Company shall not be obligated to purchase any energy or Contracted Capacity under this Agreement while such default remains uncured.

(c) Delay in COD. Company shall have the right to terminate this Agreement if Operator fails to achieve Commercial Operations Date within thirty months from the date of a Commission Order approving the Schedule 19-LMP rates filed by the Company in Docket No. E-100, Sub 140; provided, however, an Operator may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner.

Operator agrees that if this Agreement is canceled by Dominion North Carolina Power prior to the end of the initial term of this Agreement for nonperformance by the QF, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity.

**Article 8: 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 COD 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 9: Notices and Payments**

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

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

**Article 10: 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.

[SIGNATURE PAGE FOLLOWS]

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

(Operator)

By:

Title:

Date:

VIRGINIA ELECTRIC AND POWER COMPANY

By:

Title:

Date:

## EXHIBIT A

The quarterly status reports required by Article 6 shall include the following information and any additional information that may be reasonably requested by Company.

- Status of financing and expected closing date
- Notification and status of any plans to change control or ownership of the project
- Site location and acreage
- EIA Plant Code
- Description of construction status
- Timeline of construction to include:
  - Start date of construction
  - Construction completion date
  - Date for start-up and testing
- Timeline for interconnection through completion
- Current interconnection status
- Status of required permits
- Notice of any changes, modifications, or assignment of CPCN, RCPN and QF Status
- Summary of anticipated design components including transformer voltages and maximum output in AC & DC
- Estimated COD

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, which consent shall not be unreasonably withheld, provided, that such assignment does not require any amendment of the terms and conditions of the Agreement, other than the notice provisions, thereof. 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 the 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 \$12,000 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 the 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 QF requirements established as of the Effective Date of this Agreement by the FERC's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to maintain QF status throughout the term of this Agreement. Operator agrees to provide copies, at the time of submittal, of all correspondence and filings with the Federal Energy Regulatory Commission relating to status of the Facility as a QF. If requested by Dominion North Carolina Power prior to May 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 currently effective FERC Form 556 or formal FERC certification, as applicable and any subsequent revisions or amendments;
- (c) Where applicable, a copy of any contract executed with a thermal host;
- (d) Where applicable, 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) Where applicable, 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) Where applicable, 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; and
- (h) 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.

Operator shall: (a) maintain the Facility 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.

### 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(s).

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 via mail Operator payment for energy and Contracted Capacity delivered, except if payment is made via wire transfer then payment shall be made within thirty-one (31) days thereafter. 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

EXHIBIT D

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

EXHIBIT E

Exhibit E is a copy of the Operator Form 556 or formal FERC certification of QF status in effect as of the Effective Date.

OR

If Facility is less than 1MW, Operator may submit the following statement as Exhibit E 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, [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 (codified at 16 U.S.C. § 824a3).

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

EXHIBIT F

Exhibit F is the CPCN or RPCN for the Facility, as applicable.

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

THIS AGREEMENT, effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the "Effective Date") by and between VIRGINIA ELECTRIC AND POWER COMPANY, a Virginia public service corporation 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 \_\_\_\_\_ [Operator Corporate Name], a [State & Form, e.g., "North Carolina Corporation"], with its principal office in \_\_\_\_\_ [City], \_\_\_\_\_ [State], hereinafter called "Operator." Both Dominion North Carolina Power and Operator also are herein individually referred to as "Party" and collectively referred to as "Parties":

RECITALS

WHEREAS, the North Carolina Utilities Commission ("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 (as defined in Schedule 19-LMP) (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 Operator is the owner of the [Name of Facility] (the "Facility") described in the Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission ("Commission") in Docket No. SP-\_\_\_\_\_ ("CPCN"); and

or [The inapplicable recital will be deleted]

WHEREAS Operator is the owner of the [Name of Facility] (the "Facility") described in the report of proposed construction notice ("RPCN") filed with the Commission in Docket No. SP-\_\_\_\_\_, and

WHEREAS, the Facility is located in Dominion North Carolina Power's retail service area in [address, city, county], North Carolina, and the Parties hereto wish to contract pursuant to Schedule 19-LMP 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 [Operator to choose] \_\_\_ a simultaneous purchase and sale arrangement OR \_\_\_ an excess sale arrangement. The Mode of Operation that the Operator elects to operate the Facility is. [Operator to select Mode of Operation]:

- \_\_\_ Supply of energy and capacity per Schedule 19-LMP paragraph III.A, or  
\_\_\_ Energy only per Schedule 19-LMP paragraph III.B.

