



OFFICIAL COPY

FILED
AUG 16 2011
Clerk's Office
N.C. Utilities Commission

August 16, 2011

Ms. Renne Vance
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

Re: Docket No. E-100, Sub 127

Dear Ms. Vance:

In accordance with the Commission's July 27, 2011 order in the above-referenced docket, attached are the original and 30 copies of PEC's avoided cost rate schedule CSP-27 and standard contract terms reflecting an effective date of August 26, 2011.

Yours very truly,

Len S. Anthony
General Counsel
Progress Energy Carolinas, Inc.

HM
AG
7 Comm
Watson
Green
Hoover
Wite
Hillburn
Jones
Sessums
Ericson
Hodge
Gruber
2 PSECO
3 PS Lepal
3 PS ACCT
4 PSELECT

LSA:mhm

Attachment

COGENERATION AND SMALL POWER PRODUCER
SCHEDULE CSP- 27

AVAILABILITY

Upon Seller's completion and Company's acceptance of an Application for Standard Contract, this Schedule is available for electrical energy and capacity supplied by Eligible Qualifying Facilities (as defined below) to Company, provided Seller is a Qualifying Facility as defined by the Federal Energy Regulatory Commission's (FERC) Order No. 70 under Docket No. RM79-54. This Schedule is not available for electric service supplied by Company to Seller or to Seller who has negotiated rate credits or conditions with Company which are different from those below. If Seller requires supplemental, standby, or interruptible services, Seller shall enter into a separate service agreement with Company in accordance with Company's applicable electric rates, riders, and Service Regulations on file with and authorized by the state regulatory agency having jurisdiction.

Qualifying Facilities Eligible for Capacity and/or Energy Credits

In order to be an Eligible Qualifying Facility and receive Energy Credits under this Schedule, the Qualifying Facility must be a hydroelectric or a generator fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled Qualifying Facility with a Contract Capacity of 5 MW or less, or other Qualifying Facility with a Contract Capacity of 3 MW or less:

Capacity Credits are limited to Eligible Qualifying Facilities located within Company's service area that are classified as New Capacity in accordance with FERC Order No. 69 under Docket No. RM79-55 and interconnected to Company's transmission or distribution facilities, or to those Eligible Qualifying Facilities who were selling electricity to Company and receiving Capacity Credits under an existing Purchase Power Agreement on April 1, 2005. The availability of Fixed Long-Term and Variable Capacity Credits is subject to the following conditions:

The 5-Year, 10-Year, and 15-Year Fixed Long-Term and Variable Capacity Credits below are available to hydroelectric qualifying facilities owned or operated by small power producers as defined in G.S. 62-3(27a), non-hydroelectric qualifying facilities fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled *Eligible Qualifying Facilities with Contract Capacities of 5 MW or less. Other Eligible Qualifying Facilities with Contract Capacities of 3 MW or less are eligible for 5-Year Fixed Long-Term and Variable Capacity Credits below.*

Eligible Qualifying Facilities receiving Capacity Credits under this Schedule shall also receive corresponding Energy Credits of like term. The Variable Energy Credit shall constitute an "as available" avoided cost credit for Eligible Qualifying Facilities.

Standard 10-year and 15-year rate options as specified in this Schedule, for Eligible Qualifying Facilities may be renewable for subsequent terms, at the Company's option, based on substantially the same terms and provisions contained herein and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Company's then avoided cost rate and other relevant factors or (2) set by arbitration.

Non-Eligible Qualifying Facilities

All Qualifying Facilities not eligible for the standard long-term levelized rates have the following three options if the Company has a Commission-recognized active solicitation underway: (1) participating in the Company's competitive bidding process, (2) negotiating a contract and rates with the Company, or (3) selling energy at the Company's Commission-established variable energy rate. If the Company does not have a Commission-recognized active solicitation underway, it shall offer Qualifying Facilities not eligible for the standard long-term levelized rates the options of (1) contracting with the Company to sell power at the variable energy rate established by the Commission in these biennial proceedings or (2) contracting with the Company to sell power at negotiated rates. If the Company does not have a solicitation underway, any unresolved issues arising from such negotiations will be subject to arbitration by the Commission at the request of either the Company or Qualifying Facility to determine the Company's actual avoided cost, including both capacity and energy components, as appropriate; however, the Commission will only arbitrate disputed issues if the QF is prepared to commit its capacity to the utility for a period of at least two years. The exact points at which an active solicitation should be regarded as beginning and ending for these purposes should be determined by motion to, and order of, the Commission. *Unless there is such a Commission order, it will be assumed that there is no solicitation underway.* If the variable energy rate option is chosen, such rate may not be locked in by a contract term, but shall instead change as determined by the Commission in the next biennial proceeding.

