

DRAFT

OVERTON POWER DISTRICT NO 5
FINANCIAL AND STATISTICAL REPORT
FROM 01/24 THRU 03/24

PART A. STATEMENT OF OPERATIONS

LINE NO	----- YEAR TO DATE -----			
	LAST YEAR A	THIS YEAR B	BUDGET C	THIS MONTH D
1.0	10,560,584.29	11,399,981.94	10,395,831.00	3,380,824.36
2.0	.00	.00	.00	.00
3.0	5,998,852.29-	5,751,100.36-	5,497,992.03-	1,886,975.18-
4.0	249,920.24-	214,148.61-	236,824.62-	58,450.80-
5.0	.00	.00	.00	.00
6.0	225,953.56-	383,926.04-	253,042.62-	123,818.62-
7.0	616,996.95-	771,941.09-	590,432.81-	310,697.24-
8.0	389,277.69-	476,892.54-	413,117.88-	175,243.06-
9.0	874.50-	1,908.48-	2,499.99-	874.50-
10.0	.00	.00	.00	.00
11.0	996,936.08-	1,048,370.79-	981,373.00-	328,778.28-
12.0	8,478,811.31-	8,648,287.91-	7,975,282.95-	2,884,837.68-
13.0	668,413.44-	707,698.94-	734,693.74-	236,349.55-
14.0	.00	.00	.00	.00
15.0	.00	.00	.00	.00
16.0	476,288.95-	445,734.15-	490,600.23-	149,094.15-
17.0	.00	.00	.00	.00
18.0	.00	.00	.00	.00
19.0	41,029.71-	41,029.71-	41,029.74-	13,676.57-
20.0	9,664,543.41-	9,842,750.71-	9,241,606.66-	3,283,957.95-
21.0	896,040.88	1,557,231.23	1,154,224.34	96,866.41
22.0	222,274.61	396,984.43	237,499.98	135,650.32
23.0	.00	.00	.00	.00
24.0	.00	.00	.00	.00
25.0	43,066.05-	2,831.44-	75,000.00-	2,831.44-
26.0	.00	.00	.00	.00
27.0	13,519.28	.00	19,409.01	.00
28.0	.00	.00	.00	.00
29.0	1,088,768.72	1,951,384.22	1,336,133.33	229,685.29

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OVERTON POWER DISTRICT NO 5
 FINANCIAL AND STATISTICAL REPORT
 FROM 01/24 THRU 03/24
 PART C. BALANCE SHEET

LINE NO	ASSETS AND OTHER DEBITS		LIABILITIES AND OTHER CREDITS		
1.0	TOTAL UTILITY PLANT IN SERVICE	154,631,605.73	30.0	MEMBERSHIPS	.00
2.0	CONSTRUCTION WORK IN PROGRESS	15,156,864.64	31.0	PATRONAGE CAPITAL	.00
3.0	TOTAL UTILITY PLANT	169,788,470.37	32.0	OPERATING MARGINS - PRIOR YEAR	82,834,497.62-
4.0	ACCUM PROV FOR DEP & AMORT	47,718,743.01-	33.0	OPERATING MARGINS-CURRENT YEAR	12,039,224.19-
5.0	NET UTILITY PLANT	122,069,727.36	34.0	NON-OPERATING MARGINS	1,672,379.22-
6.0	NON-UTILITY PROPERTY (NET)	.00	35.0	OTHER MARGINS & EQUITIES	21,020,392.89-
7.0	INVEST IN SUBSIDIARY COMPANIES	.00	36.0	TOTAL MARGINS & EQUITIES	117,566,493.92-
8.0	INV IN ASSOC ORG - PAT CAPITAL	3,530,859.02	37.0	LONG TERM DEBT - RUS (NET)	.00
9.0	INV IN ASSOC ORG OTHR GEN FND	.00		(PAYMENTS-UNAPPLIED	.00)
10.0	INV IN ASSOC ORG - NON GEN FND	.00	38.0	LNG-TERM DEBT-FFB-RUS GUAR	.00
11.0	INV IN ECON DEVEL PROJECTS	.00	39.0	LONG-TERM DEBT OTHER-RUS GUAR	.00
12.0	OTHER INVESTMENTS	.00	40.0	LONG TERM DEBT - OTHER (NET)	49,602,019.20-
13.0	SPECIAL FUNDS	.00	41.0	LNG-TERM DEBT-RUS-ECON DEV NET	.00
14.0	TOT OTHER PROP & INVESTMENTS	3,530,859.02	42.0	PAYMENTS - UNAPPLIED	.00
15.0	CASH - GENERAL FUNDS	3,642,781.10	43.0	TOTAL LONG TERM DEBT	49,602,019.20-
16.0	CASH - CONSTRUCTION FUND TRUST	.00	44.0	OBLIGATION UNDER CAPITAL LEASE	.00
17.0	SPECIAL DEPOSITS	.00	45.0	ACCUM OPERATING PROVISIONS	.00
18.0	TEMPORARY INVESTMENTS	35,763,225.68	46.0	TOTAL OTHER NONCURR LIABILITY	.00
19.0	NOTES RECEIVABLE (NET)	.00	47.0	NOTES PAYABLE	.00
20.0	ACCTS RECV - SALES ENERGY (NET)	3,158,796.48	48.0	ACCOUNTS PAYABLE	2,611,152.82-
21.0	ACCTS RECV - OTHER (NET)	471,537.71	49.0	CONSUMER DEPOSITS	363,400.00-
22.0	RENEWABLE ENERGY CREDITS	.00	50.0	CURR MATURITIES LONG-TERM DEBT	.00
23.0	MATERIAL & SUPPLIES-ELEC & OTH	5,073,126.12	51.0	CURR MATURIT LT DEBT ECON DEV	.00
24.0	PREPAYMENTS	205,559.22	52.0	CURR MATURITIES CAPITAL LEASES	.00
25.0	OTHER CURRENT & ACCR ASSETS	.00	53.0	OTHER CURRENT & ACCRUED LIAB	1,678,875.95-
26.0	TOTAL CURRENT & ACCR ASSETS	48,315,026.31	54.0	TOTAL CURRENT & ACCRUED LIAB	4,653,428.77-
27.0	REGULATORY ASSETS	.00	55.0	REGULATORY LIABILITIES	.00
28.0	OTHER DEFERRED DEBITS	2,414,663.84	56.0	OTHER DEFERRED CREDITS	4,508,334.64-
29.0	TOTAL ASSETS & OTHER DEBITS	176,330,276.53	57.0	TOTAL LIABILITIES & OTH CREDIT	176,330,276.53-



March-24

			Dividend Received
Beginning Balance	\$	3,137,166	
Bank of Nevada 2.5%	\$	3,599,181	\$ 908
America First Credit Union .90%	\$	8,609	\$ 14
Bank of Nevada Investment 1.5%	\$	138,388	
CFC Member Capital Sec 5%	\$	500,000	
Month Ending Balance	\$	4,246,178	
Net Increase/Decrease Prior Month	\$	1,109,012	

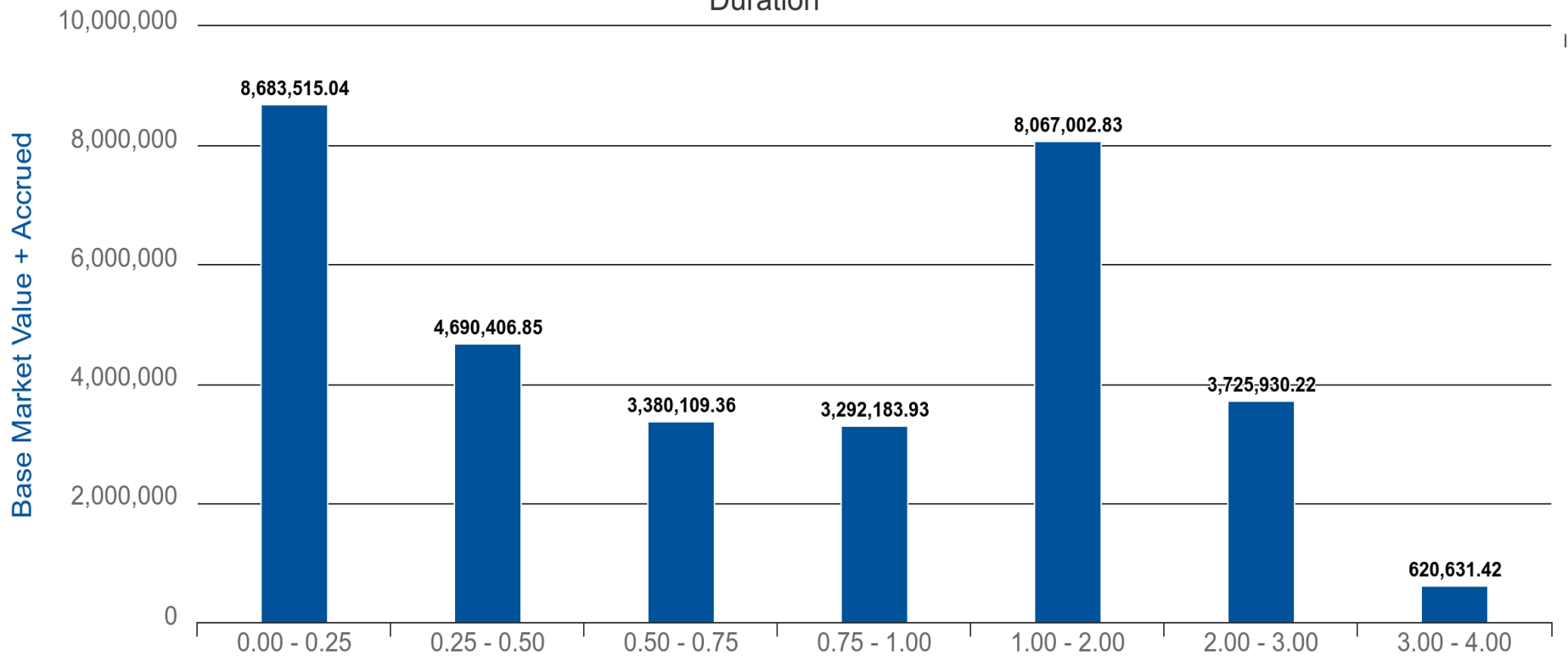
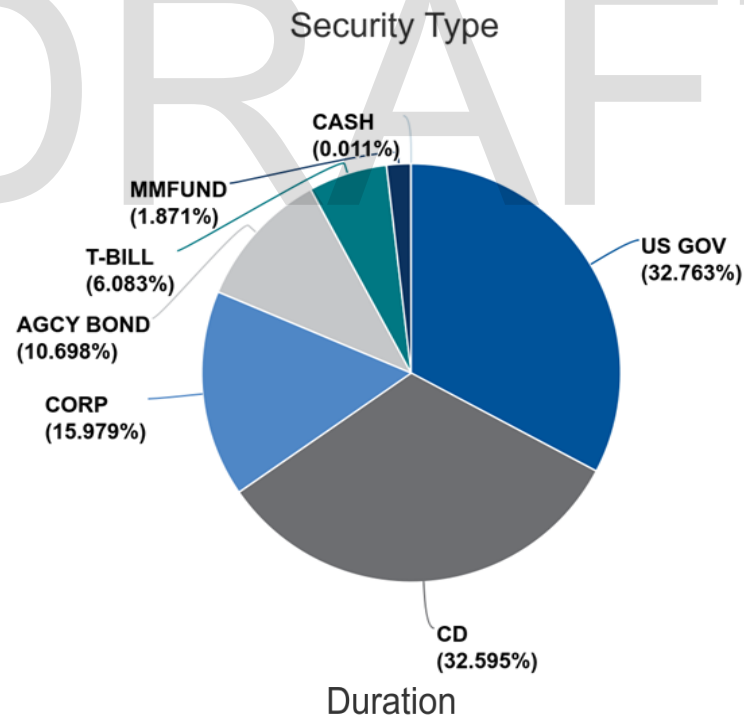


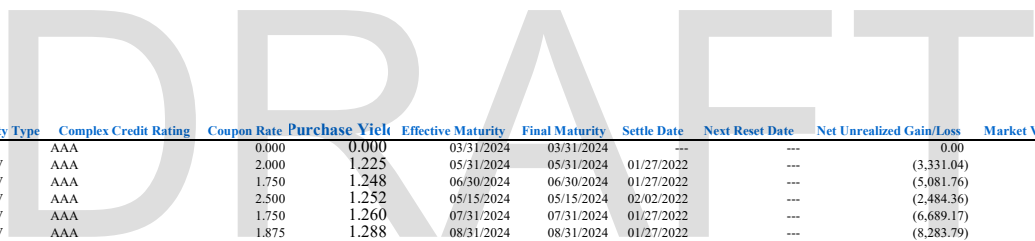
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Account:
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GAAP Financials
Moreton-Overton Power Dist #5 (279263)
10/06/2021 -03/31/2024

Balance Sheet	Moreton-Overton Power Dist #5	
	3/31/2024	
Book Value less Due	32,401,497.26	
Due and Accrued	179,430.25	
Book Value + Accrued	\$ 32,580,927.50	\$ 359,868
Net Unrealized Carrying Value Gain	(121,147.85)	
Carrying Value and Accrued	\$ 32,459,779.66	
Goldman Sachs Group 5.239%	\$ 2,568,172.04	\$ 36,194

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CUSIP	Description	Original Cost	Security Type	Complex Credit Rating	Coupon Rate	Purchase Yield	Effective Maturity	Final Maturity	Settle Date	Next Reset Date	Net Unrealized Gain/Loss	Market Value + Accrued
CCYUSD	Receivable	534,340.62	CASH	AAA	0.000	0.000	03/31/2024	03/31/2024			0.00	534,340.62
912828XT2	UNITED STATES TREASURY	508,906.25	US GOV	AAA	2.000	1.225	05/31/2024	05/31/2024	01/27/2022		(3,331.04)	500,660.66
9128286Z8	UNITED STATES TREASURY	505,976.57	US GOV	AAA	1.750	1.248	06/30/2024	06/30/2024	01/27/2022		(5,081.76)	497,746.54
912828WJ5	UNITED STATES TREASURY	513,984.38	US GOV	AAA	2.500	1.252	05/15/2024	05/15/2024	02/02/2022		(2,484.36)	503,004.01
912828Y87	UNITED STATES TREASURY	506,035.16	US GOV	AAA	1.750	1.260	07/31/2024	07/31/2024	01/27/2022		(6,689.17)	495,586.35
912828ZU3	UNITED STATES TREASURY	507,441.41	US GOV	AAA	1.875	1.288	08/31/2024	08/31/2024	01/27/2022		(8,283.79)	493,735.22
912828D56	UNITED STATES TREASURY	513,378.91	US GOV	AAA	2.375	1.299	08/15/2024	08/15/2024	02/02/2022		(7,492.87)	496,005.69
912828YH7	UNITED STATES TREASURY	502,421.88	US GOV	AAA	1.500	1.315	09/30/2024	09/30/2024	01/27/2022		(9,667.50)	490,810.49
912828YV6	UNITED STATES TREASURY	502,011.72	US GOV	AAA	1.500	1.355	11/30/2024	11/30/2024	01/27/2022		(12,572.51)	490,425.49
91282CDN8	UNITED STATES TREASURY	741,826.17	US GOV	AAA	1.000	1.387	12/15/2024	12/15/2024	01/28/2022		(19,555.34)	730,628.11
07371CK73	Beal Bank USA	239,880.00	CD	NA	1.800	1.817	03/05/2025	03/05/2025	03/09/2022		(7,254.06)	232,981.02
07371AZP1	Beal Bank	239,880.00	CD	NA	1.800	1.817	03/05/2025	03/05/2025	03/09/2022		(7,254.06)	232,981.02
02589ABM3	American Express Bank, FSB	144,536.00	CD	AA-	1.800	1.909	03/03/2025	03/03/2025	03/08/2022		(4,240.45)	140,834.15
38150AK79	GOLDMAN SACHS GROUP INC	998,000.00	CORP	A	2.000	2.063	01/31/2025	01/31/2025	01/31/2022	07/31/2024	(29,961.47)	976,588.89
38150AKB0	GOLDMAN SACHS GROUP INC	399,000.00	CORP	A	2.000	2.074	07/31/2025	07/31/2025	01/31/2022		(19,306.94)	381,659.56
9128284F4	UNITED STATES TREASURY	502,011.72	US GOV	AAA	2.625	2.485	03/31/2025	03/31/2025	04/01/2022		(12,271.01)	488,450.86
14042TFC6	Capital One Bank (USA), National Association	244,510.00	CD	NA	2.550	2.620	04/07/2025	04/07/2025	04/06/2022		(5,971.53)	241,909.48
9128284M9	UNITED STATES TREASURY	501,191.41	US GOV	AAA	2.875	2.792	04/30/2025	04/30/2025	04/20/2022		(11,572.15)	494,907.24
3130ASHX0	FEDERAL HOME LOAN BANKS	500,000.00	AGCY BOND	AAA	3.550	3.550	07/11/2024	07/11/2024	07/11/2022		(2,365.00)	501,579.44
3130ATH77	FEDERAL HOME LOAN BANKS	301,416.00	AGCY BOND	AAA	4.375	4.169	09/12/2025	09/12/2025	03/31/2023		(2,636.26)	298,913.71
61934MAE4	Morton Lane Federal Credit Union	119,760.00	CD	NA	4.350	4.405	12/28/2027	12/28/2027	12/28/2023		(33.61)	119,799.21
800364FD8	Sandy Spring Bank	250,000.00	CD	NA	4.450	4.450	02/02/2026	02/02/2026	02/02/2024		(1,825.00)	250,003.77
369674CP9	General Electric Credit Union	244,632.50	CD	NA	4.400	4.453	02/01/2027	02/01/2027	01/31/2024		(1,363.04)	244,205.46
42869GAA4	Hickam Federal Credit Union	244,632.50	CD	NA	4.400	4.454	01/29/2027	01/29/2027	01/31/2024		(1,370.44)	244,198.11
45675CAA0	The Infirmary Federal Credit Union	245,000.00	CD	NA	4.600	4.600	02/06/2026	02/06/2026	02/06/2024		(1,217.65)	244,585.14
3130B0N21	FEDERAL HOME LOAN BANKS	500,000.00	AGCY BOND	AAA	4.705	4.705	09/28/2028	09/28/2028	03/28/2024		(440.00)	499,756.04
01025RAQ2	Alabama Credit Union	244,755.00	CD	NA	4.750	4.802	03/02/2026	03/02/2026	02/28/2024		(221.73)	244,671.83
849061AF3	Spokane Teachers Credit Union	244,632.50	CD	NA	4.750	4.804	03/25/2027	03/25/2027	03/25/2024		1,141.80	245,999.83
91282CFK2	UNITED STATES TREASURY	981,640.62	US GOV	AAA	3.500	4.808	09/15/2025	09/15/2025	03/26/2024		(509.70)	982,946.85
91739JAE5	Utah First Federal Credit Union	244,755.00	CD	NA	4.800	4.853	03/19/2026	03/19/2026	03/19/2024		(4.36)	245,173.85
91282CEQ0	UNITED STATES TREASURY	974,609.38	US GOV	AAA	2.750	4.865	05/15/2025	05/15/2025	02/14/2024		(1,366.67)	986,245.82
91282CEU1	UNITED STATES TREASURY	976,210.94	US GOV	AAA	2.875	4.902	06/15/2025	06/15/2025	03/26/2024		(745.19)	984,263.61
98426AAE7	Y-12 Federal Credit Union	244,755.00	CD	NA	4.850	4.903	03/16/2026	03/16/2026	03/15/2024		156.00	245,470.13
77357DAC2	Rockland Federal Credit Union	244,632.50	CD	NA	4.900	4.954	12/21/2026	12/21/2026	12/20/2023		1,643.74	246,705.43
91282CFX4	UNITED STATES TREASURY	996,132.81	US GOV	AAA	4.500	4.985	11/30/2024	11/30/2024	02/08/2024		(1,635.83)	1,010,322.95
53052LAS8	Liberty Federal Credit Union	244,938.75	CD	NA	5.000	5.025	04/29/2024	04/29/2024	04/27/2023		(108.04)	245,927.71
50625LBV4	Lafayette Federal Credit Union	244,755.00	CD	NA	5.000	5.052	12/15/2025	12/15/2025	12/13/2023		546.33	245,975.77
912828J27	UNITED STATES TREASURY	485,253.91	US GOV	AAA	2.000	5.053	02/15/2025	02/15/2025	02/14/2024		(418.58)	487,973.74
949764HG2	Wells Fargo Bank, National Association	244,510.00	CD	AA+	5.050	5.105	11/08/2027	11/08/2027	11/07/2023		5,319.02	250,725.38
108622PJ4	Bridgewater Bank	244,632.50	CD	NA	5.100	5.154	11/03/2026	11/03/2026	11/06/2023		2,596.57	248,271.25
065427AV8	Bank of Utah	244,632.50	CD	NA	5.100	5.173	01/10/2026	01/10/2026	11/10/2023		2,618.85	248,070.82
3134GY4U3	FEDERAL HOME LOAN MORTGAGE CORP	495,917.78	AGCY BOND	AAA	4.875	5.200	02/26/2026	02/26/2026	06/14/2023		(126.75)	499,334.79
07833EAM9	Belloe Credit Union	244,755.00	CD	NA	5.150	5.203	02/24/2025	02/24/2025	02/24/2023		142.12	245,308.40
90355GHN9	UBS Bank USA	244,632.50	CD	NA	5.150	5.204	11/09/2026	11/09/2026	11/08/2023		2,962.47	248,473.19
722000AA4	Pima Federal Credit Union	244,510.00	CD	NA	5.150	5.213	02/17/2027	02/17/2027	08/17/2023		3,656.32	248,772.13
31846V336	FIRST AMER-GVT OBLG X	19,981.98	MMFUND	AAA	5.240	5.240	03/31/2024	03/31/2024			0.00	19,981.98
912797GK7	UNITED STATES TREASURY	974,589.77	T-BILL	AAA	0.000	5.243	08/08/2024	08/08/2024	02/08/2024		(349.45)	981,640.00
560507AS4	Maine Savings Bank	244,510.00	CD	NA	5.200	5.256	11/08/2027	11/08/2027	11/08/2023		6,514.92	251,911.25
91282CCX7	UNITED STATES TREASURY	486,132.81	US GOV	AAA	0.375	5.272	09/15/2024	09/15/2024	02/14/2024		(43.28)	489,216.62
84485EAK3	Southwest Financial Federal Credit Union	200,000.00	CD	NA	5.300	5.300	08/18/2025	08/18/2025	02/29/2024		828.00	201,728.27
05580AAK7	BMW Bank of North America	244,715.80	CD	AA-	5.250	5.300	05/11/2026	05/11/2026	11/10/2023		2,314.84	252,114.43
37424PAH7	Gessa Credit Union	244,632.50	CD	NA	5.250	5.304	07/31/2026	07/31/2026	08/07/2023		2,862.13	247,610.19
3130AVKL5	FEDERAL HOME LOAN BANKS	249,725.00	AGCY BOND	AAA	5.220	5.347	05/01/2024	05/01/2024	06/21/2023		(1.48)	256,352.50
92559TAQ1	Vibrant Credit Union	248,000.00	CD	NA	5.350	5.350	12/20/2024	12/20/2024	12/21/2023		131.44	249,258.31
02208XAC7	Altra Federal Credit Union	247,876.00	CD	NA	5.300	5.352	06/07/2024	06/07/2024	06/09/2023		(96.22)	248,709.21
92348DAD1	Veridian Credit Union	244,755.00	CD	NA	5.300	5.353	08/18/2025	08/18/2025	08/18/2023		1,183.22	247,117.14
912797JZ1	UNITED STATES TREASURY	983,160.12	T-BILL	AAA	0.000	5.358	06/04/2024	06/04/2024	02/08/2024		31.56	990,820.00
95763PQQ7	Western Alliance Bank	244,755.00	CD	BBB+	5.350	5.403	11/17/2025	11/17/2025	11/17/2023		1,725.77	251,410.24
06051V4R4	Bank of America, National Association	244,755.00	CD	AA+	5.400	5.453	11/10/2025	11/10/2025	11/08/2023		2,011.98	252,071.20
29415AAR6	Envision Credit Union	244,877.50	CD	NA	5.450	5.485	02/27/2025	02/27/2025	08/30/2023		704.00	245,702.81
68584JAC3	Enron Community Credit Union	244,877.50	CD	NA	5.450	5.502	06/20/2024	06/20/2024	06/21/2023		(39.30)	245,336.25
227563EJ8	Cross River Bank	244,755.00	CD	NA	5.450	5.503	10/31/2025	10/31/2025	10/31/2023		2,006.72	252,410.08
130162BC3	California Credit Union	244,632.50	CD	NA	5.450	5.505	10/26/2026	10/26/2026	10/25/2023		4,601.73	255,104.07
92023CAH6	ValleyStar Credit Union	244,632.50	CD	NA	5.500	5.554	11/09/2026	11/09/2026	11/08/2023		5,069.47	250,636.58
444425AG7	Hughes Federal Credit Union	244,632.50	CD	NA	5.550	5.604	10/26/2026	10/26/2026	10/26/2023		5,219.42	250,128.42
67054NBN2	Numerica Credit Union	249,625.00	CD	NA	5.550	5.604	11/10/2026	11/10/2026	11/10/2023		5,456.07	255,966.30
3134GYXX5	FEDERAL HOME LOAN MORTGAGE CORP	499,850.00	AGCY BOND	AAA	5.650	5.656	07/26/2028	07/26/2028	08/10/2023		(824.67)	504,155.69
86777TAB2	Sunset Science Park Federal Credit Union	244,877.50	CD	NA	5.700	5.752	12/04/2024	12/04/2024	12/05/2023		719.90	246,823.07
92838DAB2	Visions Federal Credit Union	244,877.50	CD	NA	5.750	5.802	08/29/2024	08/29/2024	08/30/2023		312.49	245,339.34
291916AC8	Empower Federal Credit Union	244,877.50	CD	NA	5.800	5.851	10/07/2024	10/07/2024	10/06/2023		531.04	246,324.44
01882MAF9	Alliant Credit Union	244,877.50	CD	NA	5.800	5.852	11/07/2024	11/07/2024	11/08/2023		710.84	246,571.36
00832KBM0	Affinity Federal Credit Union	244,877.50	CD	NA	5.800	5.852	10/03/2024	10/03/2024	10/04/2023		512.89	246,657.68
771196CA8												

