



414 Nicollet Mall
Minneapolis, Minnesota 55401

July 30, 2021

—VIA ELECTRONIC FILING—

**PUBLIC DOCUMENT:
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Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: PETITION FOR APPROVAL OF A
PURCHASE POWER AGREEMENT
DOCKET NO. E002/M-21-XXX

Dear Mr. Seuffert:

Northern States Power Company, doing business as Xcel Energy (Xcel Energy or the Company), submits to the Minnesota Public Utilities Commission this Petition for Approval of a Power Purchase Agreement (PPA) between Northern States Power Company and St. Paul Cogeneration, LLC (SPC). The SPC facility is a 33 MW wood-and natural gas-fired combined heat and power (CHP) facility located in downtown Saint Paul.

Please note that certain portions of our Petition have been designated as Trade Secret information pursuant to Minnesota Statute § 13.37, subd. 1(b). In particular, the information designated as Trade Secret derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

If you have any questions regarding this filing, please contact Pamela Gibbs at (612) 330-2889 or pamela.k.gibbs@xcelenergy.com, or me (612) 330-6270 or allen.krug@xcelenergy.com.

Sincerely,

/s/

ALLEN D. KRUG
ASSOCIATE VP STATE REGULATORY POLICY

Enclosures
c: Service List

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STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

IN THE MATTER OF THE PETITION OF
NORTHERN STATES POWER COMPANY
FOR APPROVAL OF A POWER PURCHASE
AGREEMENT WITH SAINT PAUL
COGENERATION, LLC

DOCKET NO. E002/M-21-_____

PETITION

INTRODUCTION

Northern States Power Company, doing business as Xcel Energy (Xcel Energy or the Company), submits to the Minnesota Public Utilities Commission this Petition for Approval of a Power Purchase Agreement (PPA) between Northern States Power Company and St. Paul Cogeneration, LLC (SPC). The SPC facility is a 33 MW wood- and natural gas-fired combined heat and power (CHP) facility located in downtown Saint Paul.

This PPA filing is contemplated by recently enacted legislation which permits the Company to file a PPA on or before August 1, 2021. The recently enacted legislation is also somewhat unique because it has guidance for the Commission that certain elements—including the beginnings of a plan to electrify portions of the SPC facility—need to be included in order for the Commission to determine the merits of the PPA. The Company believes it has reasonably met those elements in this filing. The Company notes that this filing is only the start of discussions about electrifying portions of SPC’s facilities. We intend to file a full proposal to electrify the SPC facility or a portion thereof in 2024 and, consistent with the statute, request that the Commission direct the Company to make annual updates on its progress in developing that proposal.

The Company proposes to recover the costs of this PPA through the Fuel Clause Rider (FCR). As detailed below, we believe that the SPC PPA is reasonable, protects customers,

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and is in the public interest consistent with the recently passed legislation. Therefore, we request that the Commission approve this PPA with SPC and allow for cost recovery through the FCR as requested.

I. SUMMARY OF FILING

A one-paragraph summary is attached to this filing pursuant to Minn. R. 7829.1300, subp. 1.

II. SERVICE ON OTHER PARTIES

Pursuant to Minn. R. 7829.1300, subp. 2, the Company has served a copy of this filing on the Department of Commerce, Division of Energy Resources, the Office of the Attorney General–Residential Utilities and Antitrust Division, and the applicable general service list.

III. GENERAL FILING INFORMATION

Pursuant to Minn. R. 7829.1300, subp. 3, the Company provides the following information.

A. Name, Address, and Telephone Number of Utility

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
(612) 330-5500

B. Name, Address, and Telephone Number of Utility Attorney

Mara K. Ascherman
Principal Attorney
Xcel Energy
414 Nicollet Mall – 401, 8th Floor
Minneapolis, MN 55401
612-215-4605

C. Date of Filing

Xcel Energy submits this Petition on July 30, 2021.

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D. Statute Controlling Schedule for Processing the Filing

No specific statute imposes a schedule controlling the processing of this filing, but Minn. Stat. § 216B.2424 subdiv. 5c suggests certain elements that should be required in either the PPA itself or the record upon which the Commission bases its decision. Under the Commission’s Rules, this Petition falls within the definition of a “miscellaneous” filing under Minn. R. 7829.0100, subp. 11, since no determination of Xcel Energy’s revenue requirement is necessary. Under Minn. R. 7829.1400, in the absence of a Commission notice establishing a different comment period, a person wishing to comment on a miscellaneous filing shall do so within 30 days of the miscellaneous filing.

E. Utility Employee Responsible for Filing

Al Krug
Associate VP, State Regulatory Policy
Xcel Energy
414 Nicollet Mall (401–7th Floor)
Minneapolis, MN 55401
(612) 330-6064
allen.krug@xcelenergy.com

IV. MISCELLANEOUS INFORMATION

Pursuant to Minn. R. 7829.0700, the Company requests that the following persons be placed on the Commission’s official service list for this proceeding:

Mara K. Ascheman
Principal Attorney
Xcel Energy
414 Nicollet Mall (401–8th Floor)
Minneapolis, MN 55401
mara.k.ascheman@xcelenergy.com

Lynnette Sweet
Regulatory Administrator
Xcel Energy
414 Nicollet Mall, 401–7th Floor
Minneapolis, MN 55401
regulatory.records@xcelenergy.com

Any information requests in this proceeding should be submitted to the Regulatory Records email address above.

V. DESCRIPTION AND PURPOSE OF FILING

Xcel Energy seeks approval of an executed PPA with SPC. The Agreement is provided as Attachment A to this filing. We note that certain provisions of the PPA and Attachment A are marked as “Not-Public” as they contain information the Company

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considers to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). This data includes confidential pricing and other contract terms. This information has independent economic value from not being generally known to, and not being readily ascertainable by, other parties who could obtain economic value from its disclosure or use.

In this Petition, we:

- Provide the background for the Project;
- Discuss the requirements under Minn. Stat. § 216B.2424 Subd. 5c;
- Outline key contract and project details; and
- Discuss how the Project is in the public interest.

A. Background

SPC is the owner and operator of a 33 MW CHP electric generation facility that provides heating to the district energy system located in downtown Saint Paul and power to Xcel Energy through the repurposing of tree waste, also known as renewable biomass fuel. Annually, the SPC facility turns approximately 225,000 tons of tree waste into renewable energy. SPC also combusts some natural gas; in recent years, its fuel source has been about 75 percent biomass and 25 percent natural gas.

Currently, the Company purchases energy and capacity from the SPC facility pursuant to a PPA approved by the Commission.¹ The purchase of energy and capacity from SPC helps the Company satisfy the Biomass Power Mandate set forth in Minn. Stat. § 216B.2424 Subd. 5 and 5a, which specifies that a public utility that operates a nuclear-powered electric generating plant within the state must either construct, operate, purchase, or contract for the construction of 110 MW of biomass generated power. Subd. 5(d) also allows for the Company to meet the Biomass Power Mandate by using up to 33 MW of capacity from a Saint Paul district heating and cooling system cogeneration facility using waste wood as a primary fuel source. SPC's facility qualifies as such a cogeneration facility.

The PPA noted above was filed with the Commission on January 11, 1999 wherein the Company requested approval of a PPA with SPC for 25 MW of biomass-fueled generation to be located on a site in Saint Paul, Minnesota. The Company requested Commission approval of the PPA to partially satisfy the requirements of the Biomass

¹ Minnesota Public Utilities Commission, Order, Docket No. E002/M-96-1405, January 11, 2000.

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Power Mandate. After further negotiations, the Commission approved a revised PPA on January 11, 2000.² This project achieved commercial operation on April 16, 2003. Unless extended, the scheduled termination date of the PPA is December 31, 2022.

In its April 3, 2013 Order in Docket No. E002/M-12-726, the Commission approved Amendment No. 2 to the PPA which assigned to Xcel Energy all renewable energy credits associated with the project, deleted the requirement for a biennial engineering compliance audit, and clarified the contract language regarding project production to establish that in any year of the contract the Company may not purchase more than the amount of production necessary to achieve the cumulative annual average of 153,300 MWh.

The current PPA between the Company and SPC is set to expire on December 31, 2022. However, as we will discuss in further detail below, recently passed legislation allows a public utility subject to Minn. Stat. § 216B.2424 Subd. 5c and the cogeneration facility to file a new PPA with the Commission with certain conditions. A new PPA must be filed with the Commission by August 1, 2021.

B. Requirements under Minn. Stat. § 216B.2424 Subd. 5c

During the 2021 Legislative Session, an amendment to Minn. Stat. § 216B.2424 was passed into law.³ The legislative amendment includes both procedural aspects and guidance for the Commission in reviewing the PPA.

Under Minn. Stat. § 216B.2424 Subd. 5c(a):

No later than August 1, 2021, a public utility subject to subdivision 5 and the cogeneration facility may file a proposal with the commission to enter into a power purchase agreement that governs the public utility's purchase of electricity generated by the cogeneration facility. The power purchase agreement may extend no later than December 31, 2024, and must not be extended beyond that date except as provided in paragraph (f).

The Company has complied with the procedural obligations contemplated in Subdivision 5c(a) above. This filing was made on July 30, 2021, prior to the filing date

² This revised PPA was filed with the Commission on March 1, 2000 in Docket No. E002/M-96-1405, essentially in compliance with the commitments made prior to the Commission's oral decision and the Commission's January 11, 2000 Order. Among other things, Amendment No. 1 to the PPA which converts the anticipated energy and capacity payments to a "Pay for Production" agreement that provides only for energy payments based on project output. Thus, there are no annual capacity costs associated with the project as originally anticipated in the Commission's Order of January 11, 2000.

³ See Attachment B.

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contemplated in the statute. The term of the PPA for which we have filed this Petition with the Commission terminates on December 31, 2024. The Company addresses Subdivision 5c(f) below.