The Variable Energy Credit shall constitute the "as available" avoided cost credit for Non-Eligible Qualifying Facilities.

APPLICABILITY

This Schedule is applicable to all electric energy and capacity supplied by Eligible Qualifying Facility to Company at one point of delivery through Company's metering facilities.

CONTRACT CAPACITY

The Contract Capacity shall be as specified in the Application For Standard Contract between Company and Seller. Only one such Standard Contract shall be permitted for any Qualifying Facility. Capacity in excess of the contract capacity of a standard rate Qualifying Facility's generators must be consumed internally by the Qualifying Facility.

MONTHLY RATE

Payment

Company shall pay Eligible Qualifying Facilities for energy and/or capacity furnished to Company the Credits set forth below as applicable. Such payments shall be reduced by both the Seller Charge and any applicable Interconnection Cost. Payments to Qualifying Facilities with Contract Capacities of 10kW or less shall only be made on a calendar year basis.

Energy Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long-Term and/or Variable Energy Credits shall be paid an Energy Credit for all energy delivered to Company's System as registered or computed from Company's metering facilities. This Energy Credit will be in accordance with the length of rate term for energy sales so established in the Purchase Agreement.

For facilities whose deliveries do not enter Company's transmission system:

	<u>Variable Credit</u>	<u>Fixed Long-Term Credits</u>		
		<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak kWh (¢/kWh)	5.108	5.753	6.788	7.455
Off-Peak kWh (¢/kWh)	4.530	4.747	5.085	5.382

For facilities whose deliveries enter Company's transmission system:

	<u>Variable Credit</u>	<u>Fixed Long-Term Credits</u>		
		<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak kWh (¢/kWh)	4.986	5.615	6.626	7.277
Off-Peak kWh (¢/kWh)	4.462	4.676	5.009	5.302

Capacity Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long Term and/or Variable Capacity Credits shall be paid a Capacity Credit for all capacity delivered to Company's System as registered or computed from Company's metering facilities. This Capacity Credit will be in accordance with the length of rate term for capacity sales so established in the Purchase Agreement. Company shall pay a Capacity Credit based on the on-peak kWh supplied by the Eligible Qualifying Facility.

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries do not enter Company's transmission system:

	<u>Variable Credit</u>	<u>Fixed Long-Term Credits</u>		
		<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak kWh (¢/kWh)-Summer	5.555	5.708	5.949	6.166
On-Peak kWh (¢/kWh)-Non-summer	4.584	4.710	4.909	5.088

For all other facilities whose deliveries do not enter Company's transmission system:

	<u>Variable Credit</u>	<u>Fixed Long-Term Credits</u>		
		<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak kWh (¢/kWh)-Summer	3.333	3.425	3.569	3.700
On-Peak kWh (¢/kWh)-Non-summer	2.751	2.826	2.945	3.053

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries enter Company's transmission system:

	<u>Variable Credit</u>	<u>Fixed Long-Term Credits</u>		
		<u>5-Year</u>	<u>10-Year</u>	<u>15-Year</u>
On-Peak kWh (¢/kWh)-Summer	5.423	5.572	5.807	6.019
On-Peak kWh (¢/kWh)-Non-summer	4.475	4.598	4.792	4.967

For all other facilities whose deliveries enter Company's transmission system:

	Variable Credit	Fixed Long-Term Credits		
		5-Year	10-Year	15-Year
On-Peak kWh (¢/kWh)-Summer	3.253	3.343	3.484	3.612
On-Peak kWh (¢/kWh)-Non-summer	2.685	2.759	2.875	2.980

Summer months are defined as the calendar months of June through September. Non-summer months are defined as all other months.

Renewable Energy Credits

The sale of power by QFs at avoided cost rates does not convey the right to renewable energy credits (RECs) or green tags.

Seller Charge

An Eligible Qualifying Facility shall pay to Company a Seller Charge outlined below in accordance with the Contract Capacity specified in the Application For Standard Contract between Company and Seller:

	Contract Capacity			
	0 to 10 kW	11 to 100 kW	101 to 999 kW	1000 kW and above
Monthly Seller Charge	\$4	\$7	\$93	\$278

For Small Power Producers, as the term is defined in N.C. General Statute §62-3 (27a), with no storage capacity and no other type of generation whose deliveries do not enter Company's transmission system, the sum of: (1) the Seller Charge and (2) the Monthly Facilities Charge for those Interconnection Facilities installed before January 1, 2000 or replaced thereafter with equipment of equal capacity and kind, shall be \$100.00 per month; except that any Interconnection Facilities installed after January 1, 2000, other than replacement of existing equipment with equipment of equal capacity and kind, shall be subject to additional Monthly Facilities Charges. This provision applies only to a Small Power Producer who has completed an initial 15-year contract term under a Purchase Power Agreement with Company prior to January 1, 2000 or was selling electricity to Company on January 1, 2000.