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

This Agreement shall commence on the Effective Date and, unless earlier terminated under any other provision of this Agreement, shall continue in effect for a period of \_\_\_\_\_ ( ) years from the commercial operations date ("COD"). The COD 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 COD and certifying that the Facility is ready to begin commercial operations as a QF;
- (c) Operator and Dominion North Carolina Power (or the PJM Interconnection, L.L.C. or other operator of the Dominion North Carolina Power transmission system, as applicable) have executed an interconnection service agreement for delivery of capacity and energy generated by the Facility onto the Company's electrical system ("Interconnection Agreement"), a copy of which has been provided to Company;
- (d) The Facility is a QF as evidenced by Operator providing a copy of its currently effective Form 556 self-certification or formal FERC QF certification order; and
- (e) The CPCN or RPCN, as applicable, is in full force and effect.

For contract terms of 10 years or more, this Agreement may be renewed at the option of Dominion North Carolina Power in accordance with Section I of Schedule 19-LMP.

PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission ("FERC") for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC's regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. QM -1-000. If the FERC grants Company's application with respect to the Facility, the Company's obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. [Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]

### Article 3: Contracted Capacity

The Facility, consisting of \_\_\_ generator(s), ~~will have a combined net output~~ **has an aggregate maximum net power production capacity (calculated in accordance with FERC Form 556)** of approximately \_\_\_ kW alternating current ("ac"). The Facility's Contracted Capacity shall be \_\_\_ kW ac.

### Article 4: Attachments

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

- Exhibit A: Quarterly Status Report Contents
- Exhibit B: General Terms and Conditions
- Exhibit C: Schedule 19-LMP
- 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: Evidence of QF Status on the Effective Date
- Exhibit F: Copy of CPCN or RPCN, as applicable.

### Article 5: Price

Payments for all energy and Contracted Capacity purchased hereunder shall be determined by the provisions and rate determination methods 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 -subject to the terms of Section VIII of Schedule 19-LMP.

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 Paragraph V (Energy Only).

### Article 6: Operator's Pre-COD Obligations

(a) Status Report. After execution of this Agreement and until the COD, Operator shall deliver a quarterly status report to the Company with the information set forth in Exhibit A. 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.

(b) Commencement of Construction. 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 with unrestricted construction activities for the Facility; (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 or ground mounting systems for solar panels and inverters 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 \_\_\_\_\_, 20\_\_ [NOTE: Dominion North Carolina Power to determine] earlier than four (4) months prior to the anticipated COD date. The anticipated COD is \_\_\_\_\_, 20\_\_.

### Article 7: Early Termination

~~(a)~~ ~~\_\_\_\_\_ (a) \_\_\_\_\_~~ Defaults with No Cure Period. Operator and Company agree that Operator's failure to comply with any of the following will be a material breach of this Agreement and shall result in Company's right to early termination of this Agreement upon written notice to Operator, but without being subject to a cure period, provided however, that Company shall be obligated to pay for any capacity and energy delivered by Facility prior to termination of this Agreement at the rates stated herein.

(i) ~~failure to commence construction of the Facility, as defined in Article 6, and provide Dominion North Carolina Power with written notice thereof by \_\_\_\_\_, 20\_\_;~~ Section 6(b), within the later of fourteen (14) months from the Effective Date of this Agreement or thirty (30) days after the Company tenders an Interconnection Agreement for execution by Operator.

(ii) ~~failure to provide two (2) consecutive status reports in accordance with Article 6;~~

~~(ii) (iii)~~ delivery or supply of electrical output to any entity other than Dominion North Carolina Power or its agent, assignee or successor;

~~(iii) (iv)~~ Operator increases the ~~net electrical~~ aggregate maximum net power production capacity (calculated in accordance with FERC form 556) of the Facility above the Contracted Capacity without the prior written approval of Company;

~~(v)~~ failure at any time following COD to maintain the Interconnection Agreement in full force and effect unless such failure is due to Company's breach of the Interconnection Agreement; or

~~(iv)~~ ~~\_\_\_\_\_~~ ~~(vi)~~ failure to generate and deliver any energy and capacity from the Facility for more than 180 consecutive days at any time after COD; provided, however, if such failure is due to Force Majeure as defined in Exhibit B and Operator has complied with the requirements of Exhibit B with respect to such Force Majeure, then Company may not terminate this Agreement unless the failure lasts for three hundred sixty-five consecutive days.