The new legislation also provides guidance for the Commission on considering this particular PPA with SPC subject to four conditions. Specifically, Minn. Stat. § 216B.2424 Subd. 5c(b) states:

The commission is prohibited from approving a new power purchase agreement filed under this subdivision that does not meet all of the following conditions:

(1) the cogeneration facility agrees that any waste wood from ash trees removed from Minnesota counties that have been designated as quarantined areas in Section IV of the Minnesota State Formal Quarantine for Emerald Ash Borer, issued by the commissioner of agriculture under section 18G.06, effective November 14, 2019, as amended, for utilization as biomass fuel by the cogeneration facility must be accompanied by evidence:

(i) demonstrating that the transport of biomass fuel from processed waste wood from ash trees to the cogeneration facility complies with the department's regulatory requirements under the Minnesota State Formal Quarantine for Emerald Ash Borer, which may consist of:

(A) a certificate authorized or prepared by the commissioner of agriculture or an employee of the Animal and Plant Health Inspection Service of the United States Department of Agriculture verifying compliance; or

(B) shipping documents demonstrating compliance; or

(ii) certifying that the waste wood from ash trees has been chipped to one Inch or less in two dimensions, and was chipped within the county from which the ash trees were originally removed;

(2) the price per megawatt hour of electricity paid by the public utility demonstrates significant savings compared to the existing power purchase agreement, with a price that does not exceed \$98 per megawatt hour;

(3) the proposal includes a proposal to the commission for one or more electrification projects that result in the St. Paul district heating and cooling system being powered by electricity generated from renewable energy technologies. The plan must evaluate electrification at three or more levels from ten to 100 percent, including 100 percent of the energy used by the St. Paul district heating and cooling system to be implemented by December 31, 2027. The proposal may also evaluate alternative dates for implementation. For each level of electrification analyzed, the proposal must contain:

(i) a description of the alternative electrification technologies evaluated and whose implementation is proposed as part of the electrification project;

(ii) an estimate of the cost of the electrification project to the public utility, the impact on the monthly energy bills of the public utility's Minnesota customers, and the impact on the monthly energy bills of St. Paul district heating and cooling system customers;

(iii) an estimate of the reduction in greenhouse gas emissions resulting from the electrification project, including greenhouse gas emissions associated with the transportation of waste wood;

(iv) estimated impacts on the operations of the St. Paul district heating and cooling system; and

(v) a timeline for the electrification project; and

(4) the power purchase agreement provides a net benefit to the utility customers or the state.

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As discussed below, the proposed 2-year PPA with SPC or this filing meet each condition listed in Minn. Stat. § 216B.2424 Subd. 5c(b).

a. Waste Wood from Ash Trees

Minn. Stat. § 216B.2424 Subd. 5c(b)(1) essentially requires that the transport of biomass fuel from processed waste wood from ash trees to the SPC facility complies with the regulatory requirements under the Minnesota State Formal Quarantine for Emerald Ash Borer (EAB).

The SPC facility collects and processes wood residuals in accordance with Minnesota Department of Agriculture requirements including policies related to the management and handling of EAB. The new PPA helps manage wood residuals in the Twin Cities area during the recent surge in EAB. For its part, the facility is committed to achieving at least 75 percent wood fuel input for the duration of the new contract. The facility is a ready resource in helping address the massive amounts of ash tree residuals that need disposal as part of EAB management throughout the Twin Cities area.

The romanettes of Subdivision 5c(b)(1) require evidence demonstrating and certifying certain information about the biomass fuel. The Parties have established Exhibit J to the PPA to monitor compliance with these requirements. Exhibit J requires that SPC provide a written Fuel Certification Report to the Company no more than sixty days after the completion of each contract year.

b. Price per MWh of proposed PPA.

Minn. Stat. § 216B.2424 Subd. 5c(b)(2) requires that the price per MWh of the proposed PPA demonstrate significant savings compared to the existing PPA and not exceed \$98 per MWh. As described below, this PPA meets both of these requirements. The proposed pricing for the new PPA is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]** per MWh. This amount is based on an analysis of the cost of operation of the facility using its primary fuel of wood residuals from the Twin Cities metro area for 75 percent of energy production. The financial analysis eliminated the initial costs of construction of the SPC facility as those cost have been amortized under the previous PPA. The analysis also incorporated the efficiencies developed in the operation of the facility and SPC's experience with the wood residuals market gained over nearly 20 years of operation.

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These factors allow for a substantial reduction in cost per MWh under the new PPA as compared to the existing PPA. The cost per MWh in the most-recently completed contract year under the original PPA (5/1/2020-4/30/2021) is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]**. The \$98 per MWh limit prescribed in legislation would represent a more than 30 percent cost reduction. This cost reduction is able to be achieved at an output level essentially the same as the prior PPA. The table below provides a comparison of the costs under the existing PPA and the proposed PPA.

Table 1: Comparison to Existing PPA

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c. Electrification

Minn. Stat. § 216B.2424 Subd. 5c(b)(3) requires that the proposed PPA include a proposal for one or more electrification projects that result in the downtown Saint Paul district energy system producing thermal energy for its customers using electricity generated from renewable sources. In considering the Company’s compliance with this subsection, it is important to consider the timing and other provisions of this new legislation.

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With regard to timing, the bill was first introduced on February 15, 2021. It ultimately passed both houses and was presented to the Governor for his signature on May 15, 2021. The procedural requirements of the new legislation contemplated a filing by the Company no later than August 1, 2021—less than 80 days later. Therefore, the Company and SPC had a limited amount of time to develop these proposals.

In addition, the other provisions of the new legislation suggest that this is just the beginning of the Commission’s consideration of electrification projects. Minn. Stat. § 216B.2424 Subdivision 5c(c) permits the Commission to “approve, or approve as modified, a proposed electrification project that meets the requirements of this subdivision if it finds the electrification project is in the public interest...”

Importantly, Subdivision 5c(c) is silent on *when* the Commission’s decision on the electrification proposals must occur; it does not require the Commission to decide on electrification at this point in time. Similarly, Subdivision 5c(e) explains that “[u]pon approval of the new power purchase agreement, the commission must require periodic reporting regarding progress toward *development of a proposal* for an electrification project.” Subdivision 5c(f) limits the Commission’s ability to consider a *subsequent* PPA after December 31, 2024 “unless it approves an electrification project.” Finally, subdivision 5c(b)(3) requires the filing to provide certain information related to electrification projects “. . . to be implemented by December 31, 2027.”

Given these provisions, as well as the time the Company had to work with the downtown Saint Paul district energy system, the Company respectfully requests that the Commission consider the elements of subdivision 5c(b)(3) to be filing requirements for purposes of considering this PPA and not a formal request from either the Company or SPC for approval of any specific electrification proposal. The Company will finalize its proposal for electrification and bring the proposal to the Commission for approval no later than September 2024. We believe this timing is consistent with the newly enacted legislation.

To date, and in satisfaction of the requirements of Minn. Stat. § 216B.2424 Subd. 5c(b)(3), Xcel Energy and SPC have partnered to explore three different options for electrifying the thermal loads.

Option 1 and 2: 20 MW Boiler (i.e., electrification of 11.5 percent of thermal load) or 30 MW Boiler (i.e., electrification of 17 percent of thermal load) with storage for load shifting

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The 20 and 30 MW boiler options are similar, with either boiler located at the district energy system facility on Kellogg Boulevard in Saint Paul. Either option would be connected to existing infrastructure, including thermal energy storage, which would allow for load shifting of the carbon-free electric sources to match the thermal load. There is adequate electric feeder capacity to support these options while reducing the use of the existing carbon fuel-based boilers. The remaining need for thermal energy would be met with these existing boilers. This strategy would be relatively straightforward to implement and would provide a good study opportunity on how the boiler would operate in conjunction with thermal energy storage. A number of boiler/heat sources are being considered, including conventional electric boiler and more advanced electrode-type electric boilers.

The estimated cost for the 20 MW boiler is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]** and the 30 MW boiler is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]**. Please note that these costs have been developed as baseline costs and should not be construed as a fully engineered and designed cost estimate. More design and engineering work are needed to provide fully developed and specific costs. The Company will work to minimize any impact to customers. The impact to the monthly thermal energy bills of Saint Paul district heating and cooling system customers are estimated to be cost neutral as compared to current rates.

Either of these options are expected to have the following impacts on the operations of the Saint Paul district heating and cooling system. For both the 20 and 30 MW option, we estimate the overall time frame for installation to be 18-24 months for installation, contingent on boiler availability.

Option 3: 175 MW Boiler (i.e., electrification of 100 percent)

The 175 MW plant was studied and would be located at Xcel Energy's High Bridge facility in Saint Paul. This site was modeled to have a full complement of boilers and infrastructure to provide a full supply of hot water for SPC customers in Saint Paul. It also included piping, building and connections to the electricity supply to support the electric load. The interconnection would be from a pipeline from this location to the SPC facility to supply water and take in return water. There was also a provision to supply cold water for cooling. We estimate the overall time frame for installation to be

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approximately three years to fully construct and commission, which would be somewhat longer than the 20 or 30 MW options.

The estimated cost for this plant is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]**, which is significantly higher than the 20 and 30 MW options due to the need for a new building, equipment and extensive pipeline work. As with the estimates for the boilers, these costs have been developed as a baseline cost and should not be construed as a fully engineered and designed cost estimate. More design and engineering work would be needed to provide fully developed and specific costs. While the cost of the plant was determined to be reasonable, when the installation of a pipeline to feed hot water is included, it becomes difficult to justify financially.

Due to the high cost of this option, we are focusing on the 20 and 30 MW options at this time. As noted above, SPC and the Company will work to ensure the impact to the monthly energy bills of customers are minimized.

The Company has conducted a preliminary analysis of the impact of different levels of electrification on the greenhouse gas (GHG) emissions associated with District Energy. The actual GHG reduction will depend on the size and final design of the electrification proposal and which current fuels it is considered to displace. We assume that the boilers will be powered by electricity generated from renewable energy technologies, so have not included any offsetting increased GHG emissions from electricity use. Based on the assumptions used in the Company's preliminary analysis, if the proposed electric boilers are considered to displace 11.5 percent (20 MW boiler), 17 percent (30 MW), and 100 percent (175 MW) of the energy provided by the existing boilers, the avoided GHG emissions from heat/steam production would be proportional to the displaced energy.⁴

Electrification Conclusion

Consistent with the new law, if the PPA is approved, pursuant to subdivision 5c(e), the Company requests that the Commission “require periodic reporting regarding progress toward *development of a proposal* for an electrification project.” The Company

⁴ District Energy reported CO₂e emissions of 94,277 tons to the MPCA for 2019. This estimate includes the fossil CO₂ emissions. As a biomass facility, biogenic CO₂ emissions may also be avoided through electrification. This issue along with others can be further evaluated as Xcel Energy and District Energy prepare more detailed electrification proposals in the coming years.

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will finalize its proposal for electrification and bring the proposal to the Commission for approval no later than September 2024. Because of this expected timeline, we respectfully request to provide reports to the Commission on the development of this proposal annually.

d. Benefits to Customers or the State

Minn. Stat. § 216B.2424 Subd. 5c(b)(3) requires the PPA to provide “net benefit to the utility customers *or* the state.” The proposed two-year PPA with SPC will provide numerous benefits to our customers and the State of Minnesota. While some of the benefits are difficult to quantify, the qualitative benefits outweigh the costs of the proposed PPA as discussed further below.

i. Management of Emerald Ash Borer

SPC provides management of wood residuals by converting tree residuals – a renewable, residual material that poses significant disposal issues – into a renewable energy resource. Currently, there are no other options for managing the massive influx of tree residuals from EAB management activities by local municipalities and counties. As a CHP facility, the wood residuals used for fuel are being utilized more efficiently than would be the case for conventional electric-only generation. Additionally, by converting the wood into fuel to produce usable electric and thermal energy, SPC prevents those wood residuals from decomposing – a process that has a greenhouse gas effect many times the result from the utilization of these same wood residuals as fuel for energy production.