RATE UPDATES

The Credits and Seller Charge of this Schedule will be updated every two years. Sellers who have contracted for the Fixed Long-Term Credits will not be affected by updates in the Energy and Capacity Credits until their rate term expires. For all Qualifying Facilities selling to Company pursuant to the Variable Credit provisions of this schedule, such credits shall be updated and changed in accordance with the Commission's revisions to such credits in Company's biennial avoided cost proceedings.

DETERMINATION OF ON-PEAK AND OFF-PEAK HOURS

I. On-Peak Hours:

- A. Service used 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.

- B. Service used 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.

II. 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 and the day after, 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.

INTERCONNECTION COSTS

For Eligible Qualifying Facilities, the installed costs for all facilities constructed or installed by Company to interconnect and safely operate in parallel with Seller's equipment shall be determined in accordance with Company's Terms and Conditions for the Purchase of Electric Power. Interconnection of Customer's generation to Company's system shall be in accordance with the North Carolina Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Generation Interconnections.

Supersedes Schedule CSP-25

Effective for energy and capacity rendered on and after August 26, 2011

NCUC Docket No. E-100, Sub 127

**APPLICATION FOR STANDARD CONTRACT
BY A QUALIFYING COGENERATOR OR SMALL POWER PRODUCER**

1. The undersigned, hereinafter called "Seller," hereby requests that Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc., hereinafter called "Company," purchase the electricity supplied to Company's system by Seller's _____ "Qualifying (Cogeneration/Small Power Production) Facility" located at or near _____, in accordance with the terms hereof, Company's Schedule No. _____, Rider(s) No. _____ and the (Terms and Conditions for the Purchase of Electric Power/executed Interconnection and Operation Agreement), a copy of each being attached and made a part of this Agreement.
2. Electricity supplied, by Seller, hereunder shall be in the form of _____ phase, _____ wires, alternating current of 60 cycles and sufficient power factor to maintain system operating parameters as specified by Company, with a maximum generation capacity of _____ kW and an estimated annual energy production of _____ kWh. Upon the completion of the installation, by Company, of its interconnection facilities at the point of interconnection of Seller's and Company's conductors, Seller shall become responsible for the payment to Company of any and all charges that may apply, whether or not Seller actually delivers any electricity to Company.
3. The point of interconnection for the acceptance of Seller's electricity supplied hereunder will be _____

 The Company agrees to furnish the following interconnection facilities: _____

4. Upon the acceptance hereof by the Company, evidenced by the signature of its authorized representative in the block provided below, this document together with attachments shall become an agreement for Seller to deliver and sell to Company and for Company to receive and purchase from Seller the electricity generated and declared by Seller from its above-described qualifying generating facility at the rates, in the quantities, for the term, and upon the terms and conditions set forth herein.
5. Payment for energy and/or capacity received by Company, or payment by Seller, if any, as set forth in the rate schedule shall be due within 15 days from the date billed, and shall be administered through Company's Raleigh, N.C. office.
6. The term of this Agreement is from _____, 20__, or from the date Company is first ready to accept electricity from Seller, whichever is earlier, and continuing until _____, 20__ and shall automatically extend thereafter unless terminated by either party by giving not less than thirty (30) days prior written notice. The extension will be at the rates specified in the contract.
7. The Seller hereby certifies that this facility (is/is not) "new capacity," as defined by the Federal Energy Regulatory Commission (FERC), and that construction (was/was not) commenced on or after November 9, 1978.
8. Company may terminate this Agreement if Seller is unable to provide generation capacity and energy production consistent with the energy production levels specified in Provision No. 2 above by _____, 20__. This date may be extended by mutual agreement of the parties provided Seller is making progress and a good faith effort to complete the project in a timely manner.
9. If both Company and Seller are required to render payment to the other party in the same month, whether pursuant to this Agreement or otherwise, then such amounts may be aggregated and the Parties may discharge their obligation to pay through netting with the Party owing the greater aggregate amount paying the other Party the difference between the amounts owed.