~~(vii) PURPA § 210(m). The Parties acknowledge that as of the Effective Date, Company has a pending application before the Federal Energy Regulatory Commission ("FERC") for a FERC determination pursuant to Section 210(m) of PURPA and Section 292.310 of the FERC's regulations that the Company is not obligated to enter into a new contract or obligation to purchase energy and capacity from the Facility. That application has been designated FERC Docket No. QM 1-000. If the FERC grants Company's application with respect to the Facility, the Company's obligation under PURPA to purchase the energy and capacity of the Facility will terminate and Company shall have the unilateral right to terminate this Agreement. [Note: This provision will be included in the contract only if the Company has a PURPA § 210(m) application related to the Facility pending before the FERC on the Effective Date of the PPA]~~

(b) Defaults with Cure Period. Operator and Company agree that the following events if not cured by Operator within thirty days of notice from Company shall constitute a default giving Company the right to terminate this Agreement:

(i) failure to meet the requirements necessary to maintain QF status (formal or self-certification at the Operator's option) or revocation of its QF status (formal or self-certification, as applicable) for any reason; or

(ii) failure to provide a status report in accordance with Section 6(a);

(iii) termination of the Interconnection Agreement or suspension of Operator's right to interconnect the Facility under the Interconnection Agreement unless such failure is due to a breach of the Interconnection Agreement by a party other than the Operator; or

(iv) ~~(ii)~~ failure to perform in any material way, any other obligations, which failure would not constitute an individual event of default under Section 7(a) or Section 7(c).

Notwithstanding any cure period, Company shall not be obligated to purchase any energy or Contracted Capacity under this Agreement while such default remains uncured.

(c) Delay in COD. Company shall have the right to terminate this Agreement if Operator fails to achieve Commercial Operations Date within thirty months from the date of a Commission Order approving the Schedule 19-LMP rates filed by the Company in Docket No. E-100, Sub 140; provided, however, an Operator may be allowed additional time to begin deliveries of power to the Company if the QF facilities in question are nearly complete at the end of such thirty month period and the QF is able to demonstrate that it is making a good faith effort to complete its project in a timely manner.

Operator agrees that if this Agreement is canceled by Dominion North Carolina Power prior to the end of the initial term of this Agreement for nonperformance by the QF, then, Dominion North Carolina Power shall have all rights and remedies available at law or in equity.

#### **Article 8: 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 COD 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 9: Notices and Payments**

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

OPERATOR:

(Operator name)  
(Operator address)

DOMINION NORTH CAROLINA POWER:

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

#### **Article 10: 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.

[SIGNATURE PAGE FOLLOWS]

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

(Operator)

By:

Title:

Date:

VIRGINIA ELECTRIC AND POWER COMPANY

By:

Title:

Date:

## EXHIBIT A

The quarterly status reports required by Article 6 shall include the following information and any additional information that may be reasonably requested by Company.

- Status of financing and expected closing date
- Notification and status of any plans to change control or ownership of the project
- Site location and acreage
- EIA Plant Code
- Description of construction status
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  - Start date of construction
  - Construction completion date
  - Date for start-up and testing
- Timeline for interconnection through completion
- Current interconnection status
- Status of required permits
- Notice of any changes, modifications, or assignment of CPCN, RCPN and QF Status
- Summary of anticipated design components including transformer voltages and maximum output in AC & DC
- Estimated COD

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,~~ **which consent shall not be unreasonably withheld, provided, that such assignment does not require any amendment of the terms and conditions of the Agreement, other than the notice provisions, thereof.** 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 the 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 \$12,000 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 the 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 QF requirements established as of the Effective Date of this Agreement by the FERC's rules (18 Code of Federal Regulations Part 292), and that it will continue to meet those requirements necessary to maintain QF status throughout the term of this Agreement. Operator agrees to provide copies, at the time of submittal, of all correspondence and filings with the Federal Energy Regulatory Commission relating to status of the Facility as a QF. If requested by Dominion North Carolina Power prior to May 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 currently effective FERC Form 556 or formal FERC certification, as applicable and any subsequent revisions or amendments;
- (c) Where applicable, a copy of any contract executed with a thermal host;
- (d) Where applicable, 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) Where applicable, 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) Where applicable, 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; and
- (h) 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.