At this time, there are few other options for tree waste disposal in Minnesota and none in the Twin Cities metro area that address the amount of wood residuals currently managed and eliminated by SPC. The 225,000 tons of wood residuals consumed by SPC in a typical year equates to nearly 12,000 tractor trailer loads being beneficially reused.

ii. Efficiency of CHP

SPC has served heating load in downtown Saint Paul since 2003. Serving heating load from a CHP facility takes advantage of the efficiencies of using both the electricity to serve Xcel Energy customers and the heat to serve downtown Saint Paul. Waste heat from the electric production process is captured and used to provide thermal energy to more than 200 buildings in the downtown Saint Paul business district and beyond.

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This pushes the seasonal efficiency to nearly twice that of an electric-only dispatchable resource.

iii. Electrification

As discussed above, the Company is continuing work to finalize its proposal to power a portion of the load at the downtown Saint Paul district heating and cooling facility with renewable energy. Electrification of a portion of the downtown Saint Paul district heating facility allows the serving of heating load and continued management of the waste wood in the Twin Cities metro area while also reducing emissions. In addition, the electrification load can be flexible, allowing for heating while using off-peak electricity. We are excited to bring a finalized electrification proposal before this Commission and believe SPC could serve as a model for other CHP applications across our service territory.

VI. Key PPA Terms

a. Purchase Price and Committed Energy

Xcel Energy agrees to purchase energy from the Project, up to **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]** at a price of **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]**, as provided for in Exhibit B of the contract. There are no excess energy provisions in the PPA; the Company will pay Seller for all delivered energy but shall not pay for net instantaneous output of the Facility in excess of the Project's contract capacity.

b. Project Attributes

The Company will be assigned all Energy, Capacity and "Green Benefits" (i.e. RECs) associated with the Project. The Company will pay for energy produced by this project up to the net instantaneous output threshold discussed above. The PPA also confers any RECs the Project creates to the Company.

The Project will also create capacity credits called Zonal Resource Credits (ZRCs), which are used to count toward the Company's resource adequacy requirements.

c. Term

The term of the PPA is for two (2) years beginning on January 1, 2022.

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d. Security

The security amount for the PPA is **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]** and must be established within five (5) days of the PPA start date. The security may be in the form of U.S. currency, a Letter of Credit, or a Guaranty.

e. Other Terms and Conditions

The PPA contains numerous other terms and conditions typical in new resource PPAs but that we have not specifically highlighted here. These include representations by each party about their ability to enter the transaction, force majeure provisions, dispute resolution, listing of responsibilities, provisions relating to defaults and similar issues.

VII. EFFECT OF CHANGE UPON XCEL ENERGY REVENUE

The PPA is expected to result in expenditures of approximately **[NOT PUBLIC DATA BEGINS NOT PUBLIC DATA ENDS]** over the two-year term of the PPA. No net increase in revenue to Xcel Energy will result from this transaction, because the costs of the power purchase will equal the revenue collected.

VIII. COST RECOVERY

Consistent with the language included in Minn. Stat. § 216B.2424 Subd. 5c(h)(2), the Company requests approval of recovery of the costs of the PPA from only our Minnesota electric customers through the Fuel Clause Rider.

CONCLUSION

Xcel Energy respectfully requests that the Commission (1) approve the 2-year PPA with SPC under Minn. Stat. § 216B.2424 Subd. 5c; and (2) find that the Company may recover the purchased energy costs through the Fuel Clause Rider.

Dated: July 30, 2021

Northern States Power Company

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STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
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POWER PURCHASE AGREEMENT

BETWEEN

NORTHERN STATES POWER COMPANY

AND

ST. PAUL COGENERATION, LLC



- [date] -

TABLE OF CONTENTS

	PAGE
Article 1 - Rules of Interpretation.....	2
1.1 Interpretation.....	2
1.2 Interpretation with Other Agreements	2
1.3 Good Faith and Fair Dealing.....	3
Article 2 – Term and Termination.....	3
2.1 Term	3
2.2 Contract Start Date	4
Article 3 – Facility Description	4
3.1 Facility Description.....	4
3.2 General Design of the Facility.....	4
Article 4 - Implementation	4
4.1 Monitoring.....	4
4.2 Environmental Matters.....	4
4.3 Permits.....	5
4.4 Governmental Inspections	6
Article 5 - Delivery.....	6
5.1 Existing Interconnection.....	6
5.2 Arrangements	6
5.3 Market Changes	7
5.4 Electric Metering Devices	7
5.5 Fuel.....	9
5.6 Natural Gas Fuel.....	9
5.7 Daily Scheduling and Control.....	10
5.8 Notification of Energy Forecasts and Operational Status.....	10
5.9 Emergency Operation.....	10
5.10 Harmonic Control.....	11
5.11 Real Power Control; Voltage; VAR Control.....	11
5.12 Frequency Control	11
5.13 NSP System Coordination and Switching.....	12
5.14 Operational and Contract Compliance	12
5.15 Additional Information	13
Article 6 – Conditions Precedent	13
6.1 PUC Approval	13
6.2 Other Company Conditions Precedent	14
Article 7 – Sale and Purchase	15
7.1 General Obligation.....	15
7.2 Title and Risk of Loss.....	15
7.3 Environmental Attributes.....	16

Article 8 – Payment Calculations	16
8.1 Payment for Contract Energy.....	16
Article 9 – Billing and Payment	16
9.1 Billing.....	16
9.2 Payment.....	17
9.3 Set Off.....	17
9.4 Billing Disputes.....	17
Article 10 – Operations and Maintenance	17
10.1 Operation and Administration.....	17
10.2 Facility Maintenance.....	18
10.3 Forced Outages.....	18
10.4 Accreditation.....	19
10.5 Books and Records.....	19
10.6 Access to Facility.....	19
10.7 Coordinating Committee.....	20
10.8 Management Committee.....	21
Article 11 – Security for Performance	22
11.1 Security Fund.....	22
11.2 Replenishment.....	22
11.3 Form.....	22
11.4 Replacement.....	24
11.5 Survival.....	24
11.6 Expenses.....	24
Article 12 – Default and Remedies	25
12.1 Default by Seller: General.....	25
12.2 Notice of Default; Notice of Litigation.....	27
12.3 Default by Company.....	27
12.4 Limitations on Damages.....	29
12.5 Bankruptcy.....	30
12.6 Cumulative Remedies.....	30
12.7 Duty to Mitigate.....	30
12.8 Additional Company Termination Right.....	31
Article 13 – Dispute Resolution	31
13.1 Negotiation.....	31
13.2 Time Bar.....	31
13.3 No Termination Pending Dispute Resolution.....	31
13.4 Governing Law.....	32
13.5 Venue.....	32
13.6 Waiver of Jury Trial.....	32
Article 14 – Force Majeure	32
14.1 Definition.....	32

14.2	Applicability of Force Majeure	33
14.3	Limitations on Effect of Force Majeure.....	34
Article 15 – Representations and Warranties		34
15.1	Mutual Representations and Warranties.....	34
15.2	Seller Representations, Warranties, and Covenants	35
Article 16 - Insurance		36
16.1	Evidence of Insurance	36
16.2	Policy Requirements	36
16.3	No Implied Limitation	37
16.4	Term and Modification of Insurance.....	37
Article 17 - Indemnity		37
17.1	Indemnification: General	37
17.2	Indemnification: Environmental.....	37
17.3	Indemnification: House Power	38
17.4	Limitations.....	38
17.5	Procedures	38
17.6	Amounts Owed	39
Article 18 – Lender Provisions		39
18.1	Accommodation of Facility Lender	39
18.2	Reimbursement	39
18.3	Notices.....	39
Article 19 - Assignment		40
19.1	Assignment by Seller	40
19.2	Assignment by Company	41
Article 20 - Miscellaneous		41
20.1	Notices.....	41
20.2	Taxes	42
20.3	Applicable Laws.....	42
20.4	Change of Law.....	43
20.5	Fines and Penalties	43
20.6	Rate Changes.....	43
20.7	Certifications	43
20.8	Disclaimer of Third Party Beneficiaries	43
20.9	Relationship of the Parties	43
20.10	Survival of Obligations	44
20.11	Severability	44
20.12	Complete Agreement; Amendments	44
20.13	Waiver.....	44
20.14	Binding Effect.....	44
20.15	Headings.....	44
20.16	Counterparts	44

20.17 Press Release	45
20.18 Exhibits	45
20.19 Confidentiality	45
20.20 Accounting Treatment.....	46

EXHIBITS

- EXHIBIT A DEFINITIONS**
- EXHIBIT B PRICING**
- EXHIBIT C FACILITY DESCRIPTION AND SITE MAPS**
- EXHIBIT D NOTICES AND CONTACT INFORMATION**
- EXHIBIT E INSURANCE COVERAGE**
- EXHIBIT F RESERVED**
- EXHIBIT G FORM OF LETTER OF CREDIT**
- EXHIBIT H FORMS OF GUARANTY**
- EXHIBIT I RESERVED**
- EXHIBIT J FUEL CERTIFICATION REQUIREMENTS**
- EXHIBIT K LENDER CONSENT PROVISIONS**
- EXHIBIT L ACH PAYMENT INFORMATION**

Energy Purchase Agreement**POWER PURCHASE AGREEMENT
BETWEEN
NORTHERN STATES POWER COMPANY
AND
ST. PAUL COGENERATION, LLC**

This Power Purchase Agreement (this "PPA") is made as of this 26th day of July, 2021 ("Effective Date"), by and between (i) Northern States Power Company, a Minnesota corporation with a principal place of business at 1800 Larimer Street, Denver, CO 80202 ("Company"), and (ii) St. Paul Cogeneration, LLC, a Minnesota limited liability company with a principal place of business at 305 Saint Peter Street St. Paul, Minnesota 55102 ("Seller"). Company and Seller are hereinafter referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, Seller owns, operates, and maintains the Facility, as defined herein; and

WHEREAS, Company and Seller are parties to that certain Biomass Power Purchase Agreement dated as of December 23, 1998, as amended by that certain First Amendment to Power Purchase Agreement, effective March 1, 2000, and as further amended by that certain Second Amendment to Power Purchase Agreement, effective June 29, 2012 (such original agreement, first amendment, and second amendment referred to collectively as the "Original PPA"); and