Witness as to Seller:

_____, Seller

By _____
 Title _____
 This _____ day of _____, 20__

**ACCEPTED: Carolina Power & Light Company
 d/b/a Progress Energy Carolinas, Inc.**

Mail Payment/Bill to:

By _____
 Title _____

This _____ day of _____, 20__

TERMS AND CONDITIONS FOR THE PURCHASE OF ELECTRIC POWER

I. PURCHASE AGREEMENT

These "Terms and Conditions" provide a mechanism through which Carolina Power and Light Company d/b/a Progress Energy Carolinas, Inc., hereafter called Company, will agree to purchase energy or capacity or both from an Eligible Qualifying Facility as defined in PEC's CSP Rate Schedule. This Purchase Agreement does not provide for the sale of any electric service by Company to Seller. If Seller requires supplementary, standby, or interruptible power from Company, Seller shall enter into a separate Retail Service Agreement or amend an existing Retail Service Agreement, as appropriate, in accordance with Company's applicable electric service tariffs on file with and authorized by the state regulatory agency having jurisdiction.

- (a) Description - The Purchase Agreement (hereinafter sometimes termed "Agreement") shall consist of (1) Company's form of Application for Standard Contract by a Qualifying Cogenerator or Small Power Producer when signed by Seller and accepted by Company, (2) the applicable Schedule and Riders, and (3) these Terms and Conditions for the Purchase of Electric Power (hereinafter referred to as "Terms and Conditions"), and all changes, revisions, alterations therein, or substitutions therefor lawfully made.
- (b) Applicability - This Purchase Agreement shall be applicable only if Seller's facility is a "Qualifying Cogenerator or Small Power Production Facility" under Section 201 of The Public Utilities Regulatory Policies Act of 1978 (PURPA), and the rules set forth by the FERC.
- (c) Application of Terms and Conditions, Schedules, and Riders - All Purchase Agreements in effect at the time of the approval hereof or that may be entered into in the future, are made expressly subject to these Terms and Conditions, and subject to all applicable Schedules and Riders, and any changes therein, substitutions thereof, or additions thereto lawfully made, provided no change may be made in rates or in essential terms and conditions of this contract except by agreement of the parties to this contract or by order of the North Carolina Utilities Commission.
- (d) Conflicts - In case of conflict between any provision of a Schedule or Rider and of these Terms and Conditions, the provision of the Schedule or Rider shall prevail.
- (e) Transfer of Agreement - A Purchase Agreement between Company and Seller may be transferred and assigned by Seller to any person, firm, or corporation purchasing or leasing and intending to continue the operation of the plant or business which is interconnected under such Agreement, subject to the written approval of Company. Company will grant such approval upon being reasonably satisfied that the assignee will fulfill the terms of the Agreement and if, at Company's option, a satisfactory guarantee for the payment of any applicable bills is furnished by assignee.
- (f) Suspension of Sales Under Agreement at Seller's Request - If Seller is temporarily unable to produce the electricity contracted for due to physical destruction of, or damage to, his premises, Company will, upon written request of Seller, and for a period Company deems as reasonably required to replace or repair such premises, suspend billing under the Agreement, exclusive of any Monthly Facilities Charges, effective with the beginning of the next sales period.

- (g) Termination of Agreement at Seller's Request - If Seller desires to terminate the Agreement, Company will agree to such termination if all bills for services previously rendered to Seller, plus any applicable termination charges, have been paid. Termination charges shall consist of (1) where Seller's additional facilities are discontinued or terminated in whole or in part before Company's then existing additional facilities have been in service ten consecutive years, if served from Company's distribution system, or twenty consecutive years, if served from Company's transmission system, a termination charge to be determined by adding to the estimated original installed cost of said additional facilities, an estimated removal cost, subtracting therefrom the estimated salvage value of such facilities, which amount will then be reduced 10% for each full year the additional facilities shall have been in service, if served from Company's distribution system, or 5%, if served from Company's transmission system, (2) a termination charge as specified in the Application for Standard Contract by a Qualifying Cogenerator or Small Power Producer for nonstandard equipment associated with additional facilities, and (3) any applicable termination charges for premature termination of capacity as set forth in 4.(d) and 6. of these Terms and Conditions.

Company may waive the foregoing provision if Company has secured or expects to secure from a new occupant or operator of the premises an Agreement satisfactory to Company for the delivery of electricity to Company for a term not less than the unexpired portion of Seller's Agreement.

- (h) Company's Right to Terminate or Suspend Agreement - Company, in addition to all other legal remedies, may either terminate the Agreement or suspend purchases of electricity from Seller (1) for any default or breach of Agreement by Seller, (2) for fraudulent or unauthorized use of Company's meter, (3) for failure to pay any applicable bills when due and payable, (4) for a condition on Seller's side of the point of delivery actually known by Company to be, or which Company reasonably anticipates may be, dangerous to life or property, or (5) due to Seller's inability to deliver to Company the quality and/or quantity of electricity mutually agreed to in the Purchase Agreement.

No such termination or suspension, however, will be made by Company without written notice delivered to Seller, personally or by mail, stating what in particular in the Agreement has been violated, except that no notice need to be given in instances set forth in 1.(h)(2) and 1.(h)(4) above.