NUMBER OF CUSTOMERS SUMMARY BY MONTH

	Change	2024	2023
January	45	18,319	17,931
February	30	18,349	17,972
March	62	18,411	17,980
April			17,994
May			18,016
June			18,037
July			18,103
August			18,110
September			18,077
October			18,136
November			18,214
December			18,274

RATIOS

	Current	Minimum	Goal	Median By Size
MDSC	2.43	1.35	1.85	1.93
EQUITY AS A % OF ASSETS	66.64%	39.50%	57.00%	45.72%
TIER	7.24	1.25	4.00	2.62

DRAFT

CONNECTION FEES	QUANTITY		AMOUNT
Jan-24	81	\$	32,448
Feb-24	24		12,854
Mar-24	78	\$	40,731

CURRENT BILLING ARRANGEMENTS		QUANTITY		AMOUNT
Jan-24	Residential	15	\$	2,846
Jan-24	Commercial			
Feb-24	Residential	23	\$	4,412
Feb-24	Commercial			
Mar-24	Residential	33	\$	3,295
Mar-24	Commercial		\$	-

ROUND UP PROGRAM

	VIRGIN VALLEY	MOAPA VALLEY
Mar-24	\$ 1,117	\$ 833

OVERTON POWER DISTRICT NO.5

C.F.C. LOAN STATUS

**LINE OF CREDIT
BALANCE OWED**

\$ -

QUARTERLY PAYMENT

March-24

\$ 1,420,754.23

LONG-TERM LOAN

	BEGINNING PRINCIPAL	Interest Rate	Due for Repricing	Effective Interest Rate	
9000001	\$1,252,373.54 *	2.28%		1.83%	Sep-28
9000002	\$1,252,373.54 *	2.28%		1.83%	Sep-28
9000003	\$1,762,802.19 *	2.28%		1.83%	Sep-28
9000004	\$1,774,077.86	4.90%		4.45%	Sep-28
9000006	\$1,570,414.46	2.41%		1.96%	Sep-28
9000007	\$1,558,377.37	3.71%	10/1/2024	3.26%	Sep-28
9000008	\$1,642,712.69	5.05%		4.60%	Sep-28
9000009	\$1,666,439.06	4.10%		3.65%	Sep-28
9002001	\$12,552,673.98 *	4.60%		4.15%	Dec-38
9002002	\$41,217.34 *	4.60%		4.15%	Dec-38
9003001	\$16,158,363.33	3.98%		3.53%	Dec-46
9003002	\$8,370,193.85	3.91%		3.46%	Dec-41
	\$49,602,019.21				

Current

**Avg Interest Rate After
Discounts**

3.23%

DRAFT

CFC FINANCIAL AND STATISTICAL REPORT	BORROWER DESIGNATION NV 004 OPD5 YEAR ENDING 12/31/2024
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PART R. POWER REQUIREMENTS DATA BASE

CLASSIFICATION	CONSUMER SALES & REVENUE DATA	January	February	March	April	Totals	Cents per kWh
		(a)	(b)	(c)	(d)		
1. Residential Sales (excluding seasonal)	a. No. Consumers Served	15,446	15,440	15,485			0.1075
	b. KWH Sold	19,921,804	18,706,368	13,696,600		52,324,772	
	c. Revenue	2,098,243	1,987,862	1,538,816		5,624,921	
2. Residential Sales - Seasonal	a. No. Consumers Served					0	
	b. KWH Sold					0	
	c. Revenue					0	
3. Irrigation Sales	a. No. Consumers Served	34	32	33			0.1405
	b. KWH Sold	23,723	59,324	50,506		133,553	
	c. Revenue	6,084	6,387	6,291		18,763	
4. Comm. and Ind. 1000 KVA or Less 500 kW or Less	a. No. Consumers Served	2,313	2,349	2,364		7,026	0.1020
	b. KWH Sold	6,370,380	6,466,911	5,614,071		18,451,362	
	c. Revenue	646,769	652,864	583,123		1,882,756	
5. Comm. and Ind. Over 1000 KVA 500 kW or More	a. No. Consumers Served	15	15	16		46	0.1195
	b. KWH Sold	6,999,300	8,034,120	7,777,831		22,811,251	
	c. Revenue	891,468	932,627	901,897		2,725,992	
6. Public Street & Highway Lighting	a. No. Consumers Served	256	258	259		773	0.1106
	b. KWH Sold	216,039	208,512	181,399		605,950	
	c. Revenue	23,390	22,840	20,788		67,018	
7. Other Sales to Public Authority	a. No. Consumers Served	255	255	254		764	0.0924
	b. KWH Sold	2,416,502	2,397,230	2,263,486		7,077,218	
	c. Revenue	225,046	219,707	208,930		653,682	
8. Sales for Resales-REA Borrowers	a. No. Consumers Served					0	
	b. KWH Sold					0	
	c. Revenue					0	
9. Sales for Resales-Other	a. No. Consumers Served					0	
	b. KWH Sold					0	
	c. Revenue					0	
10. TOTAL No. of Consumers (lines 1a thru 9a)		18,319	18,349	18,411	0		
11. TOTAL KWH Sold (lines 1b thru 9b)		35,947,748	35,872,465	29,583,893	0	101,404,106	
12. TOTAL Revenue Received From Sales of Electric Energy (line 1c thru 9c)		3,890,999	3,822,287	3,259,845	0	10,973,131	0.1082
13. Other Electric Revenue		215,597	89,576	120,979		426,152	
14. KWH - Own Use		53,147	52,775	40,568		146,490	
15. TOTAL KWH Purchased		40,123,534	33,318,243	30,952,378		104,394,155	
16. TOTAL KWH Generated						0	
17. Cost of Purchases and Generation		2,168,598	1,782,431	1,886,975		5,838,004	
18. Interchange - KWH - Net						0	
19. Peak - Sum All KW Input (Metered)						0	
Non-coincident <input checked="" type="checkbox"/> Coincident <input type="checkbox"/>		92,861	76,488	54,175		0	

Monthly Cost	0.0540	0.0535	0.0610	#DIV/0!
Monthly Revenue	0.1082	0.1066	0.1102	#DIV/0!
2024 Avg Cost	0.0540	0.0538	0.0562	#DIV/0!

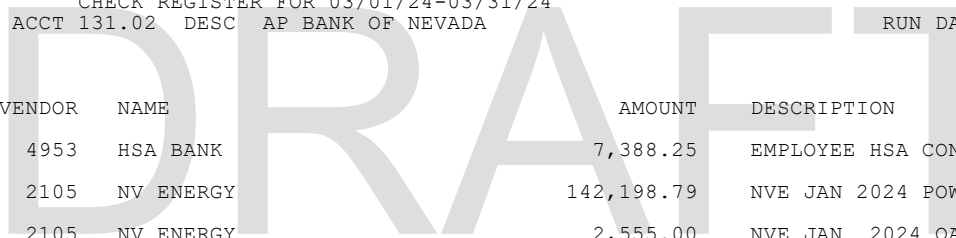
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CFC	BORROWER DESIGNATION	
FINANCIAL AND STATISTICAL REPORT	NV 004	OPD5
	YEAR ENDING	12/31/2024

PART R. POWER REQUIREMENTS DATA BASE							
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CLASSIFICATION	CONSUMER SALES & REVENUE DATA	January (a)	February (b)	March (c)	April (d)	Totals	Cents per kWh
10. TOTAL No. of Consumers (lines 1a thru 9a)		18,319	18,349	18,411	0		
11. TOTAL KWH Sold (lines 1b thru 9b)		35,947,748	35,872,465	29,583,893	0	101,404,106	
12. TOTAL Revenue Received From Sales of Electric Energy (line 1c thru 9c)		3,890,999	3,822,287	3,259,845	0	10,973,131	0.1082
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15. TOTAL KWH Purchased		40,123,534	33,318,243	30,952,378		104,394,155	
16. TOTAL KWH Generated						0	
17. Cost of Purchases and Generation		2,168,598	1,782,431	1,886,975		5,838,004	
18. Interchange - KWH - Net						0	
19. Peak - Sum All KW Input (Metered)						0	
Non-coincident <input checked="" type="checkbox"/> Coincident <input type="checkbox"/>		92,861	76,488	54,175		0	

Monthly Cost	0.0540	0.0535	0.0610	#DIV/0!
Monthly Revenue	0.1082	0.1066	0.1102	#DIV/0!
2024 Avg Cost	0.0540	0.0538	0.0562	#DIV/0!



VOID	CHECK	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	4332		3/05/24	4953	HSA BANK	7,388.25	EMPLOYEE HSA CONTRIBUTIONS
	4333		3/14/24	2105	NV ENERGY	142,198.79	NVE JAN 2024 POWER
	4334		3/14/24	2105	NV ENERGY	2,555.00	NVE JAN 2024 OASIS
	4335		3/18/24	5020	MORGAN STANLEY CAPITAL GROUP	1,322,978.40	MS FEBRUARY POWER
	4336		3/07/24	2395	PUBLIC EMPLOYEES RETIREMENT	139,953.34	EMPLOYEE/BOARD RETIREMENT
	4337		3/12/24	4687	BANK OF NEVADA	215,500.00	TRANSFER PR#2406
	4338		3/15/24	4953	HSA BANK	7,475.25	EMPLOYEE HSA CONTRIBUTIONS
	4339		3/14/24	549	CITY OF MESQUITE	5,761.25	HYDRO POWER - JAN 24/MAR 2024
	4340		3/22/24	635	COLORADO RIVER COMMISSION	456,908.71	CRC JAN 24 ADJ CRC MAR POWER /CRC PDAF MAY 24
	4341		3/21/24	4687	BANK OF NEVADA	14,754.04	VISA CHARGES
	4342		3/26/24	4687	BANK OF NEVADA	246,000.00	TRANSFER PR#2407
	4343		3/26/24	4953	HSA BANK	185.50	HSA DEBIT
	4344		3/29/24	3953	CFC, INC.	1,423,164.25	QUARTERLY PAYMENT
	4347	*	3/20/24	4953	HSA BANK	1,625.00	HSA FUNDING
	50855	*	3/05/24	1586	LIN'S SUPERMARKETS INC.	153.24	FEBRUARY CHARGES WATER - OVERTON OFFICE BOARD MEETING
	50856		3/05/24	1805	MESQUITE LUMBER & SUPPLY	4,239.79	42X42 TRANSFORMER PADS 3V BATTERIES BLUEWEDGE ANCHOR DUCK TAPE MIDWEST FASTENERS DENATURED ALCOHOL, SANDPAPER ROD STORAGE CONT, LONG HANDLE BR HD HOS NOZL FN / SOLD STRM
	50857		3/05/24	1920	MOAPA VALLEY TELEPHONE	2,318.58	MOAPA PHONES
	50858		3/05/24	2045	NRECA	99,657.01	2024 INSURANCE PREMIUM
	50859		3/05/24	2234	OVERTON ACE HARDWARE	26.99	ALARM BATTERY
	50860		3/05/24	2490	RELIANCE CONNECTS	1,610.45	MESQUITE PHONES
	50861		3/05/24	3304	VIRGIN VALLEY WATER DISTRICT	639.12	MESQUITE WATER

VOID	CHECK	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	50862		3/05/24	4255	DOI / BLM	1,443.00	PROCESSING FEE - N-82703/A/
	50863		3/05/24	5046	COASTLINE EQUIPMENT COMPANY	260.92	GAS OPERATED CYLINDER, SEAL
	50864		3/05/24	5271	FLEET EQUIPMENT SERVICES, LL	850.00	PREFORM ANNUAL INSPECTION PREFORM ANNUAL INSPECTION
	50865		3/05/24	5422	IRBY	1,637.00	EZ SQUZ W/TOUGH ROPE FOR TRANS BUCKADJ W/SUPER FAB
	50866		3/05/24	5503	FACIL ENTERPRISES, INC	500.00	HR CONSULTING
	50867		3/05/24	5511	BROWN, STEVEN	856.50	REIMBURSE TRAINING EXPENSE
	50868		3/05/24	5584	O'REILLY AUTO ENTERPRISES	187.40	IGNTION COIL, SPARK PLUGS
	50869		3/05/24	5585	AGUILAR PABLO	1,645.00	MAINTENANCE OF VEHICLES MAINTENANCE OF VEHICLES
	50870		3/05/24	5645	SKYBITZ TANK MONITORING CORP	60.00	TANK MONITORING
VOID	50871		3/06/24	565	CLARK COUNTY RECORDER	84.00	
	50872		3/06/24	735	DAT MANAGEMENT INC	37.00	PRE EMPLOYMENT TESTING
	50873		3/06/24	1555	LEM PRODUCTS, INC.	418.06	8CHRCTR POLY TAG HOLDER
	50874		3/06/24	1805	MESQUITE LUMBER & SUPPLY	248.50	MINERAL SPIRITS, TAPE, MASKING WASHERS, SCREWS CONDUIT, COMP CONNECTORS CONDUIT MIDWEST FASTENER VP 50:1 FUEL 128 OZ X3
	50875		3/06/24	2173	NORTHERN POWER EQUIPMENT	12,432.00	RITZ VEF15-09 RITZ JVW-110 PT 500 URD TRIPLEX, #2 OH TRIPLEX
	50876		3/06/24	4253	EVERITT, DAVID	469.14	REIMB TRAINING EXPENSES - DISTRI
	50877		3/06/24	4259	SHERWIN-WILLIAMS COMPANY	560.49	PAINT - TRANSFORMERS
	50878		3/06/24	4517	KOKOPELLI LANDSCAPING INC.	2,160.00	WROUGHT IRON FENCE REMOVAL
	50879		3/06/24	4627	HUERTA NICOLAS LOPEZ	33,000.00	TREE TRIMMING TREE TRIMMING
	50880		3/06/24	5422	IRBY	6,292.50	1/004W 1/0 4C TYPE W 2KV 100:5 CMF PRMRY BAR CTS 400:5 CMF PRMRY BAR CTS COIL BRACKET 16" ANCHOR DISK

VOID	CHECK	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
							EZ SQUEZ W/TOUGH ROPE HERITAGE ADJ SHORT BACK BELT PIPE AND CONDUIT CLAMP, SOLVENT
	50881		3/06/24	5572	OASIS CHIROPRACTIC CENTER	100.00	PRE EMPLOYMENT PHYSICAL / M.M.
	50882		3/06/24	5624	UNITED RENTALS NORTH AMERICA	1,910.30	EQUIPMENT RENTAL
	50883		3/06/24	4216	VILLEZCAS, ARTHUR	2,835.00	REIMB HOTEL - 3 PEOPLE - TRAIN
	50884		3/12/24	565	CLARK COUNTY RECORDER	42.00	LIEN
	50885		3/13/24	1980	MORCON INDUSTRIAL NEVADA INC	38.10	WHITE KNIT RAGS
	50886		3/13/24	2105	NV ENERGY	540.00	RAISE 2 POLE STRUCTRE
	50887		3/13/24	2491	RIO VIRGIN TELEPHONE CO.	476.16	PHONE SERVICE
	50888		3/13/24	3285	VIRGIN VALLEY DISPOSAL	298.87	DISPOSAL SERVICE
	50889		3/13/24	3735	MEGGER	16,431.85	INSULOGIX GR MONITOR/MNT HARDWAR
	50890		3/13/24	4077	LJ MCCORMICK ENT. INC	1,480.00	ASPHALT CHIPPINGS, TYPE II
	50891		3/13/24	4314	OZAKI, RANDALL	704.00	PER DIEM - NRECA MIP TRAINING
	50892		3/13/24	4701	MESQUITE FORD	17.05	GASKET
	50893		3/13/24	5019	UTAH BARRICADE COMPANY	2,379.35	TRAFFIC CONTROL EQUIPMENT
	50894		3/13/24	5182	MOUNTAIN STATES INDSTRL SRVC	754.80	LOWER BOOM SLIDE PAD, SHIM, BOLT PRESSURE HOSE ASSEMBLY, RETURN H
	50895		3/13/24	5422	IRBY	15,944.37	15KV SURGE ARRESTER 150KVA 480/277 TRANSFORMER SPLICE ENCLOSURE & ACCESSORIES 7/8X12 MACHINE BOLT HERITAGE DBL TOOL HOLSTER BP1 CABLE CUTTER BANANA PEELER
	50896		3/13/24	5615	JUAN CARLOS SANCHEZ LOPEZ	850.00	GENERAL MAINT. OF PLANT
	50897		3/13/24	5710	BARK CANINE CLUB LLC	411.85	REFUND ADVANCE DEPOSIT BALANCE
	50898		3/14/24	5373	FELIX, CRIS	370.00	PER DIEM - TRAINING
	50899		3/19/24	456	BULLOCH BROTHERS ENG INC	3,600.00	RAPTOR SUBSTATION IMPROVEMENTS
	50900		3/19/24	1233	INTERMOUNTAIN CONSUMER	85,148.70	DESIGN 138KV LINE TORT TO GILA TORTOISE 138KV GILA BAY ADDITION TORT SUB 69KV BAY ADDITION TRANSMSN METERING STRUCTURE