WHEREAS, in accordance with the Original PPA, Seller constructed and has owned and operated that certain electric generating and thermal energy producing facility, located in St. Paul, Minnesota, capable of generating electricity and thermal energy using waste wood and natural gas, and with an electric generating capacity of approximately thirty-three (33) MW (the "Facility"); and

WHEREAS, the Original PPA requires the plant to generate and deliver 25 MW of accredited capacity and associated "biomass generation," on terms and conditions set forth in the Original PPA; and

WHEREAS, the specified quantities of "biomass generation" under the Original PPA have been generated using "fuel" (as defined in the Original PPA) that met the requirements of Minn. Stat. § 216B.2424, as amended, including natural gas or other backup fuel to the extent and for the duration allowed under the definition of "biomass generation"; and

WHEREAS, the Original PPA has a term that, unless extended, is scheduled to end on December 31, 2022; and

WHEREAS, this PPA is being entered into accordance with Minnesota Statutes § 216B.2424, subdivisions 5b and 5c, which, among other things, allow for the execution of this PPA, subject to conditions; and

Energy Purchase Agreement

WHEREAS, after the termination date of the Original PPA, Seller desires to continue to sell and deliver, and Company desires to continue to accept and receive, certain products and services, including but not limited to the Contract Energy attributable to and/or delivered from the Facility to the Point of Delivery, and the Contract Capacity for purposes of capacity accreditation, at the prices and on the terms and conditions set forth in this PPA.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

Article 1 - Rules of Interpretation

1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A - Definitions or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as commonly used in the English language, (ii) be given their generally accepted meaning consistent with Good Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) The following rules of interpretation shall apply: (1) The masculine shall include the feminine and neuter; (2) references to "Articles," "Sections" or "Exhibits" shall be to articles, sections, or exhibits of this PPA except as the context may otherwise require; (3) all Exhibits are incorporated into this PPA (*provided, however*, that in the event of a conflict with the terms of this PPA, the PPA shall control); and (4) use of the words "include" or "including" or similar words shall be interpreted as "include without limitation" or "including, without limitation."

(C) This PPA was negotiated and prepared by both Parties with the advice and participation of counsel. None of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.

1.2 Interpretation with Other Agreements.

(A) Original PPA.

1. The Facility will continue to operate and the Original PPA will remain unaffected by this Agreement until the Contract Start Date. The Original PPA will terminate in accordance with its terms, subject to any winding down obligations and survival provisions contained therein.

2. If a non-defaulting Party terminates this PPA prior to the Contract Start Date for an Event of Default, then the non-defaulting Party must determine whether:

Energy Purchase Agreement

a. the defaulting Party has also defaulted under the Original PPA, and

b. to invoke its termination rights or other rights remedies, if any, as those rights are set forth in the Original PPA.

(B) House Power. This PPA does not provide for the supply of retail power for purposes of operating the Facility, including start-up, shut-down, oil heating, turbine adjustment, HVAC or any other purpose (“House Power”). Seller shall contract with the utility providing House Power to the Site (the “Local Provider”) for the supply of House Power. Seller acknowledges that (i) Seller must obtain House Power independently, (ii) this PPA is not binding on the Local Provider, (iii) this PPA does not create any rights between Seller and the Local Provider, and (iv) Seller’s contract for House Power does not affect the Parties’ rights and obligations under this PPA. For purposes of this PPA, the Local Provider shall be deemed to be a separate and unaffiliated contracting party regardless whether the Local Provider is Company or an Affiliate of Company; *provided* that, if (and only if) the Local Provider is Company or an Affiliate of Company, Seller may obtain House Power by self-generating and netting such self-generation from the Contract Energy provided to Company unless prohibited by Applicable Law.

(C) Natural Gas Fuel. This PPA does not provide for the supply of natural gas fuel for purposes of operating the Facility. Seller shall contract with the utility providing natural gas fuel to the Site (the “Local Gas Provider”) for the supply of natural gas fuel. Seller acknowledges that (i) Seller must obtain natural gas fuel independently, (ii) this PPA is not binding on the Local Gas Provider, (iii) this PPA does not create any rights between Seller and the Local Gas Provider, and (iv) Seller’s contract for natural gas fuel does not affect the Parties’ rights and obligations under this PPA. For purposes of this PPA, the Local Gas Provider shall be deemed to be a separate and unaffiliated contracting party regardless whether the Local Gas Provider is Company or an Affiliate of Company.

1.3 Good Faith and Fair Dealing. The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this PPA. Unless expressly provided otherwise in this PPA, (a) when this PPA specifically references the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA specifically gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be Commercially Reasonable.

Article 2 - Term and Termination

2.1 Term. This PPA shall become effective as of the date of its execution, and shall remain in full force and effect until 11:59 p.m. on December 31, 2024 (the “Scheduled Termination Date”), subject to early termination as provided in this PPA (the “Term”). Applicable provisions of this PPA shall continue in effect after termination to the

Energy Purchase Agreement

extent necessary to (i) provide for final billings, payments and adjustments, (ii) enforce or complete the duties, obligations or responsibilities of the Parties (including under Section 12.1(B)-(E), Section 12.3(B)-(C), Article 13 and Article 17 below), and (iii) address any remedies or indemnifications arising prior to termination.

2.2 Contract Start Date. For purposes hereof, the Contract Start Date shall be the later of January 1, 2023, or the first Day following the lapse or waiver of all conditions precedent identified in Article 6 of this PPA, including PUC Approval.

Article 3 - Facility Description

3.1 Facility Description. The Facility is described in Exhibit C - Facility Description and Site Maps. A scaled map that identifies the Site, the location of the Facility, the Interconnection Point and Interconnection Facilities, the Point of Delivery, the Fuel Delivery Point, and other important facilities, is included in Exhibit C - Facility Description and Site Maps.

3.2 General Design of the Facility.

(A) Seller shall continue to operate and maintain the Facility according to Good Utility Practices, all Applicable Laws, and Permits.

(B) The Facility includes all equipment specified in Exhibit C - Facility Description and Site Maps and otherwise necessary to fulfill Seller's obligations under this PPA, including all equipment necessary to interconnect successfully with the NSP System for the delivery of Contract Energy.

(C) The electric generating capacity of the Facility is approximately 33 MW. The Contract Capacity of the Facility shall be 25 MW.

Article 4 - Implementation

4.1 Monitoring. Upon request and Commercially Reasonable notice to Seller, Company shall have the right to monitor the testing and operation of the Facility at the Site to verify compliance with this PPA, *provided, however*, that Company shall comply with all of Seller's applicable safety and health rules and requirements.

4.2 Environmental Matters.

(A) Compliance with Environmental Laws. Seller's business, the Facility and the Site, while in the control of Seller or its Affiliates, have been, are currently, and will be operated in material with all Environmental Laws, Permits, licenses, rules or orders promulgated, issued or otherwise required by a Governmental Authority having jurisdiction or enforcement power under any Environmental Law. At the Effective Date, Seller, after due inquiry, has no knowledge of and has not received notice of any past, present or future actions or plans which, with respect to the Site or the Facility, may interfere with or prevent compliance with Environmental Laws or may give rise to any Environmental Liability or to any common law or legal liability or otherwise form the basis

Energy Purchase Agreement

of any claim, action, demand, suit, proceeding, hearing, study or investigation under any Environmental Law. At the Effective Date, there is no civil, criminal, or administrative action, suit, demand, claim, investigation or proceeding pending or to Seller's best knowledge after due inquiry and investigation, threatened against the Seller relating to compliance of the Site or the Facility with any Environmental Law, and Seller has not received any hearing notice, demand letter, notice of violation, claim or notice of assessment with respect to compliance of the Facility or the Site with any Environmental Law that remains unresolved.

(B) Pollution Credits and Environmental Offsets. Seller shall obtain in its own name any and all pollution or environmental offsets or credits necessary to operate the Facility in compliance with Environmental Laws.

(C) Throughout the Term, Seller promptly shall

1. disclose to Company and remediate, at Seller's sole cost and expense, any Environmental Contamination identified at the Site;

2. provide to Company copies of any further environmental assessments or investigations of the Site (including associated raw data, if requested by Company); and

3. disclose to Company the existence of any enforcement, legal, or regulatory action or proceeding relating to any alleged presence of Environmental Contamination and/or the alleged violation of any Applicable Law related to protection of human health, the environment, or natural resources, including protected species.

4.3 Permits.

(A) Seller shall obtain and pay for all Permits necessary under Applicable Law or advisable pursuant to Good Utility Practice for the continued ownership, operation, and maintenance of the Facility and the generation and delivery of the products and services required by this PPA. As applicable, Seller shall keep Company informed as to the status of its permitting efforts and shall provide Company the opportunity to review and comment on major applications for draft and final Permits. Seller shall promptly inform Company of (i) any Permits that Seller is unable to obtain, that are delayed, limited, suspended, terminated or otherwise constrained, along with a statement of whether and to what extent this circumstance may limit or preclude Seller's ability to perform under this PPA, and (ii) Seller's plan to overcome such issue(s) to allow Seller to perform this PPA as and when due. Company shall have the right to inspect and obtain copies of all Permits held by Seller.

(B) Seller represents and warrants to Company that all Permits and other actions required or recommended by applicable Governmental Authorities to authorize Seller's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

Energy Purchase Agreement

(C) Throughout the Term, Seller promptly shall disclose to Company the existence of any enforcement, legal, or regulatory action or proceeding relating to the alleged violation of any Permit held by Seller, which proceeding (if successful) could materially interfere with Seller's performance of this PPA.

(D) For purposes hereof, "Permits" means all applicable land use, air quality, emissions control, environmental, protected species, and other permits, licenses and approvals from any Governmental Authority for ownership, operation and maintenance of the Facility and the generation and delivery of Contract Energy therefrom.

4.4 Governmental Inspections. Seller shall notify Company (i) sufficiently in advance of any known upcoming significant inspections by any Governmental Authority relating to the Facility that could materially impact Seller's ability to perform its obligations pursuant to this Agreement, to allow Company the opportunity to attend, and (ii) promptly after any unscheduled or impromptu inspection with a description of the nature and outcome of such inspection.

Article 5 - Delivery

5.1 Existing Interconnection. In accordance with the Original PPA, Seller has arranged, at its sole expense, for the design, construction, installation, interconnection, and now operation and maintenance of Seller Interconnection Facilities, including the Facility Substation up to the Point of Interconnection. Also, Company has performed certain NSP System enhancements to accommodate the Facility on the NSP System. Accordingly, Seller has interconnected the Facility to the NSP System. The electrical systems of Seller and Company are interconnected at the points and voltages specified and diagrammed in Exhibit C – Facility Description and Site Maps.