Failure of Company to terminate the Agreement or to suspend the purchase of electricity at any time after the occurrence of grounds therefor, or to resort to any other legal remedy or to exercise any one or more of such alternative remedies, shall not waive or in any manner affect Company's right later to resort to any one or more of such rights or remedies on account of any such ground then existing or which may subsequently occur.

Any suspension of the purchase of electricity by Company or termination of the Agreement upon any authorized grounds shall in no way operate to relieve Seller of Seller's liability to compensate Company for services and/or facilities supplied, nor shall it relieve Seller (1) of Seller's liability for the payment of minimum monthly charges during the period of suspension, nor (2) of Seller's liability for damages, if the Agreement has been terminated, in the amount of (a) the minimum monthly charges which would have been payable during the unexpired term of the Agreement plus (b) the Early Contract Termination charge as set forth in these Terms and Conditions. Whenever the purchase of electricity is suspended for any authorized reason, Company will make a charge of \$30.00 for the restoration of purchases made during normal business hours or \$75.00 for the restoration of purchases made during all other hours.

2. CONDITIONS OF SERVICE

- (a) Company is not obligated to purchase electricity from Seller unless and until: (1) Company's form of Application for Standard Contract by a Qualifying Cogenerator or Small Power Producer is executed by Seller and accepted by Company; (2) in cases where it is necessary to cross private property to accept delivery of electricity from Seller, Seller conveys or causes to be conveyed to Company, without cost to Company, a right-of-way easement, satisfactory to Company, across such private property which will provide for the construction, maintenance, and operation of Company's lines and facilities, necessary to receive electricity from Seller; provided, however, in the absence of a formal conveyance, Company nevertheless, shall be vested with an easement over Seller's premises authorizing it to do all things necessary including the construction, maintenance, and operation of its lines and facilities for such purpose; and (3) any inspection certificates or permits that may be required by law in the local area are furnished to Company. Where not required by law, an inspection by a Company-approved inspector shall be made at Seller's expense. In the event Seller is unable to secure such necessary rights-of-way, Seller shall reimburse Company for all costs Company may incur for the securing of such rights-of-way.
- (b) Seller's interconnection facilities shall be designed to accepted engineering standards and Seller shall submit a facility description, including equipment specifications, to Company for review prior to the connection of said facility and equipment to Company's system. Company's review shall not be construed as confirming or endorsing Seller's design or as any warranty as to the safety, durability, or reliability of Seller's facility or equipment. Company shall not, by reason of its review or failure to review, be responsible for the design, adequacy, or capacity of Seller's facility or equipment, nor shall Company's acceptance be deemed to be an endorsement of any facility or equipment. Seller shall submit an Interconnection Agreement as set forth in the North Carolina Interconnection Procedures, Forms and Agreements for State-Jurisdictional Generation Interconnections.
- (c) If electricity is received through lines which cross the lands of the United States of America, a state, or any agency or subdivision of the United States of America or of a state, Company shall have the right, upon 30 days' written notice, to discontinue receiving electricity from any Seller or Sellers interconnected to such lines, if and when (1) Company is required by governmental authority to incur expense in the relocation or the reconstruction underground of any portion of said lines, unless Company is reimbursed for such expense by Sellers or customers connected thereto, or (2) the right of Company to maintain and operate said lines is terminated, revoked, or denied by governmental authority for any reason.

3. PURCHASES OF ELECTRICITY

If Seller desires to purchase electricity from Company through the same point of interconnection used by Seller in supplying power to Company, and Company approves, then Seller shall execute a separate Agreement for such purchases in accordance with Company's Rate Schedules, Riders, and Service Regulations as filed with the regulatory authority having jurisdiction. Company's purchases of electricity from Seller and sales to Seller shall be separately metered.

4. CONTRACT CAPACITY

- (a) The Contract Capacity shall be the kW of capacity specified in the Application for Standard Contract by a Qualifying Cogenerator or Small Power Producer. In cases where any change is required in Company's facilities due to the actual capacity delivered exceeding the Contract Capacity or due to Seller requesting an increase in the capacity of Company's facilities, Company may require Seller to execute a new Agreement or amend an existing Agreement, thereby establishing a new Contract Capacity. If Company's facilities cannot be upgraded to accept such actual or requested increase, then upon written notice, Seller shall not exceed the existing Contract Capacity or such amount in excess thereof as Company determine it is able to accept.