VOID	CHECK	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	50901		3/19/24	2864	T&R ELECTRIC SUPPLY CO. INC	17,526.22	REPAIR/RECONDITION TRANSFORMERS REPAIR/RECONDITION TRANSFORMERS REPAIR/RECONDITION TRANSFORMER
	50902		3/19/24	3764	INTERMOUNTAIN POWER SUPERINT	700.00	PRACTICAL LEADERSHIP TRAINING
	50903		3/19/24	4627	HUERTA NICOLAS LOPEZ	17,750.00	TREE TRIMMING
	50904		3/19/24	4742	NELSON JACK WILLIAM	560.30	500 DIRECTOR FEE, 60.30 MILEAGE
	50905		3/19/24	4903	BUNKER ROBERT	500.00	500 DIRECTOR FEE
	50906		3/19/24	4904	YOUNG MIKE	522.40	500 DIRECTOR FEE REIMB. UBER- NRECA MEETING
	50907		3/19/24	4905	METZ JUDITH	500.00	500 DIRECTOR FEE
	50908		3/19/24	5029	RICH PRINTING, INC	1,749.00	QUARTERLY NEWSLETTER
	50909		3/19/24	5034	LEAVITT CHAD	560.30	500 DIRECTOR FEE, 60.30 MILEAGE
	50910		3/19/24	5057	AMSTERDAM PRINTING & LITHO	1,215.66	NREA ANNUAL MEETING EXPENSE
	50911		3/19/24	5125	CMC TIRE INC.	1,825.84	TIRES
	50912		3/19/24	5237	JONES RICHARD A	500.00	500 DIRECTOR FEE
	50913		3/19/24	5422	IRBY	8,644.00	CT/PT COMBO 200:5/60:1 20A METER SOCKETS EQUIPMENT BUCKPACK BUCKLITE POLE CLIMBERS BIG BUCK WRAP PAD 350 URD TRIPLEX
	50914		3/19/24	5476	WILLIAMS YARDSCAPES LLC	550.00	GENERAL MAINT. OF PLANT
	50915		3/19/24	5623	RUST MORRIS DALE	500.00	500 DIRECTOR FEE
	50916		3/20/24	695	COOPER, MENDIS	632.00	PER DIEM CREDIA PER DIEM -NRECA LEGISLATIVE MTGS
	50917		3/20/24	1740	GARCIA, MELISA	1,532.31	PER DIEM -NRECA LEGISLATIVE MTGS REIMB HOTEL - LEGISLATIVE CONFER
	50918		3/20/24	1920	MOAPA VALLEY TELEPHONE	52,715.00	TRENCHING & INSTALL OF CONDUIT
	50919		3/20/24	3257	VERIZON WIRELESS	2,568.31	VERIZON CELL PHONES
	50920		3/20/24	5422	IRBY	19,000.00	500KVA 277/480 TRANSFORMER
	50921		3/20/24	5530	HUNT ELECTRIC, INC	478,722.44	LONGDRIVE SWITCHYARD RAPTOR SUBSTATION

VOID	CHECK	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	50922		3/21/24	1174	HUGHES, MADS	207.00	PER DIEM - NREA MEETING
	50923		3/21/24	3842	DALTON, CHAD	207.00	PER DIEM - NREA MEETING
	50924		3/21/24	3844	LEAVITT, KYLE	207.00	PER DIEM - NREA MEETING
	50925		3/21/24	4143	BARLOW, STEVE	207.00	PER DIEM - NREA MEETING
	50926		3/21/24	4254	LEAVITT, SHANE	207.00	PER DIEM - NREA MEETING
	50927		3/21/24	4333	JANTZ, BENJAMIN	207.00	PER DIEM - NREA MEETING
	50928		3/21/24	4379	HARDY, CODY	207.00	PER DIEM - NREA MEETING
	50929		3/21/24	4510	VALLEJO, OMAR	207.00	PER DIEM - NREA MEETING
	50930		3/21/24	5549	KLUNKER JARED	138.00	PER DIEM - NREA MEETING
	50931		3/21/24	5667	MARTINEZ ALONZO	138.00	PER DIEM - NREA MEETING
	50934	*	3/27/24	2173	NORTHERN POWER EQUIPMENT	5,050.50	SUSP INS 138KV DEAD END 40K FUSE UNITS
VOID	59032	*	3/26/24	5714	CAPERS EVELYN	250.00	
	59033		3/26/24	5714	CAPERS EVELYN	250.00	REFUND - ACCOUNT 70035831-001
	59035	*	3/27/24	3257	VERIZON WIRELESS	78.06	MACHINE TO MACHINE
			TOTAL CHECKS	95	TOTAL AMOUNT	4,908,567.21	

VOID	ACH SEQ	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	1310		3/01/24	3802	GENTRY GIS, LLC	3,300.00	MAPPING, MILSOFT, WINDMIL
	1311		3/05/24	605	HOME HARDWARE AND VARIETY	55.93	SUPER BLUE WORK BOX, SINGLE WORK GROMMET, CIRC BREAKER, WALL PLAT RETURN/EXCHANGE CIRC. BREAKER USB WALL TAP, SCREWDRIVER, SDS Z
	1312		3/05/24	975	ESCI	2,575.00	SAFETY & TRAINING SERVICES
	1313		3/05/24	1175	HUGHES OIL COMPANY	3,360.90	BULK GAS/DIESEL MESQUITE
	1314		3/05/24	2046	NRECA	6,936.90	2024 INSURANCE ADMIN FEE
	1315		3/05/24	3757	MONSEN ENGINEERING LLC	2,864.22	1 YR ANNUAL SUBSCRIPTION 48" LATH, SURVEY MARKING PAINT,
	1316		3/05/24	3957	ELECTRICAL CONSULTANTS, INC.	101,745.50	CNVRTG SNG PHS TO 3 PHS RAPTOR SWTCH YARD RAPTOR SUB ENGINEERING RAPTOR TRANSMISSION LINE
	1317		3/05/24	4291	RESERVE ACCOUNT	300.00	RESERVE ACCOUNT POSTAGE
	1318		3/05/24	4619	FITCH RATINGS, INC	2,000.00	RELATIONSHIP FEE - 11/23-10/24
	1319		3/05/24	4925	CREATIVE CLEANING SERVICES	2,823.00	CLEANING SERVICE - FEB 24
	1320		3/05/24	5012	TINKS SUPERIOR AUTO PARTS	1,192.14	BLOWER MOTOR RESISTOR DELO 400 15W40 GAL, 2.5 DEF ZEREX COOLING SYSTEM ZEREX COOLING SYSTEM NAPA EP GREASE CART
	1321		3/05/24	5634	TYNDALE USA	2,433.85	FR CLOTHING
	1322		3/06/24	4608	SAVANIC TRANSPORT	100,000.00	RAPTOR SUBSTATION GRADING
	1323		3/13/24	453	BULLDOG PEST CONTROL INC.	130.00	PEST CONTROL SERVICE
	1324		3/13/24	1940	MOAPA VALLEY WATER DISTRICT	537.28	HYDRANT METER - TORTOISE SUB MOAPA VALLEY WATER
	1325		3/13/24	2046	NRECA	45.00	REA# 29004 - HRA ACCOUNT - ADMIN
	1326		3/13/24	2709	MERIDIAN COOPERATIVE, INC	39,251.23	SFTW SUPPORT, PSTG, BILLING, CON
	1327		3/13/24	3957	ELECTRICAL CONSULTANTS, INC.	4,934.00	RAPTOR SUB & TRANSMISSION LINE RAPTR & FALCON T- LINE
	1328		3/13/24	4284	INTEGRITY DATA SOLUTIONS INC	4,449.00	ANNUAL SUBSCRIPTION RENEWAL
	1329		3/13/24	4422	STATE OF NEVADA	824.99	PEBP INSURANCE

VOID	ACH SEQ	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	1330		3/13/24	4505	ONLINE INFORMATION SERVICES	541.27	ONLINE UTILITY EXCHANGE BACKGROUND CHECK
	1331		3/13/24	4714	MILLS & MILLS LAW GROUP	1,935.00	LEGAL FEES / BOARD MEETING
	1332		3/13/24	4888	WESTERN UNITED ELECTRIC SUPP	5,353.20	ANCHOR ROD 3/4X8' INSLTED 15KV 500 PRIMARY SPLICE
	1333		3/13/24	5012	TINKS SUPERIOR AUTO PARTS	312.97	OIL PRESSURE SWITCH FILTERS
	1334		3/13/24	5042	AMAZON CAPITAL SERVICES	3,603.68	MAGNETS, BATTERIES, STORAGE CRAT TONER CARTRIDGES KLEIN TOOLS, WIRE PULLERS DOCUMENT SCANNER, DECODING ENCOD SHREDDER, COPY PAPER, 17' MULTI POSITION LADDER KLEIN TOOL - BLADE REPLACEMENTS SHREDDER, PAPER, FILE FOLDERS GEORGIA BOOT MONITOR MOUNTS, COMPUTER MOUNTS PENS, KLEENEX, PLASTIC UTINSELS,
	1335		3/13/24	5203	LADWP -DEPT OF WATER & POWER	12,513.69	MOAPA SOLAR
	1336		3/13/24	5524	BIGHORN CONSTRUCTION INC	79,160.00	PAD/ROAD GRDNG FOR DRILLING
	1337		3/13/24	5671	QUALUS, LLC	21,375.87	PROFESSIONAL SERVICES
	1338		3/19/24	1175	HUGHES OIL COMPANY	8,610.00	BULK GAS/DIESEL MESQUITE BULK GAS/DIESEL OVERTON
	1339		3/19/24	1310	JENSEN PRECAST	42,307.00	VAULT 4686 42X42 TRANSFORMER PADS 4X8X6 VAULT. / 4X4X6 VAULT 6'X7' TRANSFORMER PAD VAULT 4686 42X42 TRANSFORMER PADS
	1340		3/19/24	1435	KNIGHT & LEAVITT ASSOC INC	5,580.59	OPD SI TORTOISE TO GILA
	1341		3/19/24	3633	DLT SOLUTIONS LLC	13,969.46	AUTO CAD ANNUAL RENEWAL
	1342		3/19/24	4744	STAPLES	32.99	NOTARY STAMP
	1343		3/19/24	4888	WESTERN UNITED ELECTRIC SUPP	46,251.40	100 &167 KVA PAD MOUNT TRANSF
	1344		3/19/24	4971	FUTURA SYSTEMS INC.	4,167.00	MONTHLY CHGS, FLEX, FIELD PRO, G
	1345		3/19/24	4980	OFFICE1	4,749.97	RICOH C400F PRINTER
	1346		3/19/24	4981	PIONEER UTILITY RESOURCES	290.00	WEB HOSTING / MAINTENANCE

VOID	ACH SEQ	SEQ BRK	DATE	VENDOR	NAME	AMOUNT	DESCRIPTION
	1347		3/19/24	5011	MCWANE POLES, INC	33,184.94	DUCTILE POLES
	1348		3/19/24	5012	TINKS SUPERIOR AUTO PARTS	949.25	WHEEL BEARING & HUB AIR CONDITIONING VALAVOLINE PREMIUM BLUE, FILTER NAPA GOLD AIR FILTER, TRAILER BA
	1349		3/19/24	5263	ON-HOLD CONCEPTS	125.00	DIGITAL SIGNAGE PROGRAM SERVICE VOICE & VOICE MAIL MESSAGES
	1350		3/19/24	5465	SKYMIRA LLC	286.00	UNLIMITED SATELITE PTT SERVICE
	1351		3/19/24	5524	BIGHORN CONSTRUCTION INC	21,210.00	TRENCHING & CONDUIT INSTALL
	1352		3/19/24	5634	TYNDALE USA	2,799.50	FR CLOTHING FR CLOTHING FR CLOTHING FR CLOTHING
	1353		3/19/24	5664	CARDIO PARTNERS INC	327.75	INFANT/CHILD CARTRIDGES
				TOTAL ACH	44	TOTAL AMOUNT	589,395.47
				GRAND TOTAL	139	GRAND TOTAL AMOUNT	5,497,962.68



**Overton Power District #5
BOARD OF TRUSTEE'S
APRIL 17, 2024
ACTION ITEM - H**

SUBJECT: Review and Possible Acceptance of the Annual Audit Report by Hafen, Buckner, Everett & Graff
PETITIONER: Staff
RECOMMENDATIONS: Accept the Audit Report

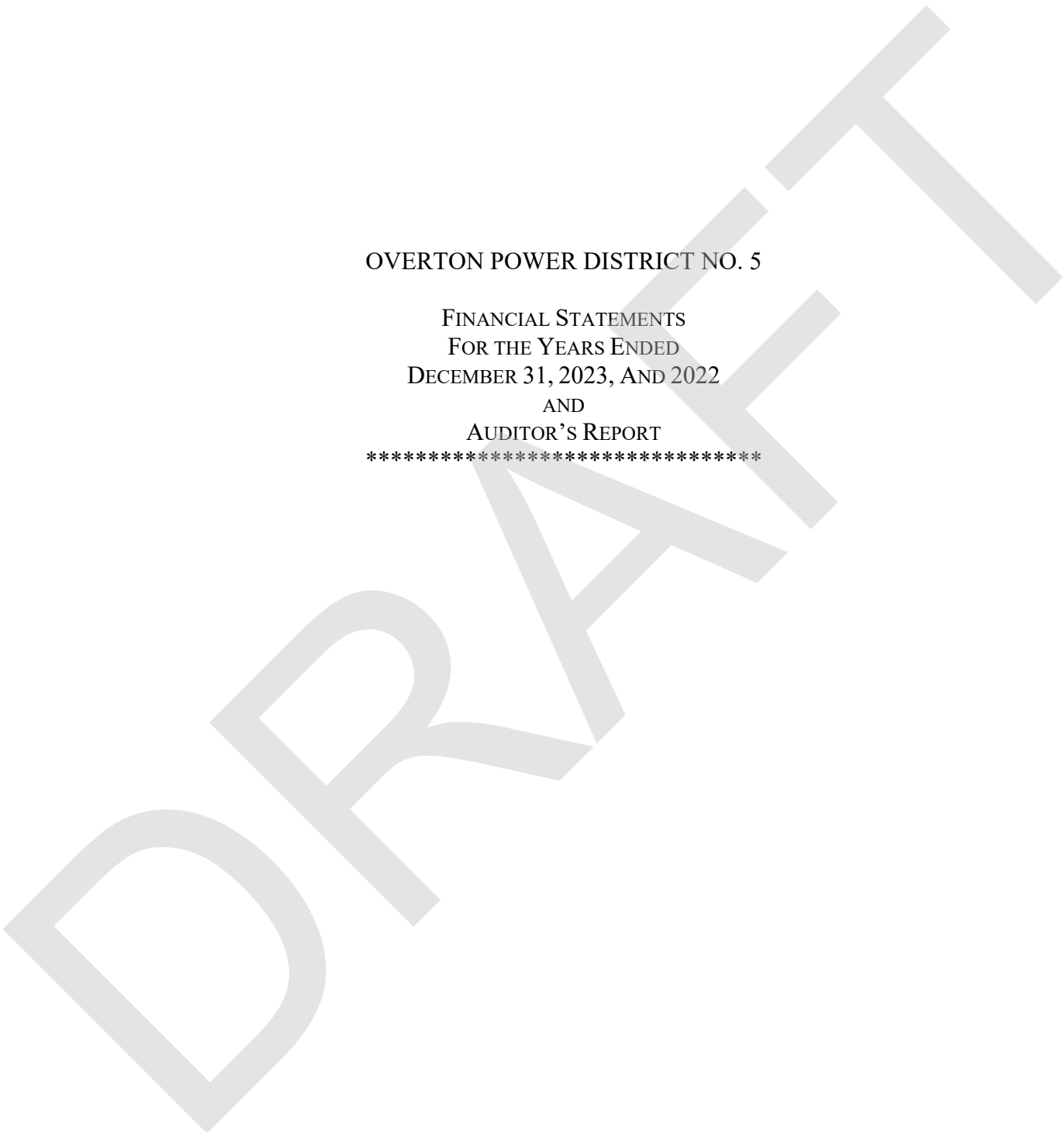
FISCAL IMPACT:
None

BACKGROUND:
Each year OPD5 has an independent audit performed. The accounting firm of Hafen, Buckner, Everett and Graff conducted the audit of OPD5's 2023 financial data. A report will be given to the Board by the lead auditor to discuss his findings.

RECOMMENDATION:
To accept the annual audit report from Hafen, Buckner, Everett, and Graff as presented.

OVERTON POWER DISTRICT NO. 5

FINANCIAL STATEMENTS
FOR THE YEARS ENDED
DECEMBER 31, 2023, AND 2022
AND
AUDITOR'S REPORT



OVERTON POWER DISTRICT NO. 5

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Certified Public Accountants
90 E 200 N
St. George, UT 84770
www.HBEG.com

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Overton Power District No. 5
Overton, Nevada

Opinions

We have audited the accompanying basic financial statements of Overton Power District No. 5 (the District), as of and for the years ended December 31, 2023, and 2022, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

In our opinions, the financial statements referred to above present fairly, in all material respects, the financial position of Overton Power District No. 5 as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the District and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 6 be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Management is responsible for any other information included in the annual report. The other information does not include the basic financial statements and our auditor's report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.



Hafen, Buckner, Everett & Graff, PC
St. George, Utah
March 29, 2024

MANAGEMENT'S DISCUSSION AND ANALYSIS

This section of the basic financial statements of Overton Power District No. 5 (the District) presents management's discussion and analysis of the District's financial performance during the year ending December 31, 2023. Readers are encouraged to consider the information presented here in conjunction with additional information furnished in the Independent Auditor's Report.

Financial Highlights

- Net utility plant increased by \$10,593,033 in 2023 and increased by \$14,408,998 during 2022.
- Net assets increased by \$12,916,722 in 2023 and \$14,132,817 during 2022.
- Net contributions in aid of construction totaled \$1,156,502 in 2023 and \$2,220,579 during 2022.
- Principal long-term debt repayments totaled \$(3,820,956) in 2023 and \$(3,507,144) during 2022.
- A measured approach to borrowing for future capital projects continues to be followed. Ensuring timing of needs and interest markets were advantageous to the District as a whole while contributing to meet all coverage metrics.

Overview of the Financial Statements

The discussion and analysis is intended to serve as an introduction to the basic financial statements. These basic financial statements are comprised of two primary components: 1) financial statements, and 2) notes to the financial statements.

Financial Statements

The *Statement of Net Assets* presents information on all of the assets and liabilities of the District, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The *Statement of Revenue, Expenses, and Changes in Net Assets* presents information showing how the net assets of the District changed during the year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will affect cash flows in future periods.

The *Statement of Cash Flows* presents net cash flows for operating activities, investing activities, and capital and related financing activities. It also includes the net cash increase for the period, cash at the beginning of the period and the end of the period.

Notes to the Financial Statements

The notes provide additional information that is essential to fully understand the District's financial statements including significant accounting policies, commitments, obligations, risks, contingencies and other financial matters.

Financial Analysis

Net Assets

As previously noted, net assets may serve over time as a useful indicator of an entity's financial position. In the case of the District, assets exceeded liabilities by \$109.1m at the close of the fiscal year 2023. This represents an increase from the prior year figure of \$12.9m.

The largest assets of the District are the electrical plant in service (\$119.4m). We use these capital assets to provide electrical services to our customers; consequently, these assets are not available for future spending. Although the investment in its capital assets reported net of related debt totals (\$50.6m), it should be noted that the resources needed to repay this debt must be provided from revenue sources, as the capital assets themselves cannot be used to liquidate these liabilities.