5.2 Arrangements.

(A) Seller shall continue to comply with the Company's requirements for interconnection and shall comply with all applicable requirements necessary to continue operating and maintaining the interconnection of the Facility.

(B) Seller hereby authorizes Company to contact, discuss and obtain information concerning the Facility and the Interconnection Facilities directly with and from any Person or entity. Promptly upon request by Company, Seller shall confirm such authorization in writing to Company or MISO, in such form as may be requested by Company.

(C) To the extent applicable, Company shall be the market participant with respect to the Facility and the output of the Facility, as defined by the MISO Tariff.

(D) Seller shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver the Contract Energy to the Point of Delivery.

Energy Purchase Agreement

(E) Company shall be responsible for all electrical losses, transmission and ancillary service arrangements and costs required to transmit and deliver Contract Energy beyond the Point of Delivery.

5.3 Market Changes. If and to the extent that changes to the rules of the Market Operator require Company to change the manner in which Company schedules and dispatches the Facility, the Parties shall cooperate in good faith to change their protocols for operation of the Facility accordingly, at the least possible cost to the Parties, consistent with this PPA to the extent possible.

5.4 Electric Metering Devices.

(A) The sale and transfer of Contract Energy between Seller and Company shall be measured by metering equipment installed near the Point of Interconnection. The metering equipment shall be placed at a location described in Exhibit C – Facility Description and Site Maps.

(B) Company shall, using Good Utility Practice as generally implemented and enforced by Company with regard to the NSP System, design, provide, install, own, operate, test, and maintain the meters, associated metering equipment and telemetering equipment and services for the Facility. Seller shall reimburse Company for all costs incurred by Company under this Section 5.4.

(C) Unless otherwise instructed by the Coordinating Committee, Company shall read the meters on the first Business Day of each month and supply such meter readings to Seller no later than the end of the third Business Day of each month. Metering records shall be available at all reasonable times to authorized agents and employees of Seller.

(D) The metering equipment shall measure at the point of metering:

1. Real Energy delivery and use.
2. Instantaneous real power flow.
3. Instantaneous reactive power flow.

(E) Metering facilities and capability shall include telemetry to Company's EMCC and remote-read capabilities. These may be done with computer data links, direct RTUs or through telemetering transmitters and receivers to an RTU, subject to Company's prior approval. The equipment shall be of sufficient technical quality to provide the following information:

1. Interval data for Energy usage and power factor;
2. Instantaneous real power flow at the Point of Interconnection;

Energy Purchase Agreement

3. Instantaneous MWh reading;
4. Instantaneous reactive power flow at Point of Interconnection;
5. Voltage reading at Point of Interconnection.

(F) Seller shall provide, install, maintain and pay for weatherproof telephone service for telemetering as necessary and shall pay the applicable monthly service charge.

(G) Company shall test the meter and metering equipment as provided in this subsection.

1. Unless the Coordinating Committee decides otherwise, Company shall test each meter used near the Point of Interconnection or Point of Delivery at intervals of approximately twelve (12) months. Company shall provide Seller with twenty-four (24) hours' notice of such test, and Seller shall have the right to attend. In any event, such testing intervals shall comply at a minimum with the applicable ANSI testing frequency in effect at the time of each test. Seller shall reimburse Company for any costs associated with each test.

2. Either Party may request, at reasonable intervals and under reasonable circumstances, that a special test of the meter and metering equipment be made at any reasonable time, at the sole expense of the requesting Party.

(H) If, as a result of any test, any meter shall be found to be registering outside the applicable ANSI accuracy standard in effect at the time of the test, such meter shall be restored to meet the accuracy standard or an accurate meter shall be substituted by Company, and previous billings and payments between the Parties shall be corrected as set forth in Section 5.4(I).

(I) If required by Section 5.4(H), the meter reading between Seller and Company shall be corrected for a period equal to one-half of the elapsed time since the last prior test up to a maximum period of twelve (12) months, if the date on which the meter became defective or inaccurate is not ascertainable. If, however, the meter became defective or inaccurate at a reasonably ascertainable time since the last prior test of such meter, the correction shall extend back to such time. The meter reading shall be corrected for the applicable time period by applying the percentage of inaccuracy detected in the appropriate direction. Should metering equipment at any time fail to register, the Capacity and Energy delivered shall be determined from the best available data.

(J) All meters shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified, or relocated. If Seller breaks a seal, Seller shall notify Company as soon as practicable.

Energy Purchase Agreement

(K) The meter and metering equipment shall be maintained by Company in an accurate condition. Seller shall reimburse Company for all incremental costs associated with that maintenance.

5.5 Fuel.

(A) Seller shall procure and maintain fuel supplies and transportation of those supplies to the Facility in amounts and under terms and conditions sufficient to meet Seller's obligations under this PPA.

(B) Seller shall maintain a minimum supply or availability of back-up fuel in amounts adequate to operate the Facility as determined by the Coordinating Committee and sufficient to meet Seller's obligations under this PPA.

(C) Minnesota Statutes §216B.2424, subdivision 5b requires that the Facility uses waste wood as its primary fuel source, subject to additional conditions in Minnesota Statutes §216B.2424, subdivision 5c. The Parties agree that Seller may use nonbiomass fuel in any amount so long as Seller complies with the requirements of the above referenced Minnesota Statutes, all Applicable Laws, and all Permits. The Parties have established Exhibit J to monitor compliance with these requirements. Seller shall certify that its fuel meets the requirements of Exhibit J in the manner set forth therein.

(D) Seller shall have the right to change the source or composition of the fuel from waste wood provided,

1. any new or alternate source of fuel independently meets the definition of allowable biomass under Minn. Stat. § 216B.2424, subdivisions 5b and 5c;

2. Seller shall be solely responsible for all costs and expenses associated with changing the source or composition of the fuel; and,

3. should the change in the source or composition of the fuel from waste wood result in a decrease in Seller's cost of fuel as compared to Seller's cost of fuel as originally forecast at the time of the execution of this PPA, the Parties shall in good faith negotiate an amendment to this PPA that reduces the Energy Payment Rate in an amount that equals the decrease in Seller's cost of fuel.

(E) Fuel Supply Management. Company may audit Seller's fuel supply plan and the management thereof. Seller shall make reasonably available to Company all contracts with fuel suppliers, delivery records, procurement records, and other documents relating to Fuel.

5.6 Natural Gas Fuel.

(A) Seller shall be solely responsible for all natural gas interconnection, transportation, delivery and metering arrangements, and all associated costs, required to receive natural gas fuel to operate the Facility. Seller shall, at its sole expense, construct,

Energy Purchase Agreement

operate and maintain the pipelines, compressors, meters, heaters, filter/separation equipment, electronics, regulation equipment and other necessary equipment, of sufficient capacity and industrial specifications to receive, regulate, meter and transport natural gas fuel from the Fuel Delivery Point to the Facility, to allow for operation of the Facility on natural gas fuel as a back-up fuel over the Term. Seller shall be responsible for ensuring that the natural gas interconnection facilities and the upstream delivery system are of sufficient size and capability to ensure the Facility receives natural gas fuel that meets the minimum pressure requirement needed to run the Facility. If requested by Company, Seller shall install (at Company's cost) check metering, in connection with the natural gas custody transfer metering, on Seller's downstream natural gas facilities.

5.7 Daily Scheduling and Control.

(A) Seller agrees that the Facility shall be dispatchable by Company only in an Emergency, in which case Seller shall take Commercially Reasonable Efforts to immediately comply with all such instructions, directions, or orders from Company.

(B) The Parties shall develop production schedules through the Coordinating Committee under Article 10 of this PPA. The Parties shall use Commercially Reasonable Efforts to set the production schedule to allow the Parties to achieve but not exceed the Contract Energy Cap.

(C) Company has the right to request that the Facility operate above the agreed production schedule established by the Coordinating Committee pursuant to Section 10.7(E)6, in which case the Contract Energy Cap and Generation Limitation shall not apply.

5.8 Notification of Energy Forecasts and Operational Status.

(A) Seller shall report to the EMCC daily by telephone call, facsimile, email, transmission or courier service received by Company before 8:00 a.m. Central Time regarding the operational status of the Facility, including the status of any Outage or Derate, and including, without limitation, any Forced Derate, Forced Outage, Planned Outage, Planned Derate, or other operating constraints or limitations, unless other notification procedures are otherwise agreed to by the Coordinating Committee.

(B) Seller shall inform the EMCC by telephone call within ten (10) minutes or as promptly as possible of any significant unexpected changes in the status of the Facility, including emergencies, accidents, faults, or unplanned Outages or Derates that alter Facility capability by 1000 kW or more. Longer notification periods or higher kW amounts may be agreed upon by the Coordinating Committee.

5.9 Emergency Operation.

(A) Seller agrees that, consistent with Good Utility Practice, Company shall have unilateral authority during Emergency conditions to change production schedules, generation voltages and other Facility values in order to maintain system security, stability, continuity of service or to satisfy applicable operating requirements.

Energy Purchase Agreement

(B) Seller shall immediately respond to the direction of the EMCC during an Emergency.

5.10 Harmonic Control. Seller shall comply with the requirements and recommendations contained in Company's "Parallel Operation of Customer-Owned Generation Interconnection Guidelines," including the IEEE "Recommended Practices and Requirements for Harmonic Control in Electric Power Systems throughout the full power output range of the generators (Standard Number IEEE 519-1992)," as amended from time to time.

5.11 Real Power Control; Voltage; VAR Control

(A) Seller shall operate the Facility in accordance with the following conditions:

1. Seller shall install an automatic voltage regulator at the Facility.
2. Seller shall immediately respond to all EMCC instructions, directions or orders for reactive power.
3. The Facility shall be capable of continuously operating with a power factor controllable in the range of 0.9 lagging and 0.9 leading.
4. Operation within specific normal and emergency setpoints for voltage control specified by Company.

(B) Seller shall comply with the relevant provisions of Company's Interconnection and Metering Manual, as amended, in all respects.

(C) The Facility shall comply with the Company voltage deviation standard for switching events, capacitor operation, and rapid changes in generation. The Company voltage deviation standard presently requires that the Facility must not effect a transmission voltage step of more than plus or minus one and one half percent ($\pm 1.5\%$) of voltage under non-Emergency conditions.

(D) Seller shall operate the Facility within normal and emergency setpoints for reactive power output specified by Company for the Facility.

5.12 Frequency Control

(A) Seller shall operate the Facility consistent with NERC, MISO and Company guidelines and requirements concerning frequency control for the specific generation technology used by the Facility.