Operator shall: (a) maintain the Facility 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.

#### 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(s).

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 via mail Operator payment for energy and Contracted Capacity delivered, except if payment is made via wire transfer then payment shall be made within thirty-one (31) days thereafter. 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) Expediently 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

EXHIBIT D

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



EXHIBIT E

Exhibit E is a copy of the Operator Form 556 or formal FERC certification of QF status in effect as of the Effective Date.

OR

If Facility is less than 1MW, Operator may submit the following statement as Exhibit E 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, [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 (codified at 16 U.S.C. § 824a3).

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title



EXHIBIT F

Exhibit F is the CPCN or RPCN for the Facility, as applicable.



# Exhibit E

**NOTICE OF COMMITMENT TO SELL THE OUTPUT  
OF A QUALIFYING FACILITY TO  
DOMINION NORTH CAROLINA POWER COMPANY**

Instructions to QF: The QF shall deliver, via certified mail, courier, hand delivery or email, its executed Notice of Commitment to:

Director – Power Contracts  
Dominion North Carolina Power  
5000 Dominion  
Boulevard  
Innsbrook 3 SE  
Glen Allen, Virginia  
23060  
powercontracts@dom.com

Any subsequent notice that a QF is required to provide to Company pursuant to this Notice of Commitment shall be delivered to the same address by one of the foregoing delivery methods.

1. [ \_\_\_\_\_ ] (“Seller”) hereby commits to sell to Virginia Electric and Power Company d/b/a Dominion North Carolina Power (the “Company”) all of the electrical output of the Seller’s qualifying facility (“QF”) described in Seller’s self-certification of QF status filed with the Federal Energy Regulatory Commission in Docket No. QF \_\_\_\_\_ (the “Facility”).

2. The name, address, and contact information for Seller is:

\_\_\_\_\_ Telephone:  
\_\_\_\_\_

\_\_\_\_\_ Email:  
\_\_\_\_\_

3. By execution and submittal of this commitment to sell the output of the Facility (the “Notice of Commitment”), Seller certifies as follows:

(Select the applicable certification below)

i. \_\_\_\_\_ Seller has received a certificate of public convenience and necessity (“CPCN”) for the construction of its \_\_\_\_\_ kW (net capacity ac) Facility from the North Carolina Utilities Commission (“NCUC”) pursuant to North Carolina General Statute § 62-110.1 and NCUC Rule R8-64, which CPCN was granted by NCUC on [insert date] in Docket No. \_\_\_\_\_.

- ii. \_\_\_\_\_ Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and has filed a report of proposed construction for its \_\_\_\_\_ kW (net capacity ac) Facility with the NCUC pursuant to NCUC Rule R8-65 (“Report of Proposed Construction”) on [insert date] in Docket No. \_\_\_\_\_.
  - iii. \_\_\_\_\_ Seller has applied or will apply for a CPCN for the construction of its \_\_\_\_\_ kW (net capacity ac) Facility on [insert date] in Docket No. \_\_\_\_\_. If the Seller does not know the docket number on the date of submission of this Notice of Commitment, Seller shall notify the Company of the docket number when it is assigned by the NCUC. Seller shall notify the Company upon issuance of an order by the Commission granting the CPCN.
  - iv. \_\_\_\_\_ Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and will file a Report of Proposed Construction for its \_\_\_\_\_ kW (net capacity ac) Facility with the NCUC pursuant to NCUC Rule R8-65 and shall notify the Company at the address specified in paragraph 1 of the docket number of such filing when it is assigned by the NCUC.
4. This Notice of Commitment shall take effect on its “Submittal Date” as hereinafter defined. “Submittal Date” means (a) the receipted date of deposit of this Notice of Commitment with the U.S. Postal Service for certified mail delivery to the Company, (b) the receipted date of deposit of this Notice of Commitment with a third-party courier (e.g., Federal Express, United Parcel Service) for trackable delivery to the Company, (c) the receipted date of hand delivery of this Notice of Commitment to the Company at the address set forth in paragraph 1, above, or (d) the date on which an electronic copy of this Notice of Commitment is sent via email to the Company if such email is sent during regular business hours (9:00 a.m. to 5:00 p.m.) on a business day ((Monday through Friday excluding federal and state holidays). Emails sent after regular business hours or on days that are not business days shall be deemed submitted on the next business day.
5. By execution and submittal of this Notice of Commitment Seller acknowledges that:
  - a. The legally enforceable obligation date (“LEO Date”) for the Facility will be determined in accordance with subsections (c) or (d) below. For QFs of 5 MW or less, the LEO Date will be used to determine Seller’s eligibility for the rates, terms and conditions of the Company’s currently effective Schedule 19. If the Seller’s Facility does not qualify for Schedule 19, rates for purchases from the Facility will be based on the Company’s avoided costs as of the LEO Date, calculated using data current as of the LEO Date.