OVERTON POWER DISTRICT NO. 5's Net Assets (Condensed)

	12/31/2023	12/31/2022	12/31/2021
Utility Plant	\$119,458,251	\$108,865,218	\$94,456,222
Other Non-Current Assets	4,243,878	4,112,000	3,840,547
Current Assets	49,165,723	49,748,780	26,542,297
Deferred Outflow Resource	8,084,628	6,648,865	5,729,298
Total Assets	180,952,480	169,374,863	130,568,365
Current Liabilities	13,918,969	12,108,511	10,133,250
Non-Current Liabilities	57,798,229	56,337,008	37,795,849
Deferred Inflow Resources	109,435	4,720,218	562,954
Total Liabilities	71,826,633	73,165,737	48,920,053
Net Assets	\$109,125,847	\$96,209,126	\$82,076,312

OVERTON POWER DISTRICT NO. 5's Revenues, Expenses & Changes in Net Assets (Condensed)

	12/31/2023	12/31/2022	12/31/2021
Total Operating Revenues	\$45,853,767	\$45,737,329	\$41,473,969
Total Operating Expenses	33,765,700	31,832,595	30,348,041
Operating Income/(Loss)	12,088,067	13,904,734	11,125,928
Non-Operating Revenues/(Expenses)	(327,848)	(1,992,496)	(2,084,226)
Change in Net Assets	\$11,760,219	\$11,912,237	\$9,041,699

Utility Plant, Debt Administration and Pension

Net Utility Plant

The following table represents a summary of the District's net utility plant by type, and a comparison to prior year. Further details, by project, can be found in the footnotes to this financial statement.

	12/31/2023	12/31/2022	Change (2023 less 2022)
Transmission Plant	\$ 37,735,100	\$ 37,508,140	\$ 226,960
Distribution Plant	99,315,935	91,468,157	7,847,778
General Plant	16,495,749	15,727,080	768,669
Under Construction	12,708,700	8,682,942	4,025,757
Accumulated Depreciation	(46,797,233)	(44,521,102)	(2,276,131)
Total	\$119,458,251	\$108,865,218	\$ 10,593,033

Long Term Debt

The following table represents a summary of the District's long-term debt, by type, and a comparison to the prior year. Further details can be found in the footnotes to this financial statement.

	12/31/2023	12/31/2022	Change 2023 less 2022
NRUCFC Loan Payable	\$13,118,045	\$15,618,314	\$(2,500,269)
NRUCFC Loan Payable 2015	12,742,529	13,320,372	(577,843)
NRUCFC Loan Payable 2022	24,718,875	25,461,719	(742,844)
Total	\$50,579,449	\$54,400,405	\$(3,820,956)

Pension

The District adopted new accounting guidance, GASB Statement No. 68 *Accounting and Financial Report for Pensions* and GASB Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date*. These statements require the District to recognize its proportionate share of the net pension liability, deferred outflows and deferred inflows of resources, and related expenses from the District's participation in the Public Employees' Retirement System of the State of Nevada (PERS). By adopting this new accounting guidance, the District would be required to restate its beginning net position. The Deferred Outflows of Resources of \$5,612,990 and Deferred Inflows of Resources are \$109,435 and a net Pension Cost to be recorded of \$173,975.

Currently Known Facts, Decisions, and Conditions

A description of currently known facts, decisions, and conditions that are expected to have a significant effect on the future financial position or results of operations are as follows.

The District seeks to deliver strong and consistent business and financial results by providing the necessary services and constructing a well built and reliable power system that enables us to sell electrical capacity and energy to its customers.

The District monitors all financial data to ensure that we can achieve its core mission and meet all upcoming obligations and responsibilities.

As the District adds new customers, new facilities are required to serve new loads. Additional new facilities are required to add system reliability.

The District seeks to maintain this balance by utilizing its financial strength to achieve these goals.

Request for Information

This financial report is designed to provide interested parties with a general overview of the District's financial status. Questions concerning any of the reports and/or information contained in this financial audit, or requests for additional financial information, should be addressed to MeLisa Garcia, Assistant General Manager, PO BOX 395 Overton, NV 89040.

OVERTON POWER DISTRICT NO. 5
Statements of Net Assets
December 31, 2023 and 2022

	<u>Assets</u>	
	2023	2022
Utility Plant:		
Electric plant in service	\$ 153,546,784	\$ 144,703,377
Under construction	12,708,700	8,682,942
Total	166,255,484	153,386,320
Less accumulated depreciation and amortization	(46,797,233)	(44,521,102)
Net Utility Plant	119,458,251	108,865,218
Other Non-Current Assets:		
Investments in associated organizations	4,036,923	3,801,567
Pension costs	173,975	(780,014)
Note receivable - less amount due within one year	206,955	310,433
Total Other Non-Current Assets	4,417,853	3,331,986
Current Assets:		
Cash and cash equivalents	1,505,216	4,409,107
Temporary investments:	38,728,416	37,604,491
Accounts receivable - Principally customer (less allowance for doubtful accounts of \$2,705 in 2023 and \$2,857 in 2022)	3,803,251	3,612,468
Materials and supplies	4,776,378	3,802,413
Prepayments and other assets	248,983	216,822
Note receivable - due within one year	103,478	103,478
Total Current Assets	49,165,723	49,748,780
Deferred Outflows of Resources:		
Deferred charge on pensions	5,612,990	4,967,098
Deferred charges on refunding debt	2,297,663	2,461,781
Total deferred outflows of resources	7,910,652	7,428,879
Total Assets	\$ 180,952,480	\$ 169,374,863
<u>Liabilities and Net Assets</u>		
Current Liabilities:		
Accounts payable	\$ 3,147,184	\$ 3,567,329
Customer deposits	349,550	325,400
Accrued expenses	1,534,487	1,440,834
Long-term debt - due within one year	3,974,303	3,835,342
Deferred credits	4,923,344	2,953,992
Total Current Liabilities	13,928,868	12,122,897
Non-Current Liabilities:		
Long-term portion of termination benefits payable	72,419	72,959
Long-term debt, less amount due within one year	46,615,046	50,579,449
Net pension liability	11,100,864	5,670,214
Total Non-current Liabilities	57,788,329	56,322,622
Deferred Inflows of Resources:		
Deferred charge on pensions	109,435	4,720,218
Total deferred inflows of resources	109,435	4,720,218
Net Assets:		
Invested in utility plant, net of related debt	119,458,251	108,865,218
Restricted for:		
Debt service	-	-
Utility plant additions	-	-
Unrestricted	(10,332,404)	(12,656,093)
Total Net Assets	109,125,847	96,209,125
Total Liabilities and Net Assets	\$ 180,952,480	\$ 169,374,863

The accompanying notes are an integral part of the financial statements

VERTON POWER DISTRICT NO. 5
Statements of Revenues, Expenses, and Changes In Net Assets
December 31, 2023 and 2022

	2023	2022
Operating Revenues	\$ 45,853,767	\$ 45,737,329
Operating Expenses:		
Operation-		
Power purchased	21,631,029	21,400,811
Distribution - Operation	1,163,339	911,518
Distribution - Maintenance	2,451,492	1,803,284
Transmission - Maintenance	861,290	704,454
Depreciation and amortization	2,798,833	2,370,223
General and administrative-		
Customer accounts	1,519,928	1,561,236
Other	3,339,789	3,081,070
Total Operating Expenses	33,765,700	31,832,595
Operating Income / (Loss)	12,088,067	13,904,734
Non-Operating Revenues (Expenses):		
Interest income	1,275,395	469,594
Interest expense	(1,862,548)	(1,925,044)
Gain/(loss) on sale of assets	4,849	(593,523)
Amortization	(164,119)	(164,119)
Patronage capital credits CFC	418,575	220,596
Total Non-Operating Revenues (Expenses)	(327,848)	(1,992,496)
Change in Net Assets	11,760,219	11,912,237
Total Net Assets - Beginning of Year	96,209,126	82,076,309
Contributions In Aid of Construction-net	1,156,502	2,220,579
Total Net Assets - End of Year	\$ 109,125,847	\$ 96,209,126

The accompanying notes are an integral part of the financial statements

OVERTON POWER DISTRICT NO. 5
Statements of Cash Flows
December 31, 2023 and 2022

	2023	2022
Cash Flows From Operating Activities:		
Cash received from customers	\$ 45,766,461	\$ 45,337,703
Cash paid to suppliers	(27,572,066)	(24,144,163)
Cash paid to employees	(5,507,972)	(4,891,182)
Cash Flows From Operating Activities	12,686,424	16,302,359
Cash Flows From Investing Activities:		
Additions to utility plant	(13,391,866)	(16,779,219)
Net proceeds from the sale of utility plant assets	4,849	(593,523)
Investment earnings	1,275,395	469,594
Patronage capital credits	418,575	220,596
Investment in related organization	(235,356)	38,980
Temporary investments	(1,123,925)	(25,599,656)
Cash Flows From Investing Activities	(13,052,329)	(42,243,228)
Cash Flows From Financing Activities:		
Repayment of principal on long-term debt	(3,825,442)	22,492,856
Interest paid	(1,862,548)	(1,925,044)
Contributions in aid of construction and customer advances	3,125,854	1,940,173
Customer deposits	24,150	15,600
Cash Flows From Financing Activities	(2,537,986)	22,523,584
Net Change in Cash and Cash Equivalents	(2,903,891)	(3,417,285)
Cash and Cash Equivalents including Restricted Cash, Beginning of Year	4,409,107	7,826,392
Cash and Cash Equivalents including Restricted Cash, End of Year	\$ 1,505,216	\$ 4,409,107
Reconciliation of Operating Income / (Loss) to Net Cash Flows from Operating Activities:		
Operating income / (loss)	\$ 12,088,067	13,904,734
Adjustments to reconcile operating income / (loss) to cash flows from operating activities-		
Depreciation and amortization	2,798,833	2,370,223
Changes in assets and liabilities-		
(Increase)/decrease in accounts receivable	(87,306)	(399,626)
(Increase)/decrease in materials and supplies	(973,963)	(1,032,044)
(Increase)/decrease in prepayments and other	(32,161)	97,123
(Increase)/decrease in investments in associated	(953,989)	882,595
(Increase)/decrease in deferred outflows	(645,892)	(1,966,281)
Increase/(decrease) in accounts payable	(420,145)	1,192,839
Increase/(decrease) in accrued expenses	93,113	66,528
Increase/(decrease) in net pension liability	5,430,650	(2,970,997)
Increase/(decrease) in deferred charge in pensions	(4,610,783)	4,157,264
Cash Flows From Operating Activities	\$ 12,686,424	\$ 16,302,359

Supplemental Schedule of Interest Paid and Non Cash Investing and Financing Activities:

Interest paid during the year amounted to \$1,862,548 in 2023, and \$1,925,044 in 2022.

The District disposed of equipment costing \$246,269 and \$760,601 less accumulated depreciation of \$201,503 and \$90,983, net of sales proceeds of \$49,615 and \$-0-, resulting in a non-cash gain of \$4,849 and a non-cash loss of \$669,618 in 2023 and 2022 respectively.

The accompanying notes are an integral part of the financial statements

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization - Nevada 4 Overton, Overton Power District No. 5 was organized in November of 1935 for the purpose of providing electric service to the rural areas of eastern Clark County, Nevada (the Muddy and Virgin River Valleys). The accounting records of the district conform to the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission for Class A and B electric utilities borrowers of the Rural Utilities Service.

Regulation - The District's rates are determined by the Board of Trustees, subject to certain restrictions. The District's accounting practices and policies are generally consistent with regulatory authorities and the accounting records are maintained in accordance with the Uniform System of Accounts prescribed by regulatory authorities.

Basis of Accounting and Presentation - The accounting policies of the District conform to generally accepted accounting principles (GAAP) as applicable to proprietary funds of governments. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. Accounting records are maintained in accordance with the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission (FERC).

GASB Statement No. 20 requires that the District apply all GASB pronouncements as well as the pronouncements issued on or before November 30, 1989, by the Financial Accounting Standards Board (FASB) and its predecessor organizations, unless those pronouncements conflict with or contradict GASB pronouncements. As provided for in GASB Statement No. 20, the District has elected not to implement FASB Statements and Interpretations issued after November 30, 1989.

Application of Accounting Standards - Recognizing that the District is a governmental entity organized under Nevada Revised Statute 318, during 2007 the District adopted the accounting and financial reporting policies of the Governmental Accounting Standards Board which is the accepted standard setting body for establishing governmental accounting and financial reporting principles.

As prescribed by GASB 34, management's discussion and analysis is included as required supplementary information.

Utility Plant and Depreciation - Utility plant in service and under construction is stated at original cost. Cost includes labor, materials, and related indirect costs such as engineering, supervision, transportation, etc. The cost of units of property replaced or renewed, plus removal cost, less salvage, is charged to accumulated depreciation. Maintenance and repairs of utility property are charged to operation expenses. The District provides for depreciation on the straight-line basis for all property over the estimated useful lives of the related assets as follows:

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

	<u>Annual Percentage Range</u>
Transmission Plant	2.75
Distribution Plant	1.8 - 3.8
General Plant:	
Buildings	2
Transportation	15
Communication	5
Power Operated Equipment	11
Other Equipment	4

Revenues - The principal operating revenues of the District are charges to customers for the sale of electricity. Revenues are recognized as customers are billed. The District accrues revenues for energy delivered from the billing date to the end of the accounting period.

Materials and Supplies - Materials and supplies are stated generally at average cost which is not in excess of market.

Taxes on Income - The District is a State entity authorized by Nevada Revised Statute 318 and is not required to pay Federal income taxes.

Cash and Cash Equivalents - Cash and cash equivalents consist of cash on hand, cash in banks and cash temporarily invested in certificates of deposit, money market accounts, open-end mutual funds and cash restricted for debt service and construction.

Deposits and Investments - It is the policy of the District to invest their funds not immediately needed for operating or other purposes in a manner that will provide the greatest investment return consistent with maintaining maximum security. All investments will conform to the provisions of the Nevada Revised Statutes (NRS) and any direction by the governing board.

Pursuant to NRS and the District's investment policy the District may only invest in the following types of securities:

- U.S. Treasuries
- U.S. Agencies
- Money Market Mutual Funds
- Negotiable and Non-Negotiable Certificates of Deposit
- Repurchase Agreements
- Commercial Paper
- Bankers Acceptances
- Corporate Notes or Bonds
- Collateralized Mortgage Obligations
- Asset Backed Securities

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

Contributions in Aid of Construction - Contributions in aid of construction are charges to fund construction of the utility plant necessary to extend service to new customers. The payments are initially recorded as liabilities (customer advances for construction), then are reclassified to contributed capital when construction is completed. See note 7.

Estimates - Generally accepted accounting principles require management to make estimates and assumptions that affect assets and liabilities, contingent assets and liabilities, and revenues and expenditures. Actual results could differ from those estimates.

2. DEPOSITS AND INVESTMENTS

Deposits

Deposits and investments of the District are governed by the Nevada Revised Statutes (NRS) except as described in Note 1. The following are discussions of the District's exposure to various risks related to its cash management activities.

Custodial Credit Risk

For deposits, this is the risk that in the event of a bank failure, the District's deposit may not be returned to it. The District does not have a formal policy for custodial credit risk. All of the District's deposits are covered by FDIC insurance or are collateralized.

Investments

The provisions of State law (NRS 355.170) govern the investment of public funds.

Interest rate risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The District's policy for managing its exposure to fair value loss arising from increasing interest rates is to comply with the provisions of State law (NRS 355.170).

Credit risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The District's policy for reducing its exposure to credit risk is to comply with the provisions of State law (NRS 355.170).

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

Fair Value Measurements

The District categorizes their fair value measurement within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs.

All of the District’s temporary cash investments totaling \$38,728,416 are valued at the daily closing price as reported (Level 1 inputs).

3. UTILITY PLANT

During the years ended December 31, 2023 and 2022, the following changes occurred in the District’s utility plant as follows:

Utility Plant

	Balance at 12/31/2022	Additions	Deletions	Balance at 12/31/2023
Transmission Plant	\$ 37,508,140	\$ 335,933	\$ (108,974)	\$ 37,735,100
Distribution Plant	91,468,157	9,115,903	(1,268,125)	99,315,935
General Plant	15,727,080	936,540	(167,871)	16,495,749
Under construction	8,682,942	11,107,930	(7,082,172)	12,708,700
Subtotal	153,386,319	21,496,306	(8,627,142)	166,255,483
Accumulated depreciation	(44,521,102)	(4,046,700)	1,770,569	(46,797,233)
Net Utility Plant Assets	\$ 108,865,218	\$ 17,449,606	\$ (6,856,573)	\$ 119,458,251

	Balance at 12/31/2021	Additions	Deletions	Balance at 12/31/2022
Transmission Plant	\$ 26,181,100	\$ 11,330,623	\$ (3,583)	\$ 37,508,140
Distribution Plant	86,151,310	6,949,471	(1,632,624)	91,468,157
General Plant	14,400,421	1,326,659	-	15,727,080
Under construction	9,304,884	11,818,538	(12,440,480)	8,682,942
Subtotal	136,037,715	31,425,291	(14,076,687)	153,386,319
Accumulated depreciation	(41,581,495)	(3,518,263)	578,656	(44,521,102)
Net Utility Plant Assets	\$ 94,456,220	\$ 27,907,028	\$ (13,498,031)	\$ 108,865,218

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

4. INVESTMENTS IN ASSOCIATED ORGANIZATIONS

To join NRUCFC and establish eligibility to borrow, the District has executed an irrevocable agreement to subscribe for subscription certificates and loan certificates. The subscription certificates mature in 2085 and bear interest at 3% for the first twelve years, 4% thereafter. The loan certificates have no yield and mature and will be returned when the loans are paid off. The member capital securities yield 5% and have various maturity dates through 2048.

Investments in associated organizations consists of the following:

	2023	2022
NRUCFC Membership	\$ 1,000	\$ 1,000
NRUCFC Subscription Certificates	143,600	143,600
NRUCFC Loan Certificates	1,040,000	1,040,000
NRUCFC Member Capital Securities	500,000	500,000
CFC Patronage Capital Certificates	1,745,586	1,660,073
SEDC Patronage Capital	150,396	142,274
FREIE Patronage Capital	269,242	259,166
Western Unit Patronage Capital	172,047	40,402
Investment in Cobank	1,000	1,000
Investment in CRC	14,052	14,052
	\$ 4,036,923	\$ 3,801,567

5. CONTRIBUTED CAPITAL

Contributed capital consists of contributions-in-aid to construction from customers. Contributed capital is amortized over the same estimated useful lives of the utility plant constructed with the contributed capital. Depreciation expense is reduced by the amount of contributed capital. The amount of contributed capital amortized during 2023 and 2022 was \$768,454 and \$769,239.

Utility plant in service constructed by the use of contributed capital and related accumulated amortization are summarized as follows:

	As of 12/31/2023	As of 12/31/2022
Contributed Amount	\$ 34,822,780	\$ 32,897,824
Accumulated Amortization	(13,886,494)	(13,118,040)
Net	\$ 20,936,286	\$ 19,779,784

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

6. LONG-TERM DEBT

During the years ended December 31, 2023, and 2022, the following changes occurred in the District's long-term debt:

The current portion of voluntary benefits payable is included in accrued expenses on the statement of net assets.

	Balance 12/31/2022	Additions	Retirements	Balance 12/31/2023	Current Portion
NRUCFC Loans Payable	\$ 54,400,406	\$ -	\$ (3,820,956)	\$ 50,579,450	\$ 3,964,403
Voluntary Termination Benefits	87,345	-	(5,026)	82,319	9,900
Total Long-Term Debt	\$ 54,487,751	\$ -	\$ (3,825,982)	\$ 50,661,769	\$ 3,974,303

	Balance 12/31/2021	Additions	Retirements	Balance 12/31/2022	Current Portion
NRUCFC Loans Payable	\$ 31,907,550	\$ 26,000,000	\$ (3,507,144)	\$ 54,400,406	\$ 3,820,956
Voluntary Termination Benefits	234,853	-	(147,508)	87,345	14,386
Total Long-Term Debt	\$ 32,142,403	\$ 26,000,000	\$ (3,654,652)	\$ 54,487,751	\$ 3,835,342

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

	<u>2023</u>	<u>2022</u>
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 2.28%, maturing September 30, 2028.	\$ 1,318,264	\$ 1,578,111
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 2.28%, maturing September 30, 2028.	1,318,264	1,578,111
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 2.28%, maturing September 30, 2028.	1,855,547	2,221,300
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 4.90%, maturing September 30, 2028.	1,861,696	2,201,695
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 2.41%, maturing September 30, 2028.	1,652,780	1,977,339
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 3.71%, maturing September 30, 2028.	1,637,593	1,947,241
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 5.05%, maturing September 30, 2028.	1,723,548	2,036,938
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 4.10%, maturing September 30, 2028.	1,750,353	2,077,579
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 4.60%	12,700,825	13,276,777
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 4.60%	41,704	43,595
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 3.98%	16,267,249	16,692,172
Loan payable to National Rural Utilities Cooperative Finance Corporation, due in quarterly installments bearing interest at 3.91%	8,451,626	8,769,547
Total long term debt	<u>50,579,449</u>	<u>54,400,405</u>
Less amounts due within one year	(3,964,403)	(3,820,956)
Long term debt, net of current portion	<u>\$ 46,615,046</u>	<u>\$ 50,579,449</u>

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

On December 29, 2003, the District borrowed \$59,000,000, from National Rural Utilities Cooperative Finance Corporation (NRUCFC) in the form of nine separate notes ranging from \$5,000,000 to \$7,000,000. The notes are payable quarterly with interest ranging from 3.25% to 5.95%. The notes were originally scheduled to mature on September 30, 2020. During 2009 the maturity dates of the notes were extended to 2028. Under the terms of the NRUCFC notes, all assets of the District are pledged as security. Proceeds from these notes were used to retire outstanding Special Obligation Bonds and a legal settlement.