- (b) If Seller increases his generating capacity without adequate notice to Company, and without receiving Company's consent, and such unauthorized increase causes loss of or damage to Company's facilities, the cost of making good such loss or repairing such damage shall be paid by Seller.
- (c) Company may require that a new Contract Capacity be determined when it reasonably appears that the capacity of Seller's generating facility will deviate from contracted or established levels for any reason, including, but not limited to, a change in water flow, steam supply, or fuel supply.
- (d) In the event that the Contract Capacity is terminated, in whole or in part, prior to the completion of the term of the Agreement, the Seller shall pay to Company a penalty as set forth in 6. below.

5. CONTRACT ENERGY

The Contract Energy shall be computed for on-peak and off-peak time periods and shall be the resultant total annual kilowatt-hours registered or computed by or from Company's metering facilities for each time period during the continuous 12-month interval during the initial 24 months of operation which provides the largest kilowatt-hour value.

6. EARLY CONTRACT TERMINATION OR CHANGES IN CONTRACT CAPACITY OR CONTRACT ENERGY

If Seller terminates the Agreement or reduces the Contract Capacity or Contract Energy prior to the expiration of the initial (or extended) term of the Purchase Agreement, the following payment shall be made to Company by Seller:

Early Contract Termination

Seller shall pay to Company the total Energy and/or Capacity credits received in excess of the sum of what would have been received under the Variable Rate for Energy and/or Capacity Credits applicable at the initial term of the contract period and as updated every two years, plus interest. The interest should be the weighted average rate for new debt issued by the Company in the calendar year previous to that in which the Agreement was commenced.

Reduction In Contract Capacity

Payment shall be a quantity equal to the amount as calculated under the Early Contract Termination clause multiplied by the ratio of the capacity reduction to existing Contract Capacity.

Reduction In Contract Energy

After the first two years of operation of the Facility, if Seller's average energy generated in the on-peak or off-peak periods during any 12-month period falls below 80% of the Contract On-Peak or Off-Peak Energy level, the Company may invoke a Reduction-In-Contract-Energy-Charge and establish a new Contract Energy level for the on-peak and off-peak periods, respectively. The Reduction-In-Contract-Energy-Charge shall be equal to the total Energy Credits received for all prior years of the current Contract Period, less an amount computed at the new Contract Energy level using the on-peak or off-peak energy credit contained in the Purchase Agreement, less an amount equal to the energy supplied in all prior years of the current Contract Period which is in excess of the new Contract Energy level priced at the Variable Rate for energy which was in effect at the time the energy was delivered as specified in Company's Cogeneration and Small Power Producer rate schedule or its successor as approved by the North Carolina Utilities Commission, plus interest. The interest rate shall be the same interest rate as computed in accordance with the Early Contract Termination provision.

Increase In Contract Capacity

Seller may apply to Company to increase the Contract Capacity during the Contract Period and, upon approval by Company, future Monthly Delivered Capacities shall not exceed the revised Contract Capacity. If such increase in Contract Capacity results in additional costs associated with redesign or a resizing of Company's facilities, such additional costs to Seller shall be determined in accordance with these Terms and Conditions.

7. QUALITY OF ENERGY RECEIVED

- (a) Seller has full responsibility for the routine maintenance of his generating and protective equipment to insure that reliable, utility grade electric energy is being delivered to Company.
- (b) Seller's facility shall be operated in such a manner as to generate reactive power as may be reasonably necessary to maintain voltage levels and reactive area support as specified by Company.
- (c) Seller may operate direct current generators in parallel with Company through a synchronous inverter. The inverter installation shall be designed such that a utility system interruption will result in the removal of the inverter infeed into the Company's system. Harmonics generated by a DC generator-inverter combination must not adversely affect Company's supply of electric service to, or the use of electric service by Company's other customers, and any correction thereof is the full responsibility of Seller.
- (d) Failure of Seller to comply with either (a), (b), or (c) above will constitute grounds for Company to cease parallel operation with Seller's generation equipment and constitute grounds for termination or suspension of the Agreement as set forth under Item 1.(h) above.

8. BILLING

- (a) Company's meters will be read as nearly as practicable at regular intervals of not less than 27 days and not more than 33 days.
- (b) If Company is unable to read its purchase meter for any reason, Seller's production may be estimated by Company on the basis of Seller's production during the most recent preceding billing period for which readings were obtained, unless some unusual condition is known to exist. A bill or payment rendered on the basis of such estimate shall be as valid as if made from actual meter readings.
- (c) The term "Month" or "Monthly", as used in Company's Schedules and Riders, refers to the interval transpiring between the previous meter reading date and the current reading date and bills shall be rendered accordingly, except that if the period covered by an initial or final bill, or due to rerouting of the meter reading schedule, is more or less than 27-33 days, the bill will be prorated based on a 30-day billing month.
- (d) Payments for capacity and/or energy will be made to Seller based on the rate schedule stated in the Application for Standard Contract by a qualifying Cogenerator or Small Power Producer.