- b. If on the Submittal Date, Seller has a CPCN from or has filed a Report of Proposed Construction with NCUC for the Facility, the LEO Date will be the Submittal Date.
  - c. If on the Submittal Date, Seller does not have a CPCN for the Facility or has not filed a Report of Proposed Construction with the NCUC for the Facility, the LEO Date will be the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.
6. This Notice of Commitment shall automatically terminate and be of no further force and effect in the following circumstances:
- a. Upon execution of a PPA between Seller and Company;
  - b. For a Seller eligible for Schedule 19, if such Seller does not execute a PPA within thirty (30) days of the Company's delivery of an "executable" PPA. An executable PPA shall mean a PPA delivered to the QF by the Company that contains all information necessary for execution and that the Company has requested that the QF execute and return.
  - c. For a Seller that is not eligible for Schedule 19, if such Seller does not execute a PPA within six months (as such period may be extended by mutual agreement of Seller and Company) after the Company's submittal of the PPA to the QF, provided, however, that if no interconnection agreement for the Facility has been tendered to Seller prior to the expiration of such deadline, the deadline for execution of the PPA shall be automatically extended until the date that is five days after the date that the interconnection agreement is tendered to the Seller. Notwithstanding the foregoing, if the PPA proposed by the Company becomes the subject of an arbitration or complaint proceeding, the six month deadline for execution of the PPA shall be tolled upon the filing of the pleading commencing such proceeding and thereafter the deadline for execution of the PPA will be as directed by the NCUC.

The undersigned is duly authorized to execute this Notice of Commitment for the Seller:

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

\_\_\_\_\_

[Company]

\_\_\_\_\_  
Date

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POWER PURCHASES FROM  
COGENERATION AND SMALL POWER PRODUCTION  
QUALIFYING FACILITIES

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(Continued)

**EXHIBIT A OFFER NOTICE OF COMMITMENT TO SELL THE OUTPUT  
OF A QUALIFYING FACILITY TO AND REQUEST FOR POWER PURCHASE  
AGREEMENT WITH DOMINION NORTH CAROLINA POWER COMPANY  
BY A QUALIFYING FACILITY**

Instructions to QF: The QF shall deliver, via certified mail, courier, hand delivery or email, its executed ~~LEO Form~~ **Notice of Commitment** to:

Director - Power Contracts  
Dominion North Carolina Power  
5000 Dominion  
Boulevard,  
**Innsbrook** 3 SE  
Glen Allen, Virginia  
23060  
powercontracts@dom.com  
**powercontracts@dom.com**

**Any subsequent notice that a QF is required to provide to Company pursuant to this Notice of Commitment shall be delivered to the same address by one of the foregoing delivery methods.**

1. [ ] ("Seller") hereby requests that ~~com~~ **mits to sell to** Virginia Electric and Power Company d/b/a Dominion North Carolina Power (the "Company") ~~enter into a power purchase agreement ("PPA") and purchase the electricity supplied to Company's system by Seller's "Qualifying Cogeneration/Small Power Production Facility" located at \_\_\_\_\_, North Carolina~~ **all of the electrical output of the Seller's qualifying facility ("QF") described in Seller's self-certification of QF status filed with the Federal Energy Regulatory Commission in Docket No. QF \_\_\_\_\_ (the "Facility").**