On January 20, 2022, the District borrowed \$26,000,000, from National Rural Utilities Cooperative Finance Corporation (NRUCFC) in the form of two separate notes totaling \$17,000,000 and \$9,000,000 respectively. These notes are payable quarterly with interest ranging from 3.91% to 3.98%. These two notes are scheduled to mature on December 31, 2041. Under the terms of the NRUCFC notes, all assets of the District are pledged as security. Proceeds from these notes were used for the 10-year reliability plan. This plan includes projects such as the transmission line from Tortoise to Gila, the completion of the Gila substation and Falcon substation, as well as the ring buss to facilitate connecting the second transmission line from Nevada Energy to the Tortoise substation.

The District obtained a perpetual line of credit from NRUCFC in the amount of \$5,000,000. The line of credit currently bears interest at the prime rate plus 1% and renews each year for another twelve months unless either party terminates the agreement by providing written notice. The outstanding balance at December 31, 2023 and 2022 was \$-0- and \$-0- respectively.

To join NRUCFC and establish eligibility to borrow, the District has executed an irrevocable agreement to subscribe for subscription certificates and loan certificates. See Note 4.

Maturities of long-term debt are as follows:

Year Ended	2023		Year Ended	2022	
	Principal	Interest		Principal	Interest
2024	\$ 3,964,403	\$ 1,962,401	2023	\$ 3,820,956	\$ 2,105,849
2025	4,113,652	1,813,152	2024	3,964,403	1,962,401
2026	4,268,951	1,657,854	2025	4,113,652	1,813,152
2027	4,430,558	1,496,246	2026	4,268,951	1,657,854
2028	3,847,083	1,327,988	2027	4,430,558	1,496,246
2029-2033	9,268,961	5,330,413	2028-2032	11,102,556	5,752,014
2034-2038	11,448,022	3,151,350	2033-2037	10,974,423	3,624,952
Thereafter	9,237,820	1,394,586	Thereafter	11,724,906	1,827,372
Totals	\$ 50,579,450	\$ 18,133,991	Totals	\$ 54,400,405	\$ 20,239,840

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

Based on the borrowing rates currently available to the District for loans with similar term and average maturities, the fair value of long-term debt is approximately \$50,579,450 and \$54,400,405 at December 31, 2023 and 2022 respectively.

7. DEFERRED CREDITS

Deferred credits consist of customer advances for construction which will be transferred to contributed capital when the construction is completed.

8. PENSION PLANS AND RETIREMENT BENEFITS

Plan Description. The District contributes to the Public Employees Retirement System of the State of Nevada (PERS) which is a multiple-employer, defined benefit plan administered by the Public Employees Retirement System of the State of Nevada. PERS provides retirement benefits, disability benefits, and death benefits, including annual cost of living adjustments, to public employees of the State of Nevada and participating entities. Chapter 286 of the Nevada Revised Statutes establishes the benefit provisions provided to the participants of PERS. These benefit provisions may only be amended through legislation. The System issues a publicly available financial report. That report may be obtained by writing to the Public Employees Retirement System of the State of Nevada, 693 West Nye Lane, Carson City, Nevada 89703-1599.

Benefits Provided. Benefits, as required by the Nevada Revised Statutes (NRS or statute), are determined by the number of years of accredited service at the time of retirement and the member's highest average compensation in any 36 consecutive months with special provisions for members entering the System on or after January 2010. Benefit payments to which participants of their beneficiaries may be entitled under the plan included pension benefits, disability benefits, and survivor benefits. Monthly benefit allowances for members are computed as 2.5% of average compensation for each accredited year of service prior to July 1, 2001. For service earned on and after July 1, 2001, this multiplier is 2.67% of average compensation. For members entering the System on or after January 1, 2010, there is a 2.5% multiplier. The System offers several alternatives to the unmodified service retirement allowance which, in general, allow the retired employee to accept reduced service retirement allowance payable monthly during his or her lifetime and various optional monthly payments to a named beneficiary after his or her death. Post-retirement increases are provided by authority of NRS 286.575-.579.

Vesting. Regular members are eligible for retirement at age 65 with five years of service, at 60 with 10 years of service, or at any age with 30 years of service. Regular members entering the System on or after January 1, 2010, are eligible for retirement at age 65 with five years of service, at age 62 with 10 years of service, or any age with thirty years of service.

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

Police/Fire members are eligible for retirement at age 65 with five years of service, at age 55 with ten years of service, at age 50 with twenty years of service, or at any age with twenty-five years of service. Police/Fire members entering the System on or after January 1, 2010, are eligible are eligible for retirement at 65 with five years of service, or age 60 with ten years of service, or age 50 with twenty years of service, or at any age with thirty years of service. Only service performed in a position as a police officer or firefighter may be counted towards eligibility for retirement as Police/Fire accredited service.

The normal ceiling limitation on monthly benefits allowances is 75% of average compensation. However, a member who has an effective date of membership before July 1, 1985, is entitled to a benefit of up to 90% of average compensation. Both Regular and Police/Fire members become fully vested as to benefits upon completion of five years of service.

Funding Policy. Benefits for plan members are funded under the employer pay method. Under the employer pay contribution plan, the District is required to contribute all amounts due under the plan. PERS receives an actuarial valuation on an annual basis indicating the contribution rates required to fund the System on an actuarial reserve basis. Contributions made are in accordance with the required rates established by the Nevada Legislature. These statutory rates are increased/decreased pursuant to NRS 286.421 and 286.450. The payroll for employees covered by PERS for the years ended December 31, 2023, and 2022 were \$5,192,316 and \$4,645,243 respectively.

The District’s contribution rates and amounts contributed for the last three years are as follows:

Year	Contribution Rate	Total
	Regular Members	Contributions
2023	29.75% - 33.50%	\$ 1,628,342
2022	29.75%	\$ 1,381,957
2021	29.25% - 29.75%	\$ 1,325,352

The actuary funding method used is the Entry Age Normal Cost Method. It is intended to meet the funding objective and result in a relatively level long-term contribution requirement as a percentage of salary.

Pension Liabilities, Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions. At December 31, 2023, the District reported a liability of \$11,100,864, for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2022, and the total pension liability used to calculate the net position liability was determined by an actuarial valuation as of that date. The District’s allocation percentage of the net pension liability was based on the total contributions due on wages paid during the measurement period. Each employer’s proportion of the net pension liability is based on their combined employer and member contributions relative to the total combined employer and member contributions for all employers for the period ended June 30, 2023. At June 30, 2023, the District’s proportion was 0.06148 percent.

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

For the year ended December 31, 2023, the District recognized pension expense of \$1,628,342. At December 31, 2023, the District reported deferred outflows of resources and deferred inflows of resources related to pension from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual results	\$ 1,437,379	\$ 7,930
Changes in assumptions	1,425,983	
Net difference between projected and actual earnings on pension plan investments	135,437	-
Changes in proportion and differences between District contributions and proportional share of contributions	286,549	101,505
District contributions subsequent to measurement date	2,327,642	-
Total	\$ 5,612,990	\$ 109,435

\$2,327,642 was reported as deferred outflows of resources related to pensions resulting from District contributions subsequent to the measurement date will be recognized as a reduction of the net position liability in the year ended December 31, 2023. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pension will be recognized in pension expense as follows:

Year ended December 31:	
2024	\$ 487,182
2025	462,366
2026	412,816
2027	1,597,289
2028	216,260
	\$ 3,175,913

Actuarial Assumptions. The System's net pension liability was measured as of June 30, 2022, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The total pension liability was determined using the following actuarial assumptions, applied to all periods included in the measurement:

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

Inflation rate	2.50%
Investment rate of return	7.25%
Productivity pay increase	0.50%
Projected salary increases	Regular: 4.20% to 9.10%, depending on service. Police/Fire: 4.60% to 14.50%, depending on service Rates include inflation and productivity increases
Other assumptions	Same as those used in the June 30, 2022 funding actuarial valuation.

Actuarial assumptions used in the June 30, 2021, valuation were based on the results of the experience study for the period July 1, 2016 through June 30, 2020.

The System’s policies which determine the investment portfolio target asset allocation are established by the Public Employees’ Retirement Board. The asset allocation is reviewed annually and is designed to meet the future risk and return needs to the System.

The following is the Board adopted policy target asset allocation as of June 30, 2022:

Asset Class	Target Allocation	Long-term Geometric Expected Real Rate of Return *
U. S. Stocks	42%	5.50%
International Stocks	18%	5.50%
U.S. Bonds	28%	0.75%
Private Markets	12%	6.65%

*As of June 30, 2022, PERS’ long-term inflation assumption was 2.50%.

Discount Rate. The discount rate used to measure the total pension liability was 7.25% as of June 30, 2022. The projections of cash flows used to determine the discount rate assumed that employee and employer contributions will be made at the rate specified in statute. Based on that assumption, the pension plan’s fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability as of June 30, 2022.

Sensitivity of the District’s proportionate share of the net pension liability to change in the discount rate. The following presents the net pension liability of PERS as of June 30, 2022, calculated using the discount rate of 7.25%, as well as what PERS’ net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (6.25%) or 1-percentage-point higher (8.25%) than the current discount rate:

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

	1.0 % Decrease in Discount Rate (6.25%)	Discount Rate (7.25%)	1.0 % Increase in Discount Rate (8.25%)
District's proportionate share of the net pension liability	17,043,458	11,100,864	6,197,333

Pension Plan Fiduciary Net Position. Detailed information about the pension plan's fiduciary net position is available in the PERS Comprehensive Annual Financial Report, available on the PERS website.

Pension contributions Payable. The District's accrued contributions payable at December 31, 2023 and 2022 were \$136,217 and \$108,932.

9. COMPENSATED ABSENCES

Included in accrued expenses is \$1,161,754 and \$1,084,758 which represents accrued but unpaid vacation and sick pay as of December 31, 2023, and 2022.

10. VOLUNTARY TERMINATION BENEFITS

In 2008 the State of Nevada offered an early retirement incentive to employees who would retire prior to August 31, 2008. The incentive provided health insurance benefits with coverage limited to the retired employee and their spouse (if applicable). The District as a political subdivision of the State of Nevada was obligated to offer the benefits to its qualifying employees. As of August 31, 2008, seven District employees opted to retire and receive the benefit.

In accordance with Statement No. 47 issued by the Governmental Accounting Standards Board, an employer should recognize a liability and expense for the voluntary termination benefits when the employees accept the offer and the amounts can be estimated. Measurement of the liability should be updated with any incremental liability and expense (positive or negative) to be recognized, as of the end of each subsequent reporting period.

The estimated liability for the benefits as of December 31, 2023 and 2022 are as follows:

Voluntary Termination Benefits

Termination benefits payable as of 12/31/22	\$ 87,345
Incremental adjustment for 2023	(5,026)
Termination benefits payable as of 12/31/23	<u>\$ 82,319</u>

OVERTON POWER DISTRICT NO. 5

NOTES TO FINANCIAL STATEMENTS

11. NOTE RECEIVABLE

On July 15, 2022, the District entered into a real estate purchase agreement for a note receivable with the Moapa Valley Water District for the sale of land in the amount of \$475,000. Moapa Valley Water District made a down payment of \$98,500 on July 1, 2022, and financed the remaining \$376,500 with a note receivable with an annual interest rate of 3.9% for a four-year term. Payments will be due annually with the first payment due on July 1, 2023. See payment schedule below for note receivable at December 31, 2023.

Date	Beginning			Ending	
	Balance	Payment	Interest	Principal	Balance
7/1/2024	\$ 287,706	\$ 103,478	\$ 11,221	\$ 92,257	\$ 195,449
7/1/2025	195,449	103,478	7,623	95,855	99,594
7/1/2026	99,594	103,478	3,884	99,594	-
		<u>\$ 310,433</u>	<u>\$ 22,727</u>	<u>\$ 287,706</u>	

12. DATE OF MANAGEMENT'S REVIEW

In preparing the financial statements, the District has evaluated events and transactions for potential recognition or disclosure through March 29, 2024, the date that the financial statements were available to be issued.

OVERTON POWER DISTRICT NO. 5
Schedule of the Proportionate Share of The Net Pension Liability
Public Employees Retirement System of Nevada
Last Seven Fiscal Years

Year Ended June 30	District's proportion of the net pension liability	District's proportional share of the net pension liability	District's covered-employee payroll	District's proportionate share of the net pension liability as a percentage of its covered-employee payroll	Plan fiduciary net position as a percentage of the total pension liability
2017	0.057600%	\$ 7,750,973	\$ 3,786,590	204.695%	72.20%
2018	0.059320%	\$ 7,890,020	\$ 3,876,388	203.541%	74.40%
2019	0.058190%	\$ 7,935,370	\$ 4,244,385	186.962%	75.24%
2020	0.058550%	\$ 7,983,857	\$ 4,478,820	178.258%	77.04%
2021	0.062040%	\$ 8,641,211	\$ 4,498,484	192.092%	77.04%
2022	0.062180%	\$ 5,670,214	\$ 4,645,243	122.065%	86.51%
2023	0.061480%	\$ 11,100,864	\$ 5,192,316	213.794%	75.12%

Schedule of Contributions
Public Employees Retirement System of Nevada
Last Seven Fiscal Years

Year Ended June 30	Contractually Determined Contributions	Contributions in Relation to the Actuarially Determined Contributions	Contribution Deficiency (Excess)	Covered Employee Payroll	Contributions as a Percentage of Covered Employee Payroll
2017	\$ 1,060,243	\$ 1,060,243	\$ -	\$ 3,786,590	28.00%
2018	\$ 1,085,386	\$ 1,085,386	\$ -	\$ 3,876,388	28.00%
2019	\$ 1,211,376	\$ 1,211,376	\$ -	\$ 4,244,385	28.54%
2020	\$ 1,310,052	\$ 1,310,052	\$ -	\$ 4,478,820	29.25%
2021	\$ 1,325,352	\$ 1,325,352	\$ -	\$ 4,498,484	29.46%
2022	\$ 1,381,957	\$ 1,381,957	\$ -	\$ 4,645,243	29.75%
2023	\$ 1,628,342	\$ 1,628,342	\$ -	\$ 5,192,316	31.36%

The pension schedules in the required supplementary information are intended to show information for ten years, and additional information will be displayed as it becomes available.

Certified Public Accountants
90 E 200 N
St. George, UT 84770
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INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Board of Directors
Overton Power District No. 5
Overton, NV

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements which collectively comprise the basic financial statements of Overton Power District No. 5 (the District), as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated March 29, 2024.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the District's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements, on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

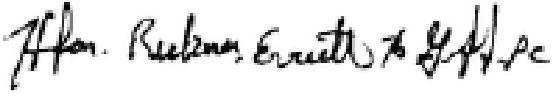
Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Hafen, Buckner, Everett, & Graff, PC
St. George, Utah
March 29, 2024

DRAFT



BOARD OF TRUSTEE'S MEETING
April 17, 2024
ACTION ITEM – I

SUBJECT: Review and Possible Approval of a New Purchase Power Agreement
PETITIONER: Staff
RECOMMENDATIONS: Approval

FISCAL IMPACT:

BACKGROUND:

OPD5 currently has a purchase power agreement (PPA) with Morgan Stanley Commodities Group (MSCG). The PPA started in June 2016 and the term of the PPA ends January 1, 2025.

MSCG provides a firm load following power resource, firm transmission service, load forecasting, coordination with the Western Area Power Administration for hydropower resources, and schedules delivery of power resources from across the western power grid.

Over the past 12 months, staff worked with MSCG and other power providers regarding a new PPA starting on January 1, 2025. These discussions and negotiations led staff to Tenaska Power Services (TPS).

TPS provided the best pricing and has a history of working with Nevada customers, including the Colorado River Commission of Nevada, and provides services that OPD5 needs in the energy marketplace.

After analyzing the pricing and information, staff suggests that OPD sign a three-year PPA with TPS to provide power supply, forecasting, scheduling, and other services to OPD5 for the years 2025 through 2027.

Motion:

**To Approve a New Purchase Power Agreement with _____
for a three-year term as presented.**

DRAFT

Master Power Purchase & Sale Agreement



Version 2.1 (modified 4/25/00)
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MASTER POWER PURCHASE AND SALES AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____ (“Effective Date”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “Agreement.” The Parties to this *Master Agreement* are the following:

Name (“_____” or “Party A”)

Name (“Counterparty” or “Party B”)

All Notices:

All Notices:

Street: _____

Street: _____

City: _____ Zip: _____

City: _____ Zip: _____

Attn: Contract Administration

Attn: Contract Administration

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Duns: _____

Duns: _____

Federal Tax ID Number: _____

Federal Tax ID Number: _____

Invoices:

Invoices:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Scheduling:

Scheduling:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Payments:

Payments:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Wire Transfer:

Wire Transfer:

BNK: _____

BNK: _____

ABA: _____

ABA: _____

ACCT: _____

ACCT: _____

Credit and Collections:

Credit and Collections:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff _____ Dated _____ Docket Number _____

Party B Tariff Tariff _____ Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies

- Cross Default for Party A:
 - Party A: _____ Cross Default Amount \$ _____
 - Other Entity: _____ Cross Default Amount \$ _____
- Cross Default for Party B:
 - Party B: _____ Cross Default Amount \$ _____
 - Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

- Option A (Applicable if no other selection is made.)
 - Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____
 - Option C (No Setoff)
-

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

- (a) Financial Information:
 - Option A
 - Option B Specify: _____
 - Option C Specify: _____
- (b) Credit Assurances:
 - Not Applicable
 - Applicable
- (c) Collateral Threshold:
 - Not Applicable
 - Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

- Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____
Guarantee Amount: _____

Article 10

Confidentiality

Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: _____

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A Name

By: _____

Name: _____

Title: _____

Party B Name

By: _____

Name: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Agreement” has the meaning set forth in the Cover Sheet.

1.3 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 “Buyer” means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 “Call Option” means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 “Claiming Party” has the meaning set forth in Section 3.3.

1.8 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 “Confirmation” has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically

to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

- 1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.
- 1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.
- 1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.
- 1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.
- 1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option , as defined in Schedule P.
- 1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.
- 1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.
- 1.39 “Party A Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party A.
- 1.40 “Party B Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party B.
- 1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.
- 1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.
- 1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.
- 1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.
- 1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.
- 1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.
- 1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 “Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 “Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 “Terminated Transaction” has the meaning set forth in Section 5.2.

1.59 “Termination Payment” has the meaning set forth in Section 5.3.

1.60 “Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), , the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing

which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties' agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services

with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer’s failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller’s failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

- (iii) a Guarantor becomes Bankrupt;
- (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
- (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written

explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month,

each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR

OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral

Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) (“Party A Performance Assurance”), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A’s Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding

Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be

made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party’s employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in

respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

DRAFT

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an

amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider

and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

“Native Load” means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

“Non-Firm” means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

“System Firm” means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the “System”) with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller’s failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer’s failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system’s, or the control area’s, or reliability council’s reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller’s performance. Buyer’s failure to receive shall be excused (i) by Force Majeure; (ii) by Seller’s failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer’s performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller

or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Article 1.23 to the contrary.

“Unit Firm” means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller’s failure to deliver under a “Unit Firm” Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer’s failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER

This confirmation letter shall confirm the Transaction agreed to on _____, _____
between _____ (“Party A”) and _____ (“Party B”)
regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

Into _____, Seller’s Daily Choice

Firm (LD)

Firm (No Force Majeure)

System Firm

(Specify System: _____)

Unit Firm

(Specify Unit(s): _____)

Other _____

Transmission Contingency (If not marked, no transmission contingency)

FT-Contract Path Contingency Seller Buyer

FT-Delivery Point Contingency Seller Buyer

Transmission Contingent Seller Buyer

Other transmission contingency

(Specify: _____)

Contract Quantity: _____

Delivery Point: _____

Contract Price: _____

Energy Price: _____

Other Charges: _____

Confirmation Letter
Page 2

Delivery Period: _____
Special Conditions: _____
Scheduling: _____
Option Buyer: _____
Option Seller: _____
Type of Option: _____
Strike Price: _____
Premium: _____
Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]

[Party B]

Name: _____

Name: _____

Title: _____

Title: _____

Phone No: _____

Phone No: _____

Fax: _____

Fax: _____

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____ (“*Effective Date*”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “*Agreement*.” The Parties to this *Master Agreement* are the following:

Party A: TENASKA POWER SERVICES CO.

Party B: OVERTON POWER DISTRICT NO. 5

All Notices:

300 E. John Carpenter Frwy, Suite 1100
Irving, TX 75062

Attn: Contract Administration
Phone: (817) 303-1860
Email: TPSContractAdmins@tnsk.com
Duns Number: 01-501-6913
Federal Tax ID Number: 47-0824081

All Notices:

Attn:
Phone:
Email:
Duns:
Federal Tax ID Number:

(The above is the Tax ID for Tenaska Energy, Inc., the parent company of Party A. Party A is a disregarded entity for federal tax purposes.)