9. METER STOPPAGE OR ERROR

In the event a meter fails to register accurately within the allowable limits established by the state regulatory body having jurisdiction, Company will adjust the measured energy for the period of time the meter was shown to be in error, and shall, as provided in the rules and regulations of the state regulatory body having jurisdiction, pay to Seller, or Seller shall refund to Company, the difference

between the amount billed and the estimated amount which would have been billed had the meter not exceeded the allowable limits. No part of any minimum service charge shall be refunded.

10. POINT OF INTERCONNECTION

The point of interconnection is the point where Company's conductors are, or are to be, connected to Seller's conductors. Seller shall do all things necessary to bring his conductors to such point of interconnection for connection to Company's conductors, and shall maintain said conductors in good order at all times. If Seller chooses to deliver power to Company through a point of delivery where Seller presently receives power from Company, then the point of interconnection shall be the same point as the point of delivery.

11. INTERCONNECTION FACILITIES

- (a) By Company: Company shall install, own, operate, and maintain all lines and equipment located on its side of the point of interconnection. It shall also install and own the necessary metering equipment, and meter transformers, where necessary, for measuring the electricity delivered to Company, though such meter may be located on Seller's side of the point of interconnection. Interconnection facilities, installed by either Company or Seller, solely for such purpose, include, but are not limited to connection, line extension, transformation, switching equipment, protective relaying, metering, telemetering, communications, and appropriate safety equipment.

Any interconnection facilities installed by Company necessary to receive power from Seller shall be considered as additional facilities and shall be provided, if Company finds it practicable, under the following conditions:

- (1) The facilities will be of a kind and type normally used by or acceptable to Company and will be installed at a place and in a manner satisfactory to Company.
- (2) Seller will pay to Company a Monthly Facilities Charge of 2.0 percent of the estimated original installed cost and rearrangement cost of all facilities, including metering, required to accept interconnection.
- (3) If Company increases its investment, other than replacement of existing equipment with equipment of equal capacity and kind, in interconnection facilities or other special facilities required by Seller (including conversion of the Company's primary voltage to a higher voltage), the Monthly Facilities Charge for providing the additional facilities will be adjusted at that time. Seller may terminate the additional facilities in accordance with the applicable termination provisions, 1.(g)(1) or 1.(g)(2) above, or continue the additional facilities under the changed conditions.
- (4) In lieu of the Monthly Facilities Charge of 2.0 percent, Seller may elect to make a contribution equal to the total additional facilities investment as described in 11.(a)(2) and (3) above. After such payment, the Monthly Facilities Charge for the additional facilities will be 1.0 percent of said payment.
- (5) The Monthly Facilities Charge as determined in 11.(a)(3) or (4) above shall continue regardless of the term of the Agreement until Seller no longer has need for such facilities. In the event Seller's interconnection facilities should be discontinued or terminated in whole or in part, such discontinuation or termination should be calculated in accordance with 1.(g) above.

- (6) Seller's wiring and appurtenant structures shall provide for the location, connection, and installation of Company's standard metering equipment or other equipment deemed necessary by Company for the metering of Seller's electrical output. Company shall, at its expense, be permitted to install, in Seller's wiring or equipment, any special metering devices or equipment as deemed necessary for experimental or monitoring purposes.
- (7) Company shall not be required to make such installation of facilities in addition to those normally provided until Seller has signed an Interconnection Agreement as set forth in the North Carolina Interconnection Procedures, Forms and Agreements for State-Jurisdictional Generation Interconnections, including provisions for termination, as may be required by Company.
- (b) **By Seller:** Seller shall install, own, operate, and maintain all lines, and equipment, exclusive of Company's meter and meter transformers, on Seller's side of the point of interconnection. Seller will be the owner and have the exclusive control of, and responsibility for, all electricity on Seller's side of the point of interconnection. Seller must conform to the North Carolina Interconnection Procedures, Forms and Agreements for State-Jurisdictional Generation Interconnections. Seller's wiring shall be arranged such that all electricity generated for sale can be supplied to one point of interconnection and measured by a single meter. Company's meter may be located on Seller's side of the point of interconnection, and when it is to be so located Seller must make suitable provisions in Seller's wiring, at a place suitable to Company, for the convenient installation of the type of meter Company will use. All of Seller's conductors installed on the Company's side of the meter and not installed in conduit must be readily visible.

Seller shall install and maintain devices adequate to protect Seller's equipment against irregularities on Company's system, including devices to protect against single-phasing. Seller shall also install and maintain such devices as may be necessary to automatically disconnect Seller's generating equipment, which is operated in parallel with Company, when service provided by Seller is affected by electrical disturbances on Company's or Seller's systems, or at any time when Company's system is de-energized from its prime source.