2. The name, address, and contact information for Seller is:

\_\_\_\_\_ Telephone:  
\_\_\_\_\_  
\_\_\_\_\_ Facsimile:  
\_\_\_\_\_  
\_\_\_\_\_

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 POWER PURCHASES FROM  
 COGENERATION AND SMALL POWER PRODUCTION  
 QUALIFYING FACILITIES

\_\_\_\_\_  
 (Continued)

Email:  
 \_\_\_\_\_  
 \_\_\_\_\_

3. By execution and submittal of this offer to sell and request for a PPA ("~~Offer and Request~~**commitment to sell the output of the Facility (the "Notice of Commitment")**"), Seller certifies as follows:
- a. ~~Seller desires to and hereby offers to sell the output of its Facility to the Company.~~
- b. ~~Seller is a qualifying facility ("QF") of the type and size described in the self-certification of QF status filed with the Federal Energy Regulatory Commission attached as Exhibit 1 hereto.~~
- e. (Select the applicable certification below)
- i. \_\_\_\_\_ Seller has received a certificate of public convenience and necessity ("CPCN") for the construction of ~~theits~~ \_\_\_\_\_ kW (net capacity ac) Facility from the North Carolina Utilities Commission ("NCUC") pursuant to North Carolina General Statute § 62-110.1 and NCUC Rule R8-64, which CPCN was ~~approved on~~ granted by NCUC on [insert date] in Docket No. \_\_\_\_\_, and is attached as Exhibit 2, hereto; ~~;~~
- ii. \_\_\_\_\_ Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and has filed a report of proposed construction for its \_\_\_\_\_ kW (net capacity ac) Facility with the NCUC pursuant to NCUC Rule R8-65 ("Report of Proposed Construction"). ~~A copy of that Report Of Proposed Construction is attached as Exhibit 3, hereto; on [insert date] in~~ Docket No. \_\_\_\_\_.
- iii. \_\_\_\_\_ Seller has applied or will apply for a CPCN for the construction of its Facility and will provide the Company with a copy of its CPCN upon issuance by the NCUC; or \_\_\_\_\_ kW (net capacity ac) Facility on [insert date] in Docket No. \_\_\_\_\_. If the Seller does not know the docket number on the date of submission of this Notice of Commitment, Seller shall notify the Company of

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(Continued)

**the docket number when it is assigned by the NCUC. Seller shall notify the Company upon issuance of an order by the Commission granting the CPCN.**

- iv. \_\_\_\_\_ Seller is exempt from the CPCN requirements pursuant to North Carolina General Statute § 62-110.1(g) and will file a Report of Proposed Construction for its \_\_\_\_\_ kW (net capacity ac) **Facility** with the NCUC pursuant to NCUC Rule R8-65 and will provide the Company with a copy of the same upon filing **shall notify the Company at the address specified in paragraph 1 of the docket number of such filing when it is assigned by the NCUC.**

4. \_\_\_\_\_ Seller desires to enter into a PPA with the Company pursuant to (Select one):

- a. \_\_\_\_\_ Schedule 19-LMP
- b. \_\_\_\_\_ Schedule 19-PP
- c. \_\_\_\_\_ Negotiated terms and conditions for QFs with a net capacity in excess of applicable kW limits in Section I or otherwise ineligible for Schedule 19 (e.g., QFs with a net capacity in excess of 5,000 kW).

If the Seller selects a. or b., above, on a separate sheet attached hereto, please provide the names and locations of any QF facilities that are owned or under development by Seller or its affiliates that will be located within one mile of the Facility for which this Offer and Request is being submitted.

**4. This Notice of Commitment shall take effect on its “Submittal Date” as hereinafter defined. “Submittal Date” means (a) the receipted date of deposit of this Notice of Commitment with the U.S. Postal Service for certified mail delivery to the Company, (b) the receipted date of deposit of this Notice of Commitment with a third-party courier (e.g., Federal Express, United Parcel Service) for trackable delivery to the Company, (c) the receipted date of hand delivery of this Notice of Commitment to the Company at the address set forth in paragraph 1, above, or (d) the date on which an electronic copy of this Notice of Commitment is sent via email to the Company if such email is sent during regular business hours (9:00 a.m. to 5:00 p.m.) on a business day ((Monday through Friday excluding federal**

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(Continued)

and state holidays). Emails sent after regular business hours or on days that are not business days shall be deemed submitted on the next business day.