(B) Seller shall equip the Facility with governors that sense frequency and meet the following conditions:

Energy Purchase Agreement

1. Governors shall provide a zero to ten percent (0-10%) adjustable setting, nominally set at a five percent (5%) droop characteristic and a plus or minus 0.36 Hertz or less deadband, unless mutually agreed to by the Parties.
2. The Facility must begin increasing or decreasing capability at frequency setpoints of 59.64 Hertz or 60.36 Hertz, respectively.
3. The change in capability must begin occurring within 0.5 seconds of a detected frequency disturbance.
4. Governors shall be maintained and tested in accordance with the manufacturer's specifications to maintain the performance stated in this Section. Seller shall, at its sole cost, be responsible for this maintenance and testing.
5. During frequency response conditions, Seller shall cause the Facility to have an emergency governor response rate of at least 200% of its capacity per minute for its frequency control requirement.

5.13 NSP System Coordination and Switching.

(A) Subject to any schedule for Planned Outages established by the Coordinating Committee, Seller agrees to Company's sole and exclusive control and coordination of the NSP System, including the decision to remove the NSP System or other facilities from service for repair or other services.

(B) Pursuant to procedures established by the Coordinating Committee, Company shall inform Seller's control personnel whenever an Outage on the NSP System will have an impact on Seller's operation.

(C) Except during an Emergency or an event of Force Majeure, Company shall make reasonable attempts to notify Seller when the Facility will be switched off. For purposes of this Section, Company's attempt to provide telephone or email notice four hours before switch off shall be deemed reasonable.

5.14 Operational and Contract Compliance.

(A) Seller shall provide Company with all data required by Company to prepare reports to or answer information requests from any Governmental Authority. In addition, Seller shall provide to Company copies of all its submittals to any Governmental Authority related to the operation of the Facility with a certificate executed by an officer of Seller that the contents of the submittals are true and accurate to the best of Seller's knowledge. Seller shall use Commercially Reasonable efforts to provide this information to Company in sufficient time for Company to review it and meet any submission or response deadlines imposed by Applicable Laws, the requesting organization, or Governmental Authority.

Energy Purchase Agreement

(B) Seller shall provide Company with data reasonably required to respond to information requests from any Governmental Authority, or any other Person achieving party or intervenor status in any Company rate or regulatory proceeding before any Governmental Authority, or in any judicial proceeding involving the Facility. Seller shall use Commercially Reasonable efforts to provide this information to Company in sufficient time for Company to review it and meet any response deadlines imposed by any Applicable Laws or by the requesting Person. Company shall use reasonable best efforts to secure confidential treatment of such information upon written request by Seller.

(C) Seller shall provide Company with all operational data reasonably requested by Company or necessary to verify the performance of the Facility.

(D) Seller shall provide to Company all data reasonably requested by Company relating to emissions and other environmental information concerning the Facility, including data demonstrating the levels of emissions of all gases and particulates, and other information relating to the Permits or Environmental Laws.

5.15 Additional Information. Subject to the confidentiality provisions of this PPA, Seller shall provide to Company such information regarding the permitting, engineering, design, construction, operation or condition of the Facility, or other data concerning the Facility as Company may, from time to time, reasonably request.

Article 6 - Conditions Precedent

6.1 PUC Approval.

(A) No later than 45 Days after the date of this PPA, Company shall apply for PUC Approval.

(B) Company shall use Commercially Reasonable Efforts to obtain PUC Approval as soon as reasonably practicable, and Seller shall cooperate with such efforts.

(C) Company shall have the right to terminate this PPA, without any further financial or other obligation to Seller as a result of such termination, by notice to Seller

1. at any time within 30 Days following issuance of a written order by the PUC rejecting PUC Approval, or granting PUC Approval with conditions unacceptable to Company in its sole discretion;

2. at any time between the 180th and 215th Day following Company's application for PUC Approval, if prior to the date of such termination the PUC has not issued a written order granting or rejecting PUC Approval;

3. at any time within 30 Days following timely request for reconsideration (in whole or in any material part) by any third party with standing, of a written PUC order granting PUC Approval; and/or

Energy Purchase Agreement

4. at any time within 30 Days following timely appeal by any third party with standing, of a written PUC order granting PUC Approval.

If Company is eligible but fails to terminate this PPA by the applicable date, Company shall be deemed to have waived its right to terminate this PPA for that reason, and this PPA shall remain in full force and effect thereafter.

(D) For purposes of this PPA, "PUC Approval" means a written order of the MPUC and/or an Advance Determination of Prudence from the ND PSC, which alone or in combination make an affirmative determination that: (a) solely with respect to the MPUC, the PPA satisfies all requirements set forth in Minnesota Statutes Section 216B.2424, subdivisions 5b and 5c; and (b) all costs incurred under this PPA are recoverable from Company's retail customers pursuant to Applicable Law, subject only to the requirement that the MPUC and ND PSC (as applicable) retain ongoing prudence review of Company's performance and administration of this PPA, as determined by Company in its sole discretion.

6.2 Other Company Conditions Precedent. Prior to the Contract Start Date:

(A) Seller shall perform all tests and procedures necessary to verify Facility operation and performance in accordance with requirements of this PPA and for the determination of Contract Capacity, if such test have not been previously performed.

(B) Shall provide a certificate to Company signed under oath by an officer of Seller who is familiar with the Facility, stating the following:

1. As of the Contract Start Date, Seller has caused the Facility to obtain and maintain Commercial Operation in accordance with the requirements of the Original PPA, including all acceptance criteria and conditions precedent set forth in the Original PPA;

2. all necessary and material Permits have been obtained, are in full force and effect and the entity granting the Permit has not placed any temporary or conditional restrictions or limitations on the Facility or its operation;

3. Seller is in compliance with this PPA in all material respects;

4. the Facility is available to conduct normal operations in accordance with Seller's operating agreements, and any unexpired applicable manufacturers' warranties;

5. Seller has made all necessary arrangements to obtain and pay the Local Provider for House Power;

6. the Facility is interconnected to the NSP System and has commenced commercial operation;

Energy Purchase Agreement

7. Seller has made all arrangements necessary to deliver Contract Energy during the Term;

8. All fuel supply, fuel storage and fuel delivery arrangements necessary to operate the Facility in compliance with this PPA have been completed, tested and are in effect;

9. Seller has executed and delivered to Company all documents or instruments required under Articles 11 and 16;

10. All representations and warranties of the Seller contained in this Agreement are and remain true and correct;

11. No event of default, potential event of default, or senior event of default exists, as those terms are defined under the Original PPA.

12. No Event of Default or Potential Event of Default exists, as those terms are defined under this PPA;

13. Seller is in compliance with all duties and obligations imposed by this PPA, including obligations and duties to third parties and any Governmental Authority;

14. No legal proceedings are pending against Seller that might affect Seller's ability to perform under this PPA; and

15. No liens exist against the Facility except those held by Facility Lenders.

Article 7 - Sale and Purchase

7.1 General Obligation.

(A) Beginning on the Contract Start Date, Seller shall generate from the Facility, deliver to the Point of Delivery, and sell to Company, and Company shall receive and purchase at the Point of Delivery, (i) the Contract Energy up to 153,500 MWh per Contract Year ("Contract Energy Cap"); (ii) the Contract Capacity for purposes of capacity accreditation; and (iii) other products and services required by this PPA.

(B) Seller shall not be entitled to deliver Contract Energy from any source other than the Facility.

(C) Seller shall not sell any Contract Energy, or any other products or services required under this PPA to any third party.

7.2 Title and Risk of Loss. Title and risk of loss of the products and services transacted by this PPA shall transfer from Seller to Company at the Point of Delivery.

Energy Purchase Agreement

7.3 Environmental Attributes. The Parties acknowledge that existing and future Applicable Laws create significant value in the ownership, use and allocation of Environmental Attributes. To the full extent allowed by Applicable Law, Seller hereby assigns to Company (and Company shall own and be entitled to claim) all Environmental Attributes existing or created during the Term associated with the Facility and the Contract Capacity and the Contract Energy purchased by Company hereunder, at no additional charge to Company under this PPA. Seller hereby irrevocably assigns to Company all rights, title and authority for Company to register the Facility and own, hold and manage the Environmental Attributes associated with the Facility in Company's own name and to Company's account, including any rights associated with any energy information or tracking system that exists or may be established with regard to monitoring, registering, tracking, certifying, and/or trading such Environmental Attributes. Seller hereby authorizes Company to act as its agent for the purposes of registering the Facility and tracking, certifying, registering and reporting such Environmental Attributes. Seller grants to Company full authority to hold, use, sell and/or trade such Environmental Attributes for Company's own account in all applicable energy information or tracking systems. Upon the request of Company, at no cost to Company, (i) Seller shall deliver or cause to be delivered to Company appropriate attestations/certifications of such Environmental Attributes, and (ii) Seller shall cooperate with Company's tracking, registration, reporting and certification of such Environmental Attributes.

Article 8 - Payment Calculations

8.1 Payment for Contract Energy. Commencing on the Contract Start Date, Company shall pay the Energy Payment Rate to Seller for all Contract Energy received by Company, up to the Contract Energy Cap, *provided* that except as set forth in Sections 5.7(C) and 5.9(A), Company shall never be required to pay for net instantaneous output of the Facility (as measured at the Point of Delivery) in excess of the Generation Limit. For purposes of this PPA the "Generation Limit" shall be the Contract Capacity.

Article 9 - Billing and Payment

9.1 Billing.

(A) The billing period under this PPA shall be the calendar month.

(B) Within 15 Business Days following receipt of Company's billing statement, Seller shall submit an invoice to Company in a form and by a method to be determined by the Parties, showing the amount due Seller for the relevant month, specifying the products and services provided, billing meter register reads for relevant measurement quantities, total usage in KWH being billed, date and time at which accumulated and billed production was read by the Electric Metering Devices, all billing parameters, rates and factors, and any other data relevant to the calculation of payments due to Seller. Such invoice shall include an explanation of any items in dispute, as well as all supporting documentation upon which Seller relies.

Energy Purchase Agreement

(C) Seller shall pay Company a monthly charge equal to the lesser of Company's verifiable incremental costs, or \$400.00 per month for Company's costs associated with meter reading, billing information, and verification. Company may deduct its billing costs from its monthly payment to Seller.

9.2 Payment. All payments shall be remitted via check or electronic funds transfer, as designated by the owed Party, on or before the 15th Business Day following receipt of the invoice described in Section 9.1(B). Payments made by wire transfer or automatic clearing house funds ("ACH") must use the information provided in Exhibit L – ACH Payment Information. Remittances received by mail will be considered to have been paid when due if the postmark indicates the payment was mailed on or before the 15th Business Day following receipt of the billing invoice.