Invoices:

Attn: Accounts Payable
Phone: (817) 462-1521
Email: tps-accounting@tnsk.com

Invoices:

Attn:
Phone:
Email:

Real Time Trading:

Phone: (817) 462-1528

Real Time Trading:

Phone:

Confirmations:

Attn: Confirms
Phone: (817) 303-3609
Email: confirms@tnsk.com

Confirmations:

Attn:
Phone:
Email:

Payments:

Attn: Accounts Receivable
14302 FNB Parkway
Omaha, NE 68154
Phone: (402) 938-1621

Payments:

Attn:
Phone:

ACH/Wire Transfer:

Bank: US Bank, Omaha, NE
ABA No: 042000013
Account No: 130111671306
Account Name: Tenaska Power Services Co.

ACH/Wire Transfer:

Bank:
ABA No:
Account No:
Account Name:

Credit and Collections:

Attn: Credit Department
Phone: (817) 303-1113
Email: credit@tnsk.com

Credit and Collections:

Attn:
Phone:
Email:

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: Associate General Counsel
Phone: (817) 462-8053
Email: eodnotices@tnsk.com

With additional Notices of an Event of Default or Potential Event of Default to:
Attn:
Phone:
Email:

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff: FERC Market Based Rate Tariff, Dated 5/26/94, as amended, Docket No. ER10-1632-000

Party B Tariff:

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:
 Party A: Cross Default Amount: \$

Other Entity: Tenaska Energy, Inc. and Tenaska Energy Holdings, LLC Cross Default Amount \$100,000,000

Cross Default for Party B:

Party B: Overton Power District No. 5 Cross Default Amount: \$50,000,000

Other Entity: (If applicable) Cross Default Amount: \$

5.6 Closeout Setoff

Option A (Applicable if no other selection is made.)

Option B - Affiliates shall have the meaning set forth in the Master Agreement unless otherwise specified as follows:

Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: **(Specify Guarantor)**
- Option C Specify:

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party B Collateral Threshold: If applicable, the provisions of Section 8.1(c) shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

- Not Applicable
- Applicable

- It shall be a Downgrade Event for Party B if Party B's **(or Party B's Guarantor's)** Credit Rating falls below BBB- from S&P or Baa3 from Moody's or if Party B is not rated by either S&P or Moody's

- Other (Specify):

(e) Guarantor for Party B: N/A

Guaranty Amount: N/A

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: Tenaska Energy, Inc. and Tenaska Energy Holdings, LLC
- Option C Specify:

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: If applicable, the provisions of Section 8.2(c) shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

Not Applicable

Applicable

It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below BBB- from S&P or Baa3 from Moody's or if Party A is not rated by either S&P or Moody's

Other (Specify):

(e) Guarantor for Party A: Tenaska Energy, Inc. and Tenaska Energy Holdings, LLC

Guaranty Amount: As agreed upon by the Parties

Article 10

Confidentiality

Confidentiality Applicable

If not checked, inapplicable.

Schedule M

Party A is a Governmental Entity or Public Power System

Party B is a Governmental Entity or Public Power System

Add Section 3.6. If not checked, inapplicable

Add Section 8.4. If not checked, inapplicable

Other Changes

Specify, if any:

Article One

Section 1.47 is amended by adding the following phrase at the end thereof:

“; *provided, however,* such Products must be capable of being purchased and resold under Party A's market based rate authority.”

Section 1.53 is amended by (i) deleting the phrase “at the Delivery Point” from the second line, and (ii) inserting a new sentence after the first sentence as follows: “If the Seller is unable after using commercially reasonable efforts to resell all or a portion of the Product not received by Buyer, the Sales Price with respect to such unsold portion Product shall be deemed equal to zero (0)”.

Article Two

Section 2.2 is amended by adding the following paragraphs:

“The Parties agree to adhere to all NERC standards and the operating procedures, market rules, protocols, and product definitions of the applicable Independent System Operator (“ISO”) or Regional Transmission Organization (“RTO”), as promulgated from time to time by such organizations or their successors when transacting within such ISO/RTO, and agree that all terms and conditions of such governing ISO/RTO rules or agreements shall apply to all Transactions under this Master Agreement. For such Transactions, any fees, penalties or charges assessed due to

inaccurate or improper scheduling shall be borne by the Party causing such fees, penalties, or charges to be assessed.”

Section 2.3 is amended by replacing the word “facsimile” with the word “email” in the second line.

Section 2.4 is amended to delete the phrase “either orally or” from the seventh line thereof.

Section 2.5 is amended by (i) adding the phrase “or electronic communication” after “telephone conversation” in the second line, and (ii) adding the phrase “and electronic communications” after “telephone conversations” in the third line.

Article Five

Section 5.4 is amended by adding the following language to the end of this Section:

“Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party shall not be required to pay to the Defaulting Party an amount under Article Five until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise have been fully and finally performed.”

Article Seven

Section 7.1 is amended by (i) adding the word “SPECIAL,” after the word “CONSEQUENTIAL”, (ii) adding the phrase “, LOST OPPORTUNITY” after the phrase “LOST PROFITS” in the fifth sentence, and (iii) adding the following sentence at the end of this section: “THE LIMITATIONS ON DAMAGES, INCLUDING CONSEQUENTIAL DAMAGES, PROVIDED BY THIS SECTION 7.1 SHALL SURVIVE THE TERMINATION OF THIS MASTER AGREEMENT.”

Article Eight

Section 8.2(a) Option B is amended by (i) deleting the phrase “report containing” each time it appears in the first sentence; and (ii) adding the following phrase to the end of the first sentence: “, subject to a confidentiality agreement being in full force and effect”.

Article Ten

Section 10.2 is amended by deleting the word “and” at the end of (xi) and adding the following new paragraphs at the end of this Section:

“(xiii) it is an “eligible commercial entity” as defined in Section 1a(17) of the Commodity Exchange Act, as amended (the “Act”), or an “eligible contract participant” as defined in Section 1a(18) of the Act; and

(xiv) the person signing this Master Agreement is duly authorized to execute and deliver this Master Agreement on its behalf.”

Section 10.4 is amended by changing the heading to read “Indemnity; Expenses” and by adding the following new language at the end of this Section:

“If either Party brings a legal action to enforce its rights under this Agreement or seeks enforcement under the terms of any Performance Assurance or guaranty provided by the other Party, the prevailing Party shall be entitled to reimbursement from the other Party of reasonable attorneys’ fees and litigation costs and expenses, including witness fees of any kind, in an amount to be determined by the court or by agreement of the Parties.”

Section 10.5 is amended by deleting the words from the beginning of clause (ii) through the words prior to “provided, however” and replacing them with the following: “(ii) transfer or assign this Agreement to an Affiliate of such Party so long as such Affiliate’s creditworthiness is equal to or higher than that of such Party or the Guarantor, if any, for such Party, or the obligations of such Affiliate are guaranteed by such Party or its Guarantor, if any, in accordance with a guaranty agreement in form and substance satisfactory to the other Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party whose creditworthiness is equal to or higher than that of such Party or its Guarantor, if any;”.

Section 10.6 is amended by (i) deleting the period and adding the following language to the end of the first sentence: “WHICH WOULD APPLY THE LAWS OF ANOTHER JURISDICTION”; and (ii) adding the following new paragraphs to the end of this Section 10.6:

(A) Absent the agreement of all parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) and *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010) (the “Mobile-Sierra” doctrine).

(B) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the parties, it being the express intent of the parties that, to the fullest extent permitted by applicable law, neither party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then

this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (a).”

(C) With respect to Power Transactions in ERCOT, absent the agreement of all parties to the proposed change, the standard of review for changes to any portion of this Agreement or any Transaction entered into hereunder proposed by a party, a non-party, or the Public Utility Commission of Texas acting *sua sponte*, shall be the “public interest” standard of review set forth in *High Plains Natural Gas Co. v. Railroad Commission*, 467 S.W.2d 532 (Tex. Civ. App. - Austin 1971, *writ ref’d n.r.e.*) (the “High Plains” doctrine).

Section 10.7 shall be deleted in its entirety and replaced with the following:

“Notices. Any notice or other communication in respect of this Agreement may be given in any manner described below (except that a notice or other communication under Section 5 may not be given by electronic messaging system or e-mail:

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
- (iv) if sent by electronic messaging system, on the date it is received; or
- (v) if sent by e-mail, on the date it is delivered, unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Business Day, in which case that communication will be deemed given and effective on the first following day that is a Business Day.

Section 10.10 is replaced in its entirety with the following paragraphs:

“10.10 Bankruptcy. Without limiting the applicability of any of the provisions of the United States Bankruptcy Code, as amended (the “Bankruptcy Code”) (including, without limitation, Sections 362, 546, 553, 556, 560, 561 and 562 thereof and the applicable definitions in Section 101 thereof), the Parties intend that (i) all Transactions under this Agreement constitute “forward contracts” or “swap agreements” within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute “settlement payments” within the meaning of the Bankruptcy Code; (iii) all margin or collateral provided by one Party to the other Party under any margin, collateral, security or similar arrangement related to this Agreement, including but not limited to the Collateral Annex, constitute “margin payments” within the meaning of the Bankruptcy Code; (iv) this Agreement constitutes a “master netting agreement” within the meaning of the Bankruptcy Code; (v) each Party is a “forward contract merchant” or “swap participant” each within the meaning of the Bankruptcy Code with respect to any Transactions that constitute “forward contracts” or “swap agreements”, respectively; and (vi) each Party’s rights under Section 5.2 “Declaration of an Early Termination Date and Calculation of Settlement Amounts” of this Agreement constitutes a “contractual right to liquidate” the Transactions within the meaning of the Bankruptcy Code.

Each Party further agrees that, for purposes of this Agreement, the other Party is not a “utility” as such term is used in 11 U.S.C. Section 366, and each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein such party is a debtor. In any such proceeding, each party further waives the right to assert that the other Party is a provider of last resort.

Nothing herein shall be deemed to limit, exclude or otherwise impair any Party’s rights under the Bankruptcy Code as relating to forward contracts, forward agreements, master netting agreements, or swap agreements. This Agreement, including the representations and acknowledgements made hereunder, shall be binding upon and inure to the benefit of the Parties and any successors, assigns, and personal representatives of the Parties.

Section 10.11 is amended by adding the word “auditors,” after the word “counsel” in the first sentence.

Article Ten is amended by adding the following new paragraph:

“10.12 Imaged Agreement. Any original executed Agreement, Confirmation or other related document may be photocopied and stored on computer tapes and disks (the “Imaged Agreement”). In any judicial, arbitration, mediation or administrative proceedings, each of the following will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form: (a) the Imaged Agreement, if introduced as evidence on paper, (b) the Confirmation, if introduced as evidence in printed format, (c) the Recording, if introduced as evidence in its original form and as transcribed onto paper, and (d) all computer records of the foregoing, if introduced as evidence in printed format. Neither party may object to the admissibility of the Recording, the Confirmation or the Imaged Agreement (or photocopies of the above) on the basis that such were not originated or maintained in documentary form under either the hearsay rule, the best evidence rule or any other rule of evidence.”

Other Products and Service Levels.

If the Parties agree to a service level/product defined by reference to a different agreement, tariff, set of rules or protocols (herein “agreement”) (e.g., the WSPP Agreement, the PJM Operating Agreement, the ERCOT Protocols, etc.) for a particular Transaction, then, unless the Parties expressly state and agree that all the terms and conditions of such other agreement will apply, such reference to a service level/product shall be as defined by such other agreement, including if applicable, the regional reliability requirements and guidelines as well as the specific excuses for performance, Force Majeure, Uncontrollable Forces, or other such excuses applicable to such other agreement, to the extent inconsistent with the terms of this Agreement, but all other terms and conditions of this Agreement remain applicable.”

Additional Definitions. In addition to any definitions specified in Schedule P, the Parties agree that the following definitions shall apply:

“WSPP Agreement” means the WSPP Agreement published by WSPP, Inc., as amended from time to time.

“WSPPA-Economy” means with respect to a Power Transaction, a Product defined by the WSPP Agreement in Service Schedule A as Economy Energy Service.

“WSPPB-Unit Commitment” means with respect to a Power Transaction, a Product defined by the WSPP Agreement in Service Schedule B as Unit Commitment Service.

“WSPPC-Firm” means with respect to a Power Transaction, a Product defined by the WSPP Agreement in Service Schedule C as Firm Capacity/Energy Sale or Exchange Service.

Renewable Energy Certificates.

The Renewable Energy Certificates Annex to the EEI Master Agreement, Version 1.0, dated November 4, 2010 (“the EEI RECs Annex”), is hereby incorporated into, and supplements, the Master Agreement; provided, however, that the following modifications and elections shall be applicable to the “Paragraph 8 Renewable Energy Certificate Elections Cover Sheet” thereto:

Notices and Payments.

The addresses and contacts for notices, invoices, confirmations, payments, and wire transfer applicable to the EEI RECs Annex are as set forth on the EEI Master Agreement Cover Sheet, unless otherwise set forth herein.

Additional elections for EEI Master Agreement Section 2.1 Transactions

Outstanding RECs Transactions. This EEI RECs Annex applies to the following pre-existing RECs Transactions:

- Option A: All RECs Transactions outstanding between the parties as of the Effective Date of this EEI RECs Annex. – If no options are selected, Option A applies.
- Option B: The RECs Transactions listed in Schedule 1 to this EEI RECs Annex only.
- Option C: None of the RECs Transactions between the Parties that were executed prior to the Effective Date of this EEI RECs Annex.

Applicability of Articles 8.1, 8.2, and if applicable, the Collateral Annex.

- Option A: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, apply to all RECs Transactions. – If no options are selected, Option A applies.
- Option B: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, do not apply to any RECs Transactions.
- Option C: Articles 8.1, 8.2 and, if applicable, the Collateral Annex, apply to all RECs Transactions except those RECs Transactions set forth in Schedule 2 as amended from time to time.

Elections for Paragraph 3.5 (Payment Netting).

- Option A: (Payment Netting). If neither Option A nor Option B is checked, Option A applies.
- Option B: (No Payment Netting).

Other Changes. Specify, if any: None.

Miscellaneous

Errata. The Parties agree to incorporate the Errata, Version 1.1 as published by EEI on July 18, 2007.

Nodal Amendment. The Parties agree to adopt the Amendment to the Master Power and Purchase Agreement Relating to the Scheduling of Firm (LD) and Firm (No Force Majeure) Transactions in ERCOT’s Texas Nodal Market, Version 2.0, as published by Edison Electric Institute, effective November 19, 2010, as amended from time to time.

Tax Status. Party A represents that it is corporation validly existing under the laws of the State of Nebraska and is a Qualified Subchapter S Subsidiary (“QSSS”) of Tenaska Energy, Inc. disregarded for U.S. tax purposes. Party A’s sole owner for U.S. tax purposes, Tenaska Energy, Inc., is an S corporation organized under the laws of the State of Delaware and its U.S. taxpayer identification number is 47-0824081. Tenaska Energy, Inc. is "exempt" within the meaning of Treasury Regulation sections 1.6041-3(p)(1) and 1.6049-4(c) from information reporting on Form 1099 and backup withholding.

Required Documents. Any forms, documents or certificates reasonably requested by a Party in order to reduce or eliminate any required withholding or deduction with respect to taxes, including but not limited to, a Sales Tax Exemption Certificate and W-9, will be provided to the other Party upon execution of this Master Agreement.

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

TENASKA POWER SERVICES CO.

OVERTON POWER DISTRICT NO. 5

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

Errata

Version 1.1 – July 18, 2007

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COPYRIGHT OWNERS IS REQUESTED.

Errata

The language set forth below may be appropriate for inclusion in the Cover Sheet to the Master Power Purchase and Sale Agreement as “Other Changes”.

Other Changes

The Master Agreement is hereby amended as follows:

Cover Sheet—Schedule M.

Delete the reference to “Section 8.6” and replace it with “Section 8.4”.

Section 1.12—“Credit Rating”.

Delete the word “issues” and replace it with “issuer”.

Section 1.50—“Recording”.

Delete the reference to “Section 2.4” and replace it with “Section 2.5”.

Section 5.2—Declaration of an Early Termination Date and Calculation of Settlement Amounts.

Reverse the placement of “(i)” and “to”.

The language set forth below may be appropriate for inclusion in Paragraph 10 to the Collateral Annex to the EEI Master Power Purchase and Sale Agreement as “Other Changes”.

Other Changes

The Collateral Annex is hereby amended as follows:

Introductory Paragraph.

Delete “Paragraph 10 Elections” in the first introductory paragraph and replace it with “Paragraph 10 Cover Sheet”.

Paragraph 1.—Definitions.

Delete “Paragraph 6(a)(iii)” in the definition of “Credit Rating Event” and replace it with “Paragraph 6(a)(ii)”.

Add “a.m.” after “11:00” in the definition of “Notification Time”.

Delete “Paragraph 6(a)(iv)” in the definition of “Performance Assurance” and replace it with “Paragraph 6(a)(iii)”.

Delete “capital and surplus” in the definition of “Qualified Institution” and replace it with “capital surplus”.

Delete “Paragraph 3(b)” in the definition of “Secured Party” and replace it with “Paragraph 3(a)”.

Paragraph 5.—Reduction and Substitution of Performance Assurance.

Delete “before the Notification Time on a Business Day” in Paragraph 5(a) and replace it with “before the Notification Time on a Local Business Day”.

Paragraph 6.—Administration of Performance Assurance.

Delete “to perfect the security interest of the Non-Downgraded Party” in Paragraph 6(a)(ii)(B) and replace it with “to perfect the security interest of the Downgraded Party”.

DRAFT



**EDISON ELECTRIC
INSTITUTE**

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202-508-5000
www.eei.org

Tenaska Power Services Co.
300 E. John Carpenter Frwy, Suite 1100
Irving, Texas 75062
24-Hour 817-462-1528 Fax 817-462-1520

TRANSACTION CONFIRMATION

This Transaction Confirmation (“**Confirmation**”) confirms the terms and conditions of the agreement (“**Transaction**”) reached on the Trade Date between Tenaska Power Services Co. (“**TPS**”) and Overton Power District #5 (“**OPD**”). This Confirmation supplements, forms part of, and is expressly subject to that certain EEI Master Power Purchase and Sale Agreement, including the Cover Sheet and all annexes thereto, dated as of [Date] between TPS and Customer, as amended from time to time (which is incorporated herein for all purposes, and along with this Confirmation is collectively referred to as the “**Master Agreement**”). Capitalized terms used but not otherwise defined herein shall have the meanings given such terms in the Master Agreement or the NVE Agreements, as applicable.

To: Mendis Cooper

Fax No. or Email: Coop@OPD5.com

Trade Date:

Buyer: OPD

Seller: TPS

Master Agreement: EEI Master Power Purchase and Sale Agreement dated as of [Date], 2024] between Seller and Buyer (together with the Collateral Annex thereto, and each attachment, exhibit and schedule, all as may be amended and supplemented from time to time).

Delivery Period: 1/1/2025 through and including 12/31/2027

Product:

- (a) WSPP Schedule C Firm Energy delivered on a load following basis, as described herein.
- (b) No other product (such as capacity or reserves) or service is included in the "Product" hereunder, notwithstanding any Change in Law or change in market practice.
- (c) For greater certainty, it is hereby acknowledged and agreed that any and all ancillary charges, including, but not limited to, any NV Energy (“**NVE**”) imbalance charges, associated with delivery of the Product by Seller to Buyer shall be the sole responsibility of Buyer. For the avoidance of doubt, Buyer shall be solely responsible for any NVE distribution losses associated with the delivery of the Product, and Seller shall have no liability for any such costs or charges. Seller shall use commercially reasonable efforts to manage and minimize real-time imbalance charges allocated to Buyer.

Delivery Point: Seller shall deliver the Product to the Mead 230 kV substation or any unconstrained point in NVE’s system utilizing Buyer’s NVE transmission rights.

The Parties acknowledge and agree that Buyer and NVE previously have entered into that certain Stipulation and Settlement Agreement dated as of February 21, 2019, as

amended (the “**Settlement Agreement**”) whereby Buyer receives certain rights to use NVE transmission services during Transition Period I and Transition Period II (as defined therein), and such transmission rights impact the Delivery Point for Product under this Transaction. Buyer agrees to promptly notify Seller when the Transition Period II will commence, and Seller will use commercially reasonable efforts to assist Buyer in coordinating with NVE to set up the transmission rights available to Buyer during such Transition Period II pursuant to the Settlement Agreement. In addition, Seller shall have the right to reserve transmission rights for Buyer on NVE’s system for purposes of delivering the Product pursuant to this Transaction. For the avoidance of doubt, Buyer shall be solely responsible for all costs and charges associated with purchasing and maintaining transmission rights on NVE’s system.

Contract Quantity:

In each hour during the Delivery Period, the amount of Delivered Energy, which such Delivered Energy shall be as close as commercially reasonable to the Net Delivery Obligation.

Net Delivery Obligation:

(Counterparty Hourly Load – CRC Hourly Allocation – Hourly Solar Forecast Volume) x Seller Load Obligation Percentage; *provided*, that the Net Delivery Obligation shall never be less than zero (0).