5. 5. — By execution and submittal of this Offer and Request Notice of Commitment Seller acknowledges that:
- a. — ~~Company cannot enter into a PPA with a QF that has not received a CPCN from the NCUC or filed a Report of Proposed Construction with the NCUC, as applicable.~~
- a. ~~b.~~ The legally enforceable obligation date (“LEO Date”) for an Offer and Request the Facility will be determined in accordance with subsections (c) or (d) below. If Seller is seeking a Schedule 19 PPA For QFs of 5 MW or less, the LEO Date will be used to determine Seller’s eligibility for a PPA under the rates, terms and conditions of the Company’s currently effective Schedule 19. If the Seller’s Facility is too large to ~~does not~~ qualify for Schedule 19, rates for purchases from the Facility will be based on the Company will develop’s avoided cost rates for costs as of the PPA LEO Date, calculated using data available current as of the LEO Date.
- b. ~~e.~~ If on the date an Offer and Request is received by Company the Submittal Date, Seller has a CPCN from or has filed a Report of Proposed Construction with the NCUC for the Facility, the LEO Date will be the date of the Company’s receipt of the Offer and Request. Submittal Date.
- c. ~~d.~~ If on the date an Offer and Request is received by Company the Submittal Date, Seller does not have a CPCN for the Facility or has not filed a Report of Proposed Construction with the NCUC for the Facility, the LEO Date will be the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.
- ~~e.~~ If, prior to execution of a PPA, Seller desires to withdraw its Offer and Request, Seller shall provide written notice of such withdrawal to the Company. If Seller thereafter desires to sell the output of its Facility to the Company, Seller must submit a new Offer and Request for the Facility. A new LEO Date will be established in connection with each

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(Continued)

~~new Offer and Request, which will be the later of: (i) the date of the new Offer and Request or (ii) the date on which the NCUC issues a CPCN for the Facility or the filing date of the Report of Proposed Construction for the Facility, as applicable.~~

6. ~~Except as provided in Section 7, this Offer and Request~~ **This Notice of Commitment** shall automatically terminate and be of no further force and effect in the following circumstances:
- ~~a. Upon withdrawal of the Offer and Request by Seller pursuant to Section 5(e), above;~~
- ~~a.~~ **b. Upon execution of a PPA between Seller and Company;**
- ~~b.~~ **e. For a Seller eligible for Schedule 19, if such Seller does not execute a PPA prior to the date set by the NCUC for the filing of updated Schedule 19 rates and contracts; and within thirty (30) days of the Company's delivery of an "executable" PPA. An executable PPA shall mean a PPA delivered to the QF by the Company that contains all information necessary for execution and that the Company has requested that the QF execute and return.**
- ~~c.~~ **d. For a Seller that is not eligible for Schedule 19, if such Seller does not execute a PPA within six months (as such period may be extended by mutual agreement of Seller and Company) after the Company's submittal of the PPA to the QF; provided, however, provided, however, that if no interconnection agreement for the Facility has been tendered to Seller prior to the expiration of such deadline, the deadline for execution of the PPA shall be automatically extended until the date that is five days after the date that the interconnection agreement is tendered to the Seller. Notwithstanding the foregoing, if the PPA proposed by the Company is becomes the subject of an arbitration or complaint proceeding before the NCUC, such six month deadline may be extended for execution of the PPA shall be tolled upon the filing of the pleading commencing such proceeding and thereafter the deadline for execution of the PPA will be as directed by the NCUC.**

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(Continued)

7. The acknowledgements of Seller pursuant to Section 5, above, shall survive termination of this Offer and Request.

[NAME OF QF OWNER]

**The undersigned is duly authorized to execute this Notice of Commitment  
for the Seller:**

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
**[Company]**

\_\_\_\_\_  
**Date**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply Comments of Dominion North Carolina Power, filed in Docket No. E-100, Sub 140 was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 7<sup>th</sup> day of August, 2015.

/s/Andrea R. Kells

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