- (c) **Access to Premises:** The duly authorized agents of Company shall have the right of ingress and egress to the premises of Seller at all reasonable hours for the purpose of reading meters, inspecting Company's wiring and apparatus, changing, exchanging, or repairing Company's property on the premises of Seller, or removing such property at the time of or at any time after suspension of purchases or termination of this Agreement.
- (d) **Protection:** Seller shall protect Company's wiring and apparatus on Seller's premises and shall permit no one but Company's agents to handle same. In the event of any loss of or damage to such property of Company caused by or arising out of carelessness, neglect, or misuse by Seller, Seller's employees or agents, the cost of making good such loss or repairing such damage shall be paid by Seller. In cases where Company's service facilities on Seller's premises require abnormal maintenance due to Seller's operation, Seller shall reimburse Company for such abnormal maintenance.

12. CONTINUANCE OF PURCHASES AND LIABILITY THEREFOR

Company does not guarantee continuous purchases but shall use reasonable diligence at all times to provide for uninterrupted acceptance of electricity and having used reasonable diligence shall not be liable to Seller for damage, for failure in, or for interruptions or suspensions of the same.

Company reserves the right to suspend purchases without liability on its part at such times and for such periods and in such manner as it may deem advisable (a) for the purpose of making necessary

adjustments to, changes in, or repairs on its lines, substations, and facilities, (b) in cases where, in its opinion, the continuance of purchases from Seller's facility would endanger persons or property, and (c) for other reasons as stated in 1.(h).

In the event of an adverse condition or disturbance on the system of Company, or on any other system directly or indirectly interconnected with it, which requires automatic or manual interruption of the supply of electricity to some customers or areas in order to limit the extent or damage of the adverse condition or disturbance, or to prevent damage to generating or transmission facilities, or to expedite restoration of service, Company may, without incurring liability, interrupt service to customers or areas, interrupt purchases from Seller, and take such other action as appears reasonably necessary.

Seller shall be responsible for insuring the safe operation of his equipment at all times, and will install and maintain, to Company's satisfaction, the necessary automatic equipment to prevent the backfeed of power into, or damage to Company's de-energized system, and shall be subject to immediate disconnection of his equipment from Company's system if Company determines that such equipment is unsafe or adversely affects Company's transmission/distribution system or service to its other customers.

Seller assumes responsibility for and shall indemnify, defend, and save Company harmless against all liability, claims, judgments, losses, costs, and expenses for injury, loss, or damage to persons or property including personal injury or property damage to Seller or Seller's employees on account of defective construction, wiring, or equipment, or improper or careless use of electricity, on Seller's side of the point of interconnection.

13. GOVERNMENTAL RESTRICTIONS

This Agreement is subject to the jurisdiction of those governmental agencies having control over either party or over this Agreement. This Agreement shall not become effective until all required governmental authorizations are obtained. Certification of receipt of all permits and authorizations shall be furnished by Seller to Company upon Company's request. This Agreement shall not become effective unless it and all provisions thereof are authorized and permitted by such governmental agencies without change or conditions.

This Agreement shall at all times be subject to changes by such governmental agencies, and the parties shall be subject to conditions and obligations, as such governmental agencies may, from time to time, direct in the exercise of their jurisdiction, provided no change may be made in rates or in essential terms and conditions of this contract except by agreement of the parties to this contract. Both parties agree to exert their best efforts to comply with all of the applicable rules and regulations of all governmental agencies having control over either party or this Agreement. The parties shall take all reasonable action necessary to secure all required governmental approval of this Agreement in its entirety and without change.

The delivery date, quantity, and type of electricity to be accepted for purchase by Company, from Seller, are subject to changes, restrictions, curtailments, or complete suspensions by Company as may be deemed by it to be necessary or advisable (a) on account of any lawful order or regulation of any municipal, State, or Federal government or agency thereof, or order of any court of competent jurisdiction, or (b) on account of any emergency due to war, or catastrophe, all without liability on the part of the Company therefor.

14. GENERAL

- (a) Whenever the term "purchase" or "purchase of electricity" is used in these Terms and Conditions or other portions of the Agreement, it shall be construed to refer to the electricity supplied to Company by Seller.

- (b) The term "Company's conductors" shall mean Company's wires extending from the point of connection with Company's existing electric system to the point of interconnection.
- (c) The term "Seller's conductors" shall mean Seller's wires extending from the point of interconnection to the switch box or other point where Seller's circuits connect for the purpose of supplying the electricity produced by Seller.
- (d) The term "interconnection" shall mean the connection of Company's conductors to Seller's conductors.

Effective: August 26, 2010
NCUC Docket No E-100, Sub 127