Counterparty Hourly Load:

A quantity, in MWh, for each hour during the Delivery Period equal to:

(i) Buyer’s total metered Energy (including existing and new customers and premises service) as reported by telemetry from meter readings by NVE and provided on a real-time basis during any given hour; *multiplied by* (ii) 1.0157 (to account for 1.57% transmission losses);

provided that Counterparty Hourly Load will not include the following:

- (a) any new customers of Buyer resulting from a material expansion of service territory or the acquisition of, or merger with, a new service territory during the Delivery Period; or
- (b) new customers added after the Trade Date if the anticipated peak demand of such new customer will be greater than 1.5 MW (an “**Additional Large Load**”).

For greater certainty, any new load with a peak demand up to 1.5 MW shall be absorbed per the terms of this Transaction.

Colorado River Commission Hourly Allocation:

A quantity, in MWh, for each hour during the Delivery Period equal to the amount delivered by CRC per the terms of the then current agreements in place as between Buyer and CRC for the sale of electric power from the Boulder Canyon Project, the Parker-Davis Project, and the Salt Lake City Area Integrated Projects (collectively, the “**CRC Agreements**”). As of the Trade Date, the CRC Agreements provide for the purchase and sale of a fixed percentage allocation of CRC generation (the “**CRC Hourly Allocation**”) as determined by the CRC in accordance with the CRC Agreements. In addition to the foregoing, upon mutual agreement of the Parties, Buyer may take hydroelectric Energy volumes from CRC (including Western Replacement Firming and Western Replacement Power Energy volumes from Salt Lake

City Area Integrated Projects, or Layoff Energy volumes from the Hoover and/or Parker-Davis Projects) in excess of its contracted volumes provided under the CRC Agreements. Such agreed-upon excess Energy volumes available to Buyer in any hour shall be included in the CRC Hourly Allocation for purposes of this Section. Buyer shall give Seller notice identifying the expected delivery schedule of CRC Hourly Allocation as soon as reasonably practicable upon determination of such CRC Hourly Allocation. Buyer and Seller shall work cooperatively with CRC to optimize Buyer's receipt of the CRC Hourly Allocation.

Hourly Solar Forecast Volume:

A quantity, in MWh, for each hour during the Delivery Period, equal to the forecasted volume of Energy to be delivered by the Solar PPA Counterparty to Buyer pursuant to the Solar PPA, as provided in the solar forecast from Buyer or its Solar PPA Counterparty to Seller no later than one-hundred twenty (120) minutes before the start of the applicable delivery hour, or other deadline that may be updated by mutual agreement of the Parties from time to time to accommodate changes in market/transmission provider scheduling deadlines (the "**Hourly Solar Forecast Volume**").

The parties have entered into this Transaction based on the mutually agreed understanding that Energy deliveries under the Solar PPA will commence on July 1, 2025. Should Energy deliveries under the Solar PPA commence earlier or later than July 1, 2025, the Parties shall work together in good faith to enter into one or more separate, mutually agreed Transaction confirmation(s) under the Master Agreement to memorialize any Energy volumes that TPS might sell to and/or purchase from Buyer to accommodate any early start to, or delay of, Energy deliveries to Buyer under the Solar PPA.

Increase in Load:

Buyer shall provide Seller with notice of Additional Large Load, which is excluded from the Counterparty Hourly Load calculation defined above, as soon as reasonably practicable after becoming aware of such planned addition. If requested by Seller, Buyer shall provide, or otherwise give Seller access to, Buyer's records and supporting data to the extent reasonably necessary for Seller to verify the accuracy of the customer load served by Buyer, including any Additional Large Load.

For any Additional Large Load, the Parties shall work together in a commercially reasonable manner to negotiate and, upon mutual agreement to terms, enter into one or more separate Transaction confirmation(s) under the Master Agreement whereby Seller would supply, and Buyer would purchase, Energy volumes to serve the Additional Large Load. In the event the Parties are unable to reach agreement on such Transaction(s), Buyer shall have the right to obtain supply for such Additional Large Load from a third party.

Reduction in Load:

- (a) Buyer shall provide Seller with notice of a reduction in load as soon as reasonably practicable after becoming aware of any such load reduction.
- (b) Any reduced load with a peak demand up to 1.5 MW shall be absorbed per the terms of this Transaction.
- (c) For any reduction in load with a peak demand greater than 1.5 MW for a duration of one (1) week or longer, the Parties shall work together in a commercially reasonable manner

to negotiate and, upon mutual agreement to terms, enter into one or more separate Transaction confirmation(s) under the Master Agreement for Seller to buy back Energy from Buyer associated with such reduced load at a contract price reasonably determined by Seller.

Prospective Resource:

During the Delivery Period, Buyer may propose to install or acquire one or more generation assets or power purchase agreements to help satisfy its requirements for firm Energy, load following, or renewable portfolio optimization (each such asset or agreement, a “**Prospective Resource**”). Buyer shall notify Seller in writing of Buyer’s desire to install or acquire a Prospective Resource, such notice to be provided no later than six (6) months prior to the introduction of such Prospective Resource as a potential resource to serve the customer load. Such written notification shall include the capacity rating, expected operating characteristics, and environmental attributes of such Prospective Resource and such other information as Seller may reasonably request. No later than twenty (20) Business Days after Seller’s receipt of a Prospective Resource notification, the Parties shall work together in a commercially reasonable manner to negotiate and, upon mutual agreement to terms, enter into one or more separate Transaction confirmation(s) under the Master Agreement for Seller to buy back Energy from Buyer associated with such Prospective Resource(s) at a contract price reasonably determined by Seller.

Seller Load Obligation Percentage:

100%

Contract Price:

\$ /MWh

Thresholds:

- (a) **Obligation.** In addition to the Contract Price, Buyer shall owe Seller the Monthly Settlement Amount, if applicable, for each month of the Delivery Period.
- (b) **Monthly Settlement Amount.** The “**Monthly Settlement Amount**” for each month of the Delivery Period shall be the sum of the Monthly Upper Settlement Amount for such month and the Monthly Lower Settlement Amount for such month, as applicable.
 - (i) The “**Monthly Upper Settlement Amount**” for each month of the Delivery Period shall be the sum of the Monthly On-Peak Upper Settlement Amount for such month and the Monthly Off-Peak Upper Settlement Amount for such month, as provided below:
 - (A) The Monthly On-Peak Upper Settlement Amount shall be paid to Seller if the Delivered Energy provided by Seller during On-Peak Hours for the relevant month exceeds the Monthly On-Peak Upper Threshold for such month set forth in Schedule A. The “**Monthly On-Peak Upper Settlement Amount**” means, with respect to the relevant month, an amount equal to (x) the positive difference, if any, between the Delivered Energy provided by Seller during On-Peak Hours in such month

minus the Monthly On-Peak Upper Threshold for such month; *multiplied by* (y) the positive difference, if any, between 110% of the On-Peak Price applicable to such month *minus* the Contract Price.

(B) The Monthly Off-Peak Upper Settlement Amount shall be paid to Seller if the Delivered Energy provided by Seller during Off-Peak Hours for the relevant month exceeds the Monthly Off-Peak Upper Threshold for such month set forth in Schedule A. The **“Monthly Off-Peak Upper Settlement Amount”** means, with respect to the relevant month, an amount equal to (x) the positive difference, if any, between the Delivered Energy provided by Seller during Off-Peak Hours in such month, *minus* the Monthly Off-Peak Upper Threshold for such month; *multiplied by* (y) the positive difference, if any, between 110% of the Off-Peak Price applicable to such month *minus* the Contract Price.

(ii) The **“Monthly Lower Settlement Amount”** for each month of the Delivery Period shall be the sum of the Monthly On-Peak Lower Settlement Amount for such month and the Monthly Off-Peak Lower Settlement Amount for such month, as provided below:

(A) The Monthly On-Peak Lower Settlement Amount shall be paid to Seller if the Delivered Energy provided by Seller during On-Peak Hours for the relevant month does not exceed the Monthly On-Peak Lower Threshold for such month set forth in Schedule A. The **“Monthly On-Peak Lower Settlement Amount”** means, with respect to the relevant month, an amount equal to (x) the positive difference, if any, between the Monthly On-Peak Lower Threshold for such month *minus* the Delivered Energy provided by Seller during On-Peak Hours in such month; *multiplied by* (y) the positive difference, if any, between the Contract Price and 90% of the On-Peak Price applicable to such month.

(B) The Monthly Off-Peak Lower Settlement Amount shall be paid to Seller if the Delivered Energy provided by Seller during Off-Peak Hours for the relevant month does not exceed the Monthly Off-Peak Lower Threshold for such month set forth in Schedule A. The **“Monthly Off-Peak Lower Settlement Amount”** means, with respect to the relevant

month, an amount equal to (x) the positive difference, if any, between the Monthly Off-Peak Lower Threshold for such month *minus* the Delivered Energy provided by Seller during Off-Peak Hours in such month; *multiplied by* (y) the positive difference between the Contract Price and 90% of the Off-Peak Price applicable to such month.

- (c) The Parties expressly acknowledge and agree that, for purposes of making the above-stated calculations each month of the Delivery Period, the Monthly On-Peak Upper Threshold, the Monthly Off-Peak Upper Threshold, the Monthly On-Peak Lower Threshold, and the Monthly Off-Peak Lower Threshold will vary based on the tables set forth in Schedule A depending on whether the calculation month occurs before Energy deliveries under the Solar PPA have commenced or on and after Energy deliveries under the Solar PPA have commenced (as applicable).

Monthly Settlement:

- (a) For each month of the Delivery Period, Seller shall calculate the amount owed by Buyer under this Transaction by multiplying the Contract Quantity for such Month by the applicable Contract Price, as well as calculating any Monthly Settlement Amounts owed by Buyer to Seller for such month.
- (b) Invoicing, payment, and netting, if applicable, shall be per the terms of Article 6 of the Master Agreement.

NVE Settlement:

- (a) Buyer understands and agrees that, as between NVE and Buyer, Buyer shall be solely responsible for any amounts charged by NVE to Buyer as the NVE transmission customer and as owner of the load asset represented by this Confirmation.
- (b) On a monthly basis, NVE will invoice Buyer for EIM settlements. NVE will charge or credit Buyer for the difference each hour of each day of the Delivery Period between (i) any hourly Energy amounts supplied by Seller to the Delivery Point; and (ii) the hourly load responsibility of Buyer.
- (c) Except as otherwise provided for in this Confirmation, Buyer shall be responsible for, and receive all credits and benefits associated with, all charges, fees, losses, accounts and expenses resulting from or associated with the Counterparty Hourly Load or the actions of Seller as scheduling agent for Buyer pursuant to the Scheduling Agreement, including any changes in the foregoing or new charges, fees, losses, account or expenses instituted by NVE subsequent to the Trade Date. Buyer bears the risk of any other changes in NVE products and pricing during the Delivery Period.

Scheduling:

Pursuant to that certain Scheduling Services Agreement separately entered by Seller and Buyer dated as of [DATE], as amended (the "**Scheduling Agreement**"), Seller acts as Buyer's designated scheduling agent to schedule all Energy purchased and sold pursuant to this Transaction.

Forecasting:

- (a) During the Delivery Period, Buyer will provide Seller with Buyer's annual official, long-term load forecasts as soon as reasonably practicable, and will also provide information reasonably requested by Seller to support Seller's future resource planning. Buyer also shall provide (or shall cause its Solar PPA Counterparty to provide) to Seller solar forecasts setting forth the Hourly Solar Forecast Volume, as and when required pursuant to the "Hourly Solar Forecast Volume" Section of this Confirmation. Notwithstanding anything in the Agreement to the contrary, Buyer expressly acknowledges and agrees that Seller will have the right to utilize a third-party forecasting service in connection with this Transaction and Buyer expressly permits Seller to disclose Buyer's forecasts and related data provided under this Transaction to such third-party forecasting service for use under this Transaction.
- (b) Seller's estimate of the load characteristics of the operating day in question may be based upon any known, preliminary, or historically based information available.
- (c) Buyer will timely provide Seller with all updated CRC Hourly Allocation forecasts and regular updates from the CRC regarding expected future allocations.

Rounding:

Any published futures price or index price used in any calculation hereunder will be rounded to four (4) decimal places.

Termination Calculations:

In the event an Early Termination Date is declared or becomes effective with respect to this Transaction, then for purposes of calculating the Non-Defaulting Party's Losses, Costs and Gains in respect of this Transaction pursuant to the Master Agreement, the Non-Defaulting Party shall calculate the remaining Contract Quantity by reference to the Expected Monthly Volume.

Change in Law:

If, following the Trade Date, there is a Change in Law which either party believes, in its reasonable discretion, (i) materially impairs or otherwise prevents a Party's ability to perform this Transaction, (ii) materially increases a Party's costs or risks of performing this Transaction, (iii) materially decreases the economic benefits obtained by a Party under this Transaction, or (iv) subjects a Party to materially adverse (or potentially materially adverse) regulatory effects, then either Party may notify the other Party of the adverse effect of the Change in Law. In such event, the Parties will work together in good faith to amend this Confirmation to maintain its intended benefits to both Parties. If, after a period sixty (60) days immediately following the effectiveness of the notice of Change in Law sent by a Party, the Parties are unable to amend this Confirmation to maintain its intended benefits to both Parties, either Party may elect to terminate this Confirmation upon ten (10) days' written notice to the other Party. Upon any such termination due to a Change in Law, neither Party shall be liable to the other Party for any damages associated with this Transaction; *provided*, each Party shall remain liable for any payment obligations that accrued under this Transaction prior to such termination.

Limitations on Buyer's Right to Enter Other Transactions:

- (a) In General. Except as expressly provided herein, and provided that Seller performs its obligations hereunder, Buyer shall not purchase, or allow the purchase of any part

of Net Delivery Obligation during the Delivery Period from any third party.

- (b) Exceptions. Without limiting the generality of the foregoing subsection (a), Buyer may, subject to the limitations set forth in this Confirmation, enter into transactions that include:
- (i) Selling Energy, capacity and/or ancillary services to Buyer's customers;
 - (ii) purchasing and/or selling Energy as a result of (x) the payment of imbalance charges or (y) Seller's failure to provide Net Delivery Obligations pursuant to this Confirmation;
 - (iii) a Prospective Resource as contemplated by this Confirmation;
 - (iv) serving Net Delivery Obligation and any Additional Large Load after the expiration of the Delivery Period;
 - (v) entering into financial hedge transactions; and
 - (vi) providing Energy efficient programs to Buyer's customers.

**Additional
Defined Terms:**

In addition to terms defined elsewhere in this Confirmation, the following terms used in this Confirmation shall have the respective meanings set forth below:

"Applicable Laws" means all laws, ordinances, rules, regulations, orders, interpretations, licenses, permits, judgments, decrees, injunctions, writs and orders of any court, arbitrator, or Governmental Authority that are applicable to either or both of the Parties or the terms of this Transaction.

"Change in Law" means (i) a material change or the enactment, promulgation or issuance or material amendment of any constitution, charter, act, statute, regulation, ordinance, order (including any order waiving application of a legal requirement as to Buyer), ruling, rule or other Applicable Law, or (ii) other legislative or administrative action of any Governmental Authority of competent jurisdiction or a final decree, judgment, or order of a court of competent jurisdiction (including temporary restraining orders) occurring subsequent to the Trade Date. For purposes of this definition, no enactment, adoption, promulgation, amendment or modification of an Applicable Law shall be considered a Change in Law if, as of the Trade Date, (1) such Applicable Law would have directly affected the performance of the obligations hereunder by either Party after the Trade Date in the absence of this Agreement and (2) either such Applicable Law was (A) officially proposed by the responsible agency and promulgated in final form in the Federal Register or equivalent federal, state or local publication and thereafter becomes effective without further action or (B) enacted into law or promulgated by the appropriate federal, state or local body before the Trade Date, and (i) the comment period with respect to which expired on or before the Trade Date and (ii) any required hearings concluded on or before the Trade Date, in accordance with applicable administrative procedures and which thereafter becomes effective without further action.

“**CRC**” means the Colorado River Commission or its successor.

“**Delivered Energy**” shall mean the amount of Energy scheduled at the Delivery Point.

“**Energy Imbalance Market**” or “**EIM**” shall mean the energy imbalance market applicable to NVE transmission customers pursuant to the NVE Agreements and other applicable Governing Rules.

“**Energy**” shall mean electric energy.

“**Expected Monthly Volume**” means the expected volume in MWh for each Post-Termination Month as reasonably determined by the Non-Defaulting Party using historical load data and/or an average of the monthly load thresholds set forth in Schedule A hereto.

“**Governmental Authority**” means a Federal, state, local or municipal governmental body; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority, jurisdictional power; any court or governmental tribunal; or any applicable independent system operator, Regional Transmission Organization, regional power pool, NERC or other regional entity performing similar functions.

“**MW**” shall mean megawatt.

“**MWh**” shall mean megawatt-hour(s).

“**NERC**” means the North American Electric Reliability Corporation or its successor.

“**NVE**” means NV Energy or its successor.

“**NVE Agreements**” means the NVE Tariff, NVE Operating Agreement, NVE Business Practices Manuals, and any other applicable NVE manuals or documents, or any successor, superseding or amended versions that may take effect from time to time.

“**NVE Business Practices Manuals**” means the Business Practices Manuals of NVE or the successor, superseding or amended versions of the Business Practices Manuals that may take effect from time to time.

“**NVE Operating Agreement**” means the Operating Agreement of NVE or the successor, superseding or amended versions of the Operating Agreement that may take effect from time to time.

“**NVE Tariff**” means NVE's FERC Electric Open Access Transmission Tariff (“**OATT**”), as it may be revised from time to time and filed and accepted by FERC, and each attachment and schedule thereto.

“**Off-Peak Hour**” means any hour of each day that is not an On-Peak Hour.

“Off-Peak Index” means the ICE MEAD Day-Ahead Off-Peak Index (**“MEAD Off-Peak”**); *provided, however*, if the MEAD Off-Peak is not published, then the ICE Palo Verde Day-Ahead Off-Peak Index (**“PV Off-Peak”**) plus the last visible difference between the MEAD Off-Peak and the PV Off-Peak.

“Off-Peak Price” means, for a month, the simple average of the Off- Peak Index prices for such month.

“On-Peak Hour” means any Hour in the period beginning at 06:00 PPT and ending at 22:00 PPT, Monday through Saturday, except holidays recognized by NERC.

“On-Peak Index” means the ICE MEAD Day-Ahead On-Peak Index (**“MEAD On-Peak”**); *provided, however*, if the MEAD On-Peak is not published, then the ICE Palo Verde Day-Ahead On-Peak Index (**“PV On-Peak”**) plus the last visible difference between the MEAD On-Peak and the PV On-Peak.

“On-Peak Price” means, for a month, the simple average of the On- Peak Index prices for such month.

“Post-Termination Month” is a variable which means (a) the month in which the Early Termination Date occurs; and (b) each month thereafter until the expiration of the Delivery Period.

“Schedule”, **“Scheduled”** or **“Scheduling”** means communicating with and confirming with the appropriate party that a particular quantity of Energy is to be delivered to and/or received by the applicable party and providing all such information and satisfying all such requirements as may be necessary to cause the delivery or receipt of the Energy to be recognized and confirmed.

“Solar PPA” shall mean that certain Long-Term Power Purchase Agreement between Buyer and Solar PPA Counterparty, dated as of November 15, 2023, as it may be amended from time to time.

“Solar PPA Counterparty” means Escape Solar LLC and any successor counterparty transacting with Buyer under the PPA.

[Signature Page Follows]

Please confirm that the foregoing correctly sets forth the terms of our Transaction by signing this Confirmation and returning it by e-mail as a scanned attachment to the e-mail address: confirms@tnsk.com. Failure to object to the terms in this Confirmation or to return a countersigned copy of this Confirmation in accordance with the Agreement shall be deemed acceptance and the Confirmation will be valid and binding.

TENASKA POWER SERVICES CO.