(A) If a payment is late, a late payment charge shall be applied to the unpaid balance for the number of days payment was late and shall be added to the next billing statement. Late payment charges shall include interest calculated using the prime rate of interest as published on the date of the invoice in *The Wall Street Journal* (or, if unavailable, an equivalent publication on or about that date).

(B) Company at any time may offset against amounts owed to Seller, any liquidated amounts, accrued damages and other payments, and undisputed billing errors and adjustments, which are owed by Seller to Company.

(C) Seller and Company may net their obligations to each other under this PPA, and payment of the net amount shall discharge all mutual undisputed obligations between the Parties.

9.3 Set Off. Company may set off and/or recoup against payments to be made to Seller hereunder any amount reasonably believed by Company to be due to Company from Seller under this PPA. Company's exercise of its right of retention under this Section is without prejudice to Seller's right to contest the setoff and the claim upon which the setoff is based and shall be done only in accordance with the procedures of this Section. Where Company exercises its right of setoff or recoupment, Company shall notify Seller in writing of the specific basis for the setoff or recoupment in reasonable detail, including the basis for calculation of the costs or amount believed to be due Company.

9.4 Billing Disputes. Either Party may dispute invoiced amounts pursuant to Section 13.1, but shall pay to the other Party at least the portion of invoiced amounts that is not disputed, on or before the invoice due date. When the billing dispute is resolved, the owing Party shall pay the amount owed within five (5) Business Days of the date of such resolution, with late payment interest charges calculated on the amount owed in accordance with Section 9.2(A).

Article 10 - Operations and Maintenance

10.1 Operation and Administration.

Energy Purchase Agreement

(A) Seller shall staff, control, and operate the Facility consistent with Good Utility Practices, Applicable Laws, Permits, Company practices, this PPA, and standards recommended by the Facility's equipment suppliers or manufacturers for warranty protection. Personnel of Seller shall be available 24x7 via telephone or other electronic means with the ability to be physically present at the Site within 30 minutes, or sooner to the extent required in accordance with Good Utility Practices.

(B) Seller shall comply with the applicable requirements of NERC, ERO, Company, FERC, MPUC, or successor organizations, Governmental Authority, Applicable Laws, and Good Utility Practice, in the operation of the Facility.

10.2 Facility Maintenance. Seller shall maintain the Facility in accordance with Good Utility Practices, with due regard for the safety, security, and reliability of the NSP System, Company's customers, and in compliance with the specifications set forth in the this PPA.

(A) Seller shall coordinate the Facility's relaying and protection to conform with NSP System practices, as amended from time to time, and communicated by Company to Seller.

(B) Seller shall furnish and install, at Seller's sole expense, a manually operable disconnecting device that can be locked by Company in the open position and visually checked to be in the open position, so as to be able to electrically isolate the Facility from the NSP System. This device shall be installed at a location at or near the Point of Interconnection.

(C) Seller shall have the Facility's protective relays calibrated and operationally checked, at Seller's sole expense, at least annually by a Person qualified to perform such service and provide Company with a written confirmation of the calibration.

(D) Seller shall maintain the ability to communicate with the EMCC at all times, twenty-four (24) hours a day, 365 days per year, throughout the Term of this Agreement. To accomplish this communication, Seller shall install, at Seller's sole expense, dedicated telephone circuits or alternate communications devices approved by Company for communications between Company and Seller.

(E) Seller shall operate the Facility in such a manner so as not to have an adverse effect on Company's voltage level or voltage waveform.

10.3 Forced Outages.

(A) When Forced Outages occur, Seller shall notify EMCC of the existence, nature, start time, and expected duration of the Forced Outage as soon as practicable, but in no event later than 30 minutes after the Forced Outage occurs. Thereafter Seller shall immediately inform EMCC of any changes in the expected duration of the Forced Outage except to the extent relieved of this obligation by EMCC with respect thereto.

Energy Purchase Agreement

(B) In addition to the foregoing notification, for any Forced Outage, shutdown or derating of the Facility, Seller shall conduct a root cause analysis and take corrective action to prevent reoccurrences as soon as practicable thereafter, at Seller's sole expense. Such corrective action includes weather protective modifications to the Facility, additional operating or maintenance procedures and other appropriate preventative measures in accordance with Good Utility Practices.

10.4 Accreditation. Seller shall perform from time to time, at its expense, any reporting and testing (including capacity testing) of the Facility required by Governmental Authorities.

10.5 Books and Records.

(A) Seller shall maintain an accurate and up-to-date hourly operating log for the Facility, in electronic format, that identifies real-time operating information for each Generating Unit, including levels of capacity availability; energy production; changes in operating status; Forced Outages; Planned Outages and Planned Derates; information required by Applicable Law, Governmental Authority, MPUC, or the ERO in the prescribed format; and other information reasonably requested by Company.

(B) Seller shall deliver to Company information on Facility performance during each calendar month within five Business Days after the end of the month. For each generating unit, and using definitions provided by (or consistent with) the NERC Generation Availability Data System ("GADS") Manual, or any successor document.

(C) Seller and Company shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including metering, billing and payment records, and such records as may be required by Governmental Authorities or the Company.

(D) Originals or copies of all Operating Records shall be maintained at the Site or such other Minnesota location as may be specified by Seller from time to time. Company may examine and make copies of such Operating Records from time to time upon request, during normal business hours.

(E) Seller shall maintain all records, kept pursuant to this PPA, for a minimum of six (6) years after the creation of the record or data and for any additional length of time required by any Governmental Authority with jurisdiction over Seller or Company provided, however, that Seller shall not dispose of or destroy any such records even after six (6) years without thirty (30) days prior written notice to Company.

10.6 Access to Facility. Representatives of Company shall have access to the Facility from time to time, on Commercially Reasonable prior notice, to read meters, perform inspections, review Seller's operating practices, and take such other actions as may be appropriate to facilitate Company's performance of this PPA. While at the Facility, such representatives shall observe Seller's standard safety precautions and shall conduct themselves in a manner that will not interfere with operation of the Facility.

Energy Purchase Agreement

10.7 Coordinating Committee.

(A) There shall be a Coordinating Committee, which shall be responsible for establishing and enforcing such practices, rules, and procedures as may be required to coordinate the operations of the Facility and NSP System, for the purpose of allowing for the provision of Capacity, the reliable, safe and efficient interchange of Energy from Seller to Company, including, but not limited to, compliance with all applicable operating standards, Applicable Laws, and Good Utility Practice.

(B) Each Party shall appoint one (1) authorized representative to the Coordinating Committee and one (1) alternate who may act in the absence of such representative. Each Party shall have one (1) vote.

(C) The Coordinating Committee shall keep written summary minutes of all meetings and decisions.

(D) Routine expenses incurred by Coordinating Committee members while carrying out their duties under this Agreement shall be borne by the represented Party. Special expenses shall be paid as determined by the Coordinating Committee.

(E) The duties and authority of the Coordinating Committee shall be limited to the following:

1. Coordination of generation and transmission maintenance schedules.
2. Coordination of system operations between Seller and Company to meet all applicable guidelines, Applicable Laws, and this PPA.
3. Review of current and expected operations for their impact on system security and reliability, and establish procedures and operating guidelines as appropriate to ensure secure operation in an economic manner.
4. Coordination of the exchange of operating data.
5. Collection and analysis of operating data pertinent to the Parties' operations and arrangement for conducting such network studies as may be necessary to solve operating problems.
6. Not less than 60 days prior to each Contract Year, the Coordinating Committee shall establish an agreed upon schedule that will detail the Energy that will be delivered to Company. The schedule shall be designed in such a way to meet the Parties' respective rights and obligations under this PPA. The Coordinating Committee may adjust the schedule as and whenever necessary to account for known or probable changes in circumstances.

(F) Each year the Coordinating Committee shall develop a Planned Outage and Planned Derate schedule. Company shall have final approval for all Planned

Energy Purchase Agreement

Outage and Derate schedules provided such approvals shall be consistent with Good Utility Practice as implemented by Company, and provided further that Company exercise such right in a Commercially Reasonable manner. To the extent feasible, the Planned Outage and Planned Derate schedule shall be set in conjunction with the thermal needs of District Energy St. Paul, Inc. (i.e., generally no Planned Outages will be scheduled from October 15 of any given year through April 15 of the next year unless agreed to by Seller) and Planned Outages by other energy suppliers, Company plants and the NSP System and the Facility Substation.

(G) The Coordinating Committee shall not have the authority to amend this PPA. If there is a conflict between the terms of this PPA and the terms of any Coordinating Committee minutes or other documents or procedures, this PPA shall control.

(H) The Coordinating Committee shall meet at the request of either Committee Member. Written minutes shall be kept of all meetings and copies of such minutes shall be mailed within ten (10) Business Days after each meeting to each member and each alternate member of the Coordinating Committee. A unanimous vote of the Committee is required to take any action. A decision by the Coordinating Committee as set forth in the minutes will be considered final and binding thirty (30) Days after mailing of final minutes unless written objection is made thereto by either Party.

(I) If written objection is made by either Party prior to the expiration of the thirty (30) Day period, the matter shall be referred to the Management Committee pursuant to Section 10.8(B)1.

10.8 Management Committee.

(A) There shall be a Management Committee which shall have the responsibilities set forth in Section 10.8(B). The Management Committee shall consist of a member or designated alternate from each Party.

(B) The Management Committee shall have the following authority and responsibilities:

1. Resolution of problems, disputes or misunderstandings relating to or arising from the performance, administration or breach of this PPA, including, but not limited to, matters referred to it by the Coordinating Committee.
2. Proposal of amendments to this PPA for consideration and action by the Parties.

(C) The Management Committee shall meet at the request of either Party. Written minutes shall be kept of all meetings and decisions. Copies of all minutes shall be mailed within ten (10) Business Days after each meeting to each member and designated alternate member of the Management Committee. A unanimous vote of the Management Committee is required to take any action. A decision of the Management Committee as set forth in the minutes will be considered final and binding on the Parties

Energy Purchase Agreement

thirty (30) days after the mailing of final minutes unless written objection is made thereto by either Party.

(D) If written objection is made by either Party prior to the expiration of the thirty (30) Day period, the Management Committee shall have sixty (60) Days after the mailing of the objection to reach agreement. If agreement is not reached within this sixty (60) Day period, the matter shall be resolved in accordance with Article 13.

Article 11 - Security for Performance

11.1 Security Fund.

(A) During the Term of this PPA, Seller shall fund and maintain security in favor of Company, at Seller's expense, to secure Seller's obligations to Company under this PPA (the "Security Fund"), in accordance with this Article 11.

(B) Within five (5) Business Days following the Contract Start Date, Seller shall establish and fund the Security Fund in the amount of **[NOT PUBLIC DATA BEGINS... ...NOT PUBLIC DATA ENDS]**.