Signature: _____

Name: _____

Title: _____

Date: _____

OVERTON POWER DISTRICT #5

Signature: _____

Name: _____

Title: _____

Date: _____

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Schedule A
Load Thresholds

I. Monthly Load Thresholds Prior to the Commencement of Energy Deliveries under the Solar PPA:

Month	On-Peak		Off-Peak	
	Lower	Upper	Lower	Upper
01/01/2025	18,600	20,500	14,500	15,900
02/01/2025	16,300	18,000	12,500	13,700
03/01/2025	13,900	15,200	10,100	11,000
04/01/2025	12,900	14,100	8,800	9,600
05/01/2025	16,000	17,600	10,200	11,100
06/01/2025	18,700	20,600	12,200	13,400
07/01/2025	29,100	32,000	18,300	20,200
08/01/2025	24,400	26,900	15,500	17,000
09/01/2025	18,800	20,600	12,100	13,200
10/01/2025	17,300	19,000	10,600	11,600
11/01/2025	13,800	15,200	11,600	12,700
12/01/2025	17,700	19,500	14,200	15,600
01/01/2026	19,100	21,000	14,800	16,300
02/01/2026	16,800	18,400	12,800	14,000
03/01/2026	14,300	15,700	10,300	11,300
04/01/2026	13,300	14,600	9,100	9,900
05/01/2026	15,800	17,400	11,100	12,100
06/01/2026	20,000	22,000	11,800	12,900
07/01/2026	29,800	32,900	18,800	20,700
08/01/2026	25,100	27,600	15,800	17,400
09/01/2026	19,300	21,200	12,400	13,600
10/01/2026	17,700	19,500	10,800	11,900
11/01/2026	14,200	15,600	11,900	13,000
12/01/2026	18,200	20,000	14,600	16,000
01/01/2027	18,900	20,700	15,900	17,500
02/01/2027	17,200	18,900	13,100	14,400
03/01/2027	15,300	16,800	10,100	11,000
04/01/2027	13,700	15,000	9,300	10,200
05/01/2027	16,300	17,900	11,400	12,500
06/01/2027	20,500	22,600	12,100	13,200
07/01/2027	30,600	33,700	19,200	21,200
08/01/2027	25,700	28,300	16,200	17,800
09/01/2027	19,700	21,700	12,700	13,900

10/01/2027	17,500	19,200	11,700	12,900
11/01/2027	15,200	16,700	11,600	12,700
12/01/2027	18,600	20,500	14,900	16,400

II. Monthly Load Thresholds *On and After* the Commencement of Energy Deliveries under the Solar PPA:

Month	On-Peak		Off-Peak	
	Lower	Upper	Lower	Upper
01/01/2025	15,500	17,100	13,900	15,200
02/01/2025	12,700	13,900	11,900	13,000
03/01/2025	8,700	9,500	9,100	9,900
04/01/2025	7,000	7,700	7,900	8,600
05/01/2025	9,600	10,500	8,800	9,600
06/01/2025	12,300	13,400	10,700	11,700
07/01/2025	22,800	25,100	17,000	18,700
08/01/2025	18,500	20,400	14,300	15,700
09/01/2025	13,400	14,700	11,000	12,000
10/01/2025	12,700	13,900	9,900	10,800
11/01/2025	10,700	11,700	10,800	11,800
12/01/2025	15,000	16,400	13,700	15,100
01/01/2026	16,000	17,600	14,200	15,600
02/01/2026	13,100	14,400	12,200	13,300
03/01/2026	9,100	10,000	9,400	10,200
04/01/2026	7,400	8,100	8,100	8,800
05/01/2026	9,700	10,600	9,400	10,300
06/01/2026	13,300	14,600	10,500	11,500
07/01/2026	23,500	25,900	17,500	19,200
08/01/2026	19,100	21,100	14,600	16,100
09/01/2026	13,900	15,300	11,300	12,300
10/01/2026	13,100	14,400	10,100	11,100
11/01/2026	11,100	12,100	11,100	12,100
12/01/2026	15,400	17,000	14,100	15,400
01/01/2027	15,900	17,500	15,200	16,700
02/01/2027	13,600	14,900	12,500	13,700
03/01/2027	9,900	10,800	9,300	10,200
04/01/2027	7,800	8,500	8,300	9,100
05/01/2027	10,200	11,100	9,700	10,700
06/01/2027	13,800	15,200	10,800	11,900

07/01/2027	24,300	26,800	17,900	19,700
08/01/2027	19,800	21,800	15,000	16,500
09/01/2027	14,400	15,800	11,600	12,700
10/01/2027	13,100	14,400	10,900	11,900
11/01/2027	11,900	13,000	10,900	11,900
12/01/2027	15,900	17,500	14,400	15,800

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SCHEDULING SERVICES AGREEMENT

This Scheduling Services Agreement (“**Agreement**”) is entered into on **DATE** (“**Effective Date**”) between Overton Power District #5, a [State] [Entity Type] (“**Company**”), and Tenaska Power Services Co., a Nebraska corporation (“**TPS**”). Company and TPS are also referred to in this Agreement individually as “**Party**” and collectively as the “**Parties**”.

1. **BACKGROUND**

Company is in the business of supplying electric energy and related services to its retail load customers located in and around Overton, Nevada (the “**Business**”). In connection with its Business, Company has entered into that certain Transaction Confirmation with TPS dated as of [Date] whereby TPS sells, and Company purchases, electric energy on the terms and conditions set forth therein (the “**Transaction Confirmation**”). In order to support the Transaction Confirmation, Company requires certain Scheduling Services (as hereinafter defined), and TPS agrees to provide such Scheduling Services (as hereinafter defined) to Company, in accordance with the terms of this Agreement.

2. **TERM**

The term of this Agreement and the Parties’ obligations hereunder shall commence on January 1, 2025 and shall continue through and including December 31, 2027, subject to earlier termination as provided herein (the “**Term**”). Nothing in this Section 2 shall limit a Party’s ability to exercise early termination rights to the extent such rights are otherwise expressly provided in this Agreement.

3. **SERVICES**

3.1 **Scheduling Services.**

(a) **Scope.** During the Term, TPS agrees to provide certain services to Company as further described in Exhibit “A” hereto (“**Scheduling Services**”). In the event of any inconsistency or conflict between the terms and conditions in Exhibit “A” and this Agreement, the terms and conditions in Exhibit “A” shall prevail with respect to the specific Scheduling Services being provided. Each Party may, from time to time, propose changes to the Scheduling Services in Exhibit “A”, which changes will be subject to mutual agreement of the Parties and execution of an amended Exhibit “A” reflecting any changes. Neither Party shall be obligated to proceed with any change to the Scheduling Services until the Parties have agreed upon and signed a written amendment to Exhibit “A”.

(b) **Force Majeure.** TPS shall not be considered in default in the performance of any Scheduling Services to the extent that the performance of any such obligation is prevented or delayed by any cause which is beyond the reasonable control of TPS, including but not limited to acts of God; industrial conflicts (including without limitation, general strikes, lockouts and work interruptions); and government rules, regulations, suspensions or requisitions of any kind that prevent or limit TPS’s obligations. If TPS is affected by a force majeure event, TPS shall, upon learning

of such event, give written notice to Company stating the nature of the force majeure event, its anticipated duration, and all actions being taken to avoid or minimize its effect.

4. **COMPENSATION**

4.1 **Exclusivity – Services.** At all times during the Term of this Agreement, (i) TPS shall be Company’s exclusive provider of the Scheduling Services with respect to the Transaction Confirmation, and (ii) Company shall not engage in any discussions with any third party involving matters comprising the Scheduling Services or any business arrangements similar to the Scheduling Services with respect to the Transaction Confirmation.

4.2 **Payment.** The Parties expressly acknowledge and agree that amounts payable by Company to TPS pursuant to the Transaction Confirmation shall serve as good and valuable consideration between the Parties in connection with the Scheduling Services provided under this Agreement.

5. **RELATIONSHIP OF THE PARTIES**

TPS is an independent contractor and the employees or agents of TPS are not employees or agents of Company. Nothing in this Agreement is intended to create, or shall be deemed to create, a partnership or joint venture of the Parties. Except to the extent expressly provided under this Agreement, TPS does not have, nor will TPS and its employees or agents hold themselves out as having, any right, power or authority to create any contract or obligation, either express or implied, on behalf of, or in the name of, or binding upon, the Company. TPS may perform for other clients similar or identical services to the Scheduling Services contemplated under this Agreement, subject to applicable confidentiality, conflict of interest and ethical obligations of TPS. For clarity, nothing herein shall be deemed to limit or otherwise impair the exclusivity rights that TPS receives from Company pursuant to Section 4 herein.

6. **EVENTS OF DEFAULT; REMEDIES**

6.1 **Events of Default.** Each of the following events shall constitute an “**Event of Default**” with respect to the relevant Party subject to the Event of Default (the “**Defaulting Party**”):

(a) The failure of a Party to perform or comply with any material term or condition of this Agreement, if such failure remains uncured for thirty (30) days after written notice of any such failure is given by the Non-Defaulting Party to the Defaulting Party; and/or

(b) Fraud or a willful and material misrepresentation committed by either Party in connection with the performance of its duties or obligations under this Agreement.

6.2 **Remedies.** Upon the occurrence of an Event of Default, the Party not in default (the “**Non-Defaulting Party**”) shall have the following rights under this Agreement upon providing written notice to the Defaulting Party:

(a) With respect to TPS as the Non-Defaulting Party, to suspend performance of Scheduling Services under this Agreement;

(b) Seek an injunction (or other equitable remedy) to restrain a material breach by the Defaulting Party of any of the agreements, conditions or terms of this Agreement; and/or

(c) Immediately terminate this Agreement.

Upon any termination of this Agreement, Company shall remain liable for any obligations owing to TPS which accrued under this Agreement on or prior to the termination date.

7. **MISCELLANEOUS**

7.1 **Governing Law.** This Agreement shall be governed by the laws of the State of Nevada without reference to its choice of law doctrine which would apply the laws of another jurisdiction. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT.

7.2 **Costs.** Each Party shall pay all of its own costs and expenses, including the fees and costs of its attorneys, consultants, contractors and representatives, incurred in connection with this negotiation and execution of this Agreement and the performance of any obligations it has under this Agreement.

7.3 **Severability.** If any provision or condition of this Agreement shall be determined to be invalid or unenforceable by any court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall affect only such provision or condition.

7.4 **Prior Agreements.** This Agreement, including all Exhibits attached hereto, contains the entire agreement of the Parties related to the Scheduling Services to be provided under this Agreement. This Agreement supersedes any previous oral or other agreement between the Parties with respect to such Scheduling Services.

7.5 **Confidentiality.** TPS and Company previously have entered into that certain Confidentiality Agreement dated as of

December 28, 2023 (the “**Confidentiality Agreement**”). TPS and Company agree to adopt the terms and conditions of the Confidentiality Agreement as applicable to this Agreement, such that the terms and conditions of the Confidentiality Agreement are hereby incorporated by reference in, and shall apply with respect to, this Agreement as if such terms and conditions were set forth in this Section 7.5 in full and applied *mutatis mutandis*. All information and data provided or obtained hereunder by either Party arising out of or relating to the Scheduling Services or this Agreement (including but not limited to the terms and conditions of this Agreement) shall be deemed to be “Confidential Information” protected under the terms and conditions of the Confidentiality Agreement. Notwithstanding any termination of the Confidentiality Agreement, the terms and conditions of such Confidentiality Agreement incorporated herein by reference shall continue to apply to this Agreement. The obligations under this Section 6.5 shall survive for a period of two (2) years immediately following the termination of this Agreement.

7.6 **Intellectual Property.** Each Party shall retain title to all intellectual property (including all patents, trademarks, copyright, trade secrets and know how) owned or possessed by it or any of its affiliates as of the date of this Agreement and used by it or any of its affiliates in fulfilling its obligations under this Agreement, including any modifications or improvements made thereto. TPS agrees that, except as required to provide the Scheduling Services or otherwise with Company’s prior written consent, TPS shall not use in any way Company’s trademarks or trade names.

7.7 **Notices.** All notices or other communications under this Agreement must be in writing and deemed given (a) when delivered personally, (b) when deposited to be sent by a nationally-recognized overnight courier, service prepaid or billed to sender, (c) on the third (3rd) day after said communication is deposited in the U.S. mail, by registered or certified mail, return receipt requested, postage prepaid, or (d) by electronic mail with confirmed delivery of such electronic mail, in each case if directed to the address of the relevant Party set forth by the signature of such Party or as subsequently changed by written notice following the execution of this Agreement.

7.8 **Amendment.** This Agreement may not be amended or modified except by a writing signed by each of the Parties hereto.

7.9 **Assignment.** No Party may assign this Agreement or any of its rights or obligations hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed, or conditioned. This Agreement will be binding upon and will inure to the benefit of the Parties hereto and their respective permitted assigns and permitted successors at law.

7.10 **Survival.** In addition to any provisions of this Agreement which, by their terms, survive termination hereof, any termination of this Agreement shall not reduce either Party’s obligations under Sections 4 (Compensation), 6 (Events of Default; Remedies), 7.5 (Confidentiality), 7.11 (Limitation of

Liability) and 7.12 (Indemnification), which obligations and rights shall survive the termination of this Agreement.

7.11 **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, LOST PROFIT, LOST OPPORTUNITY, BUSINESS INTERRUPTION, OR EXEMPLARY DAMAGES FOR ANY CLAIM OR CAUSE OF ACTION RELATED TO THIS AGREEMENT, WHETHER ARISING FROM BREACH OF CONTRACT OR WARRANTY OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR STATUTE, OR OTHERWISE. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, EXCEPT WITH RESPECT TO ANY CLAIMS ARISING FROM TPS'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, TPS SHALL HAVE NO LIABILITY TO COMPANY AND/OR ITS AFFILIATES FOR CLAIMS OF ANY KIND, WHETHER BASED IN CONTRACT, TORT, WARRANTY OR OTHERWISE, FOR ANY DAMAGES OR INDEMNITIES ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

7.12 **Indemnification.** Subject to Section 7.11 above, each Party agrees to indemnify, defend and hold harmless the other Party, its affiliates and its and their respective officers, directors, shareholders, members, affiliates, employees and agents from and against any claims, liabilities and costs (including reasonable attorneys' fees) for bodily injury, death or damage to property of the other Party or any third party to the extent caused by the breach of this Agreement by a Party or negligent acts or omissions of a Party or its representatives in the performance of the Parties' respective obligations under this Agreement. This indemnity shall survive the termination of this Agreement.

7.13 **Warranty Disclaimer.** Except for the express representations and warranties set forth in this Agreement, the Scheduling Services are provided on an "as is" basis and Company's use of the Scheduling Services is at its own risk. TPS does not make, and hereby disclaims, any and all other express or implied warranties, including, but not limited to warranties of merchantability, fitness for a particular purpose, and any warranties arising from a course of dealing, usage, or trade practice.

7.14 **Obligations Binding.** Each Party represents and warrants to the other that this Agreement is a legal, valid and binding obligation enforceable against the Party, and that the person executing this Agreement on behalf of the Party has the authority to bind the Party to this Agreement.

7.15 **Counterparts.** This Agreement may be executed in multiple counterparts, including facsimile(s), each one of which shall be considered an original Agreement, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

TENASKA POWER SERVICES CO.

OVERTON POWER DISTRICT #5

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address for Notices:

Address for Notices:

300 East John Carpenter Freeway
Suite 1100
Irving, Texas 75062
Attn: Contract Administration
E-mail: TPSContractAdmins@tnsk.com

Attn:
Email:

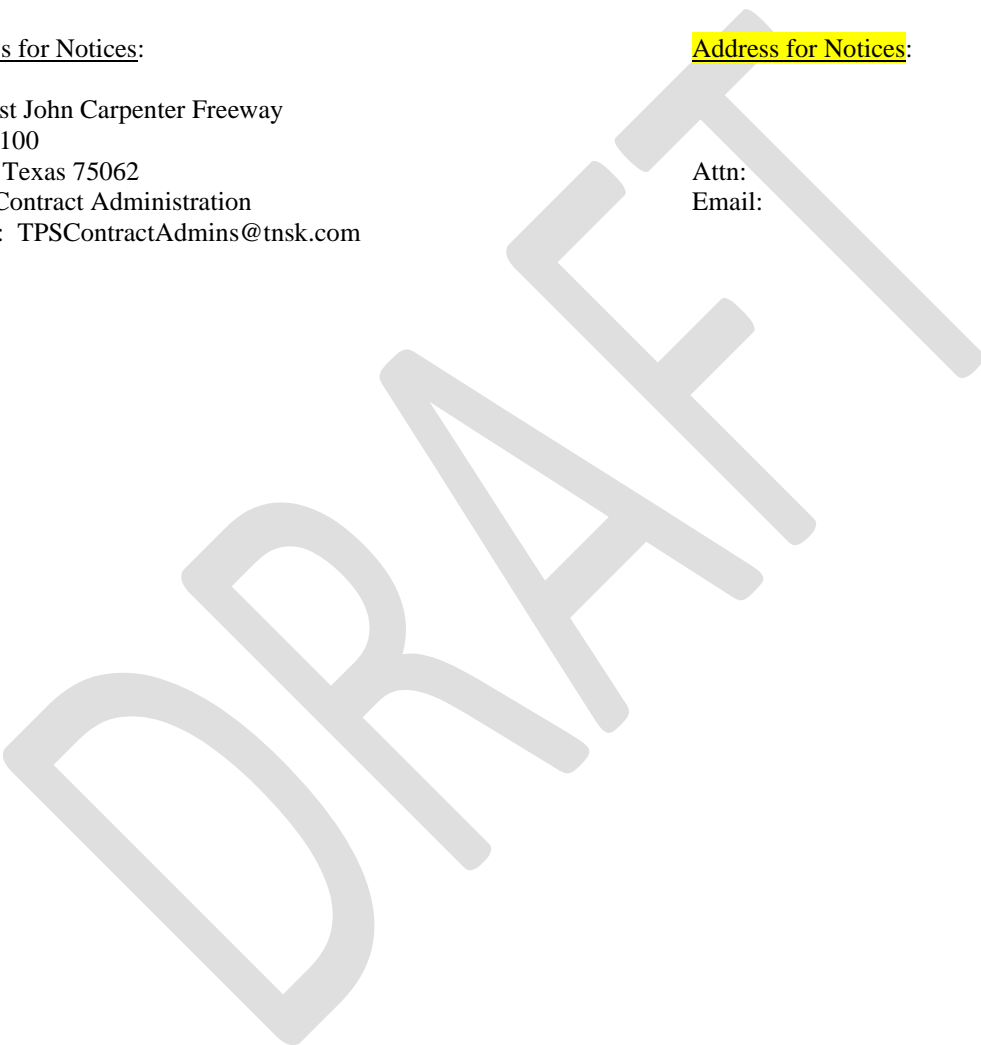


EXHIBIT "A"
Scheduling Services

Article I. Scheduling Services.

Section 1.1 TPS's Role. Company and TPS wish (i) for TPS to schedule Buyer's load requirements for Buyer's account, (ii) for TPS to purchase and sell energy in connection with such scheduling (as applicable), and (iii) for TPS to act as Company's designated agent for interacting with the applicable energy and transmission providers in the area within the State of Nevada within which Company provides electric services to its members ("Company's Service Area"), all on the terms and conditions of the Transaction Confirmation and subject to this Agreement. Capitalized terms used but not otherwise defined in this Exhibit "A" or elsewhere in the Agreement shall have the meanings given such terms in the Transaction Confirmation.

Section 1.2 TPS's Obligations.

(a) At all times during the Term (or such earlier date as is required to begin rendering the Scheduling Services by the first day of the Delivery Period), and to the extent not limited or prohibited by the terms of the Transaction Confirmation, TPS shall perform the following services (the "Scheduling Services") for Company in Company's Service Area in connection with the Transaction Confirmation:

- (i) schedule energy (and issue all applicable NERC e-tags) to meet the Net Delivery Obligation, which such energy schedules shall be as close as commercially reasonable to the Net Delivery Obligation;
- (ii) schedule energy (and issue all applicable NERC e-tags) for the CRC Agreements and Solar PPA
- (iii) provide information, Schedules and notices or the like, or give direction to NVE or any other person in connection with the foregoing, including, but not limited to providing reconciliation and checkout services with Company, NVE, and any other person, as reasonably necessary; and
- (iv) take such other actions to perform Scheduling Services as necessary to carry out any of the foregoing.

(b) TPS shall provide day-ahead and real-time scheduling and trading support to manage its obligations to provide Scheduling Services seven (7) Days per week and twenty-four (24) hours per Day.

(c) TPS, in its capacity as designated agent for Company, shall reasonably cooperate with Company to enable Company to address issues that may arise in connection with invoices rendered to Company by NVE in connection with energy provided by TPS under the Transaction Confirmation. Such cooperation shall include, but is not limited to, providing Company with data, records and other information available to TPS and related to the invoices at issue.

(d) TPS shall compute and submit to NVE the complete hourly estimated load obligation data quantities for each day of the Delivery Period in accordance with NVE deadlines and shall provide NVE with Company's preschedule load forecasts to suit WECC preschedule timelines. For the avoidance of doubt, TPS will not be obligated to submit meter data to NVE for Company or otherwise act as Company's metering agent.

Section 1.3 Company's Obligations.

- (a) Company and TPS shall execute and file with NVE and any other applicable entity, documentation and provide any information required to provide TPS access to Company's real time load and generation data feeds during the Delivery Period. The foregoing may also include permission to access CRC Hourly Allocation data.
- (b) Company shall arrange and pay for all required transmission service to transmit energy from the Delivery Point.
- (c) Company shall provide TPS with the following:
 - (i) meter data at the metering point(s) during the Delivery Period such that TPS may calculate aggregate load in discrete locations or in Company's aggregate load in Company's Service Area as determined by NVE; and
 - (ii) prior to the first date of the Delivery Period, a minimum of five (5) years of the most recent historical load data available for the purpose of forecasting Company's load in Company's Service Area.
- (d) Company shall ensure that all real time load data feeds provided to TPS are operational at all times during the Delivery Period, 24 hours a day, 365 days a year (the "Load Data Feed"). TPS's commercial reasonability standard referenced in Section 1.2(a)(i) of this Exhibit "A" shall not apply in the event any such Load Data Feed is not provided, or caused to be provided, by Company due to no fault of TPS.

Section 1.4 Costs for Scheduling Services. The Parties acknowledge and agree that TPS, as designated agent for Company, shall bear any and all costs and expenses it incurs to provide scheduling and e-tagging services as part of the Scheduling Services hereunder, and Company shall not be charged any additional rates, charges or fees by TPS in connection with TPS's provision of such Scheduling Services.