(C) Company may draw from the Security Fund such amounts as are necessary to recover amounts owing to Company pursuant to this PPA, including without limitation any Actual Damages and any amounts for which Company is entitled to indemnification under this PPA. Company may, in its sole discretion, draw all or any part of such amounts from any form of security to the extent available pursuant to this Article 11 and in any sequence Company may select. Company's failure or delay to draw any amount from the Security Fund in any instance shall not prejudice Company's rights to subsequently recover such amount from the Security Fund or in any other manner.

(D) Company shall notify Seller within 5 Business Days following any draw on the Security Fund by Company, including the amount thereof and the basis therefor.

11.2 Replenishment. Seller shall replenish the Security Fund to the applicable level set forth in Section 11.1(B) within 15 Business Days after Company makes a draw on the Security Fund; *provided*, such replenishment shall not exceed the amount remaining under the applicable Damage Cap (as provided in Section 12.4(A)). Notwithstanding the foregoing, within 15 Business Days after Company makes a draw on the Security Fund associated with the damages described in Section 12.4(B), Seller shall replenish all amounts drawn from the Security Fund.

11.3 Form.

(A) The Security Fund may be in the form of an irrevocable standby letter of credit substantially in the form of Exhibit G – Form of Letter of Credit (a "Letter of Credit") from a financial institution acceptable to Company ("Issuer").

1. The Issuer of the Letter of Credit shall have and maintain a Credit Rating equivalent to A- (or better) by Standard & Poors and A3 (or better) from

Energy Purchase Agreement

Moodys. If such Credit Rating is A- or A3, the Issuer must not be on credit watch by any rating agency.

2. The Letter of Credit must be for a minimum term of 360 Days. Seller shall give Company at least 30 Days advance notice prior to any expiration or earlier termination of the Letter of Credit. Seller shall cause the renewal or extension of the Letter of Credit for additional consecutive terms of 360 Days or more (or, if shorter, the remainder of the Term) more than 30 Days prior to each expiration date of the security. If the Letter of Credit is not renewed or extended at least 30 Days prior to its expiration date or otherwise is terminated early, Company shall have the right to draw immediately upon the Letter of Credit and to place the amounts so drawn, at Seller's cost and with Seller's funds, in an Escrow Account in accordance with paragraph (B) below, until and unless Seller provides a substitute form of security meeting the requirements of this Section 11.3.

(B) The Security Fund may be in the form of U.S. currency deposited into an escrow account with a state- or federally-chartered commercial bank with an office in the State of Minnesota, with net assets of at least \$1 billion (the "Escrow Account").

1. The Escrow Account shall be governed by an escrow and account control agreement in form mutually satisfactory to Seller, Company and the escrow agent, provided that (a) Company shall hold a first and exclusive perfected security interest in the funds in the Escrow Account, (b) Company shall be permitted unilaterally to draw down such amounts as are necessary to recover amounts owing to Company pursuant to this PPA, including without limitation any Actual Damages and any amounts for which Company is entitled to indemnification under this PPA, regardless of any protest by Seller or any other party liable thereon (*provided* that nothing in the Escrow Agreement shall preclude any protest against Company by Seller, following any draw, that such draw did not comply with this PPA), and (c) Seller shall pay all fees and expenses of the escrow agent.

2. Funds held in the Escrow Account may be invested as Seller may direct in any of the following:

- a money-market fund sponsored by the escrow agent;
- U.S. treasury obligations with a maturity of 90 Days or less;
- commercial paper rated "A" or better, with a maturity of 90 days or less; and
- other liquid investment-grade investments with maturities of three months or less, approved by Company in advance (such approval not to be unreasonably withheld or delayed).

3. All investment income on the Escrow Account shall be taxable to, and accrue for the benefit of, Seller. After the Contract Start Date, periodic sweeps

Energy Purchase Agreement

by Seller for recovery of interest earned by the escrowed funds shall be allowed, and if at any time the balance in the Escrow Account exceeds the required amount of security, the escrow agent may remit the excess to Seller.

(C) The Security Fund may consist of a guaranty substantially in the form of Exhibit H – Forms of Guaranty, from a parent or other guarantor (“Guarantor”) with an Investment Grade Credit Rating (and if such Credit Rating is exactly equivalent to BBB-(S&P) / Baa3 (Moody’s), the Guarantor must not be on credit watch by any rating agency). If the Credit Rating of the Guarantor is downgraded below Investment Grade, put on credit watch, or an event occurs that (in the reasonable determination of Company) portends a Material Adverse Effect in the creditworthiness of the Guarantor, then Company may require Seller to convert the guaranty to a Security Fund instrument meeting the criteria set forth in either paragraph (A) or paragraph (B) above no later than 10 Days after notice from Company.

(D) Company shall negotiate in good faith any needed escrow and account control agreement and, upon request by Seller, immaterial changes to Exhibit G – Form of Letter of Credit and/or Exhibit H – Forms of Guaranty, provided that Seller shall pay or reimburse Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in connection therewith.

(E) Seller may change the form of the Security Fund at any time and from time to time upon Commercially Reasonable prior notice to Company, *provided, however*, that the Security Fund must at all times satisfy the requirements of this Article 11.

11.4 Replacement. In the event that the Security Fund ever fails to comply with the requirements of this Article 11 or Company determines in a Commercially Reasonable manner that an event has occurred or circumstances have developed that threaten to cause the Security Fund to fail to comply with the requirements of this Article 11 (e.g. a Guarantor is placed on negative credit watch by a rating agency), Seller shall be required to replace the Security Fund with security in compliance with this Article 11 within 5 Days following notice thereof from Company.

11.5 Survival. The Security Fund shall survive termination of this PPA to be available to pay any amounts owed to Company arising prior to or upon termination. Promptly following (i) the end of the Term and the completion of all of Seller’s obligations under this PPA, or (ii) termination of this PPA for any reason prior to the Scheduled Termination Date, Company shall determine the amount, if any, owed by Seller for any obligations or damages arising out of this PPA. Company may draw such amount and shall release the balance of the Security Fund (including any accumulated interest, if applicable) to Seller.

11.6 Expenses. Seller shall reimburse Company for its direct expenses (including the fees and expenses of counsel) incurred by Company in connection with the preparation, negotiation, execution and/or release (including making a draw of funds) of the Security Fund under this Article 11.

Energy Purchase Agreement

Article 12 - Default and Remedies

12.1 Default by Seller: General.

(A) Events. Any of the following events shall constitute a default by Seller under this PPA. If no cure period is provided below, such default shall be deemed an Event of Default by Seller immediately upon its occurrence. If a cure period is provided below, such default shall mature into an Event of Default if not cured within the indicated cure period, subject to Section 13.3 below.

1. Seller's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for Seller or for all or substantially all of its assets, or its authorization of such application or consent; or the commencement of any proceedings seeking such appointment without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of 60 Days from inception.

Cure Period: None.

2. Seller's authorization or filing of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction; or the institution of such proceedings against Seller without such authorization, application or consent, which proceedings remain undismissed or unstayed for 60 Days from inception or which result in adjudication of bankruptcy or insolvency within such time.

Cure Period: None.

3. Seller's assignment of this PPA or the Facility, or any Change of Control, not permitted by Section 19.1.

Cure Period: None.

4. Any representation or warranty by Seller in this PPA that has a Material Adverse Effect on Seller's ability to perform this PPA is proven to have been false in any material respect when made.

Cure Period: None.

5. Seller's failure to establish and, once established, maintain the Security Fund as and in the amounts required under Article 11.

Cure Period: Five (5) Business Days after Company provides notice of Seller's failure.

Energy Purchase Agreement

6. Seller's failure to obtain and maintain insurance in scope and amounts required under Article 16.

Cure Period: Fifteen (15) Business Days after Company provides notice of Seller's failure.

7. Seller's failure to make any undisputed payment to Company as and when required by this PPA, including Actual Damages and any required indemnification.

Cure Period: Ten (10) Business Days after Company provides notice that the amount is overdue.

8. Any representation or warranty by Seller in this PPA that has a Material Adverse Effect on Seller's ability to perform this PPA ceases to remain true in all material respects during the Term, other than due to a change of law.

Cure Period: Thirty (30) Days after Company provides notice of such breach.

9. The breach by Seller of any applicable requirement necessary to operate and maintain the Facility interconnection, which breach (i) materially interferes with Seller's production and/or delivery of any product or service to be produced or delivered pursuant to this PPA or Company's ability to accept or receive such product or service, (ii) Company's ability to transmit Contract Energy beyond the Point of Delivery, and/or (iii) otherwise has a Material Adverse Effect on Company.

Cure Period: Thirty (30) Days after Company provides notice of such breach.

10. The failure by Seller to perform or observe any other material obligation to Company under this PPA, unexcused by Force Majeure.

Cure Period: Thirty (30) Days after Company provides notice thereof; *provided*, that if such default is not reasonably capable of cure within such 30-Day period, Seller shall have such additional period of time (not to exceed 90 Days in any event) as is reasonably necessary for cure, so long as Seller initiates cure within such 30-Day period and diligently prosecutes the cure to conclusion thereafter.

(B) Remedies for Default. In connection with any default by Seller under this Section 12.1 (whether or not cured by Seller), Company may

1. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

Energy Purchase Agreement

2. Offset against any payments due to Seller, any Actual Damages and other amounts due from Seller; and/or

3. Draw any Actual Damages and other amounts due from Seller, from the Security Fund.

(C) Termination for Event of Default. Upon and at any time following an Event of Default by Seller under this Section 12.1, in addition to its rights under Section 12.1(B) above, Company may terminate this PPA immediately upon notice to Seller, without penalty or further obligation to Seller. In connection with any such termination, Company may collect from Seller (subject to the Damage Cap) all Actual Damages arising from such Event of Default through the Scheduled Termination Date.

(D) Specific Performance. In addition to the other remedies specified herein, upon any Event of Default of Seller under this Section 12.1, Company may elect to treat this PPA as being in full force and effect and Company shall have the right to specific performance.

12.2 Notice of Default; Notice of Litigation.

(A) Seller shall provide written notice to Company within three (3) days of receiving notice or becoming aware of the occurrence of any Event of Default under this PPA or any other contractual obligation of Seller not waived by the applicable Facility Lender, and of any other development, financial or otherwise, that may materially and adversely affect the Facility or its operations or the ability of Seller to perform its obligations under this PPA.

(B) Seller shall provide written notice to Company within three (3) days of receiving notice or becoming aware of the commencement, pendency or threatened commencement of all actions, suits, and proceedings before any court or Governmental Authority in which the alleged liability of Seller if adversely determined exceeds \$100,000, or which involve the Facility or Site.

12.3 Default by Company.

(A) Events. Any of the following events shall constitute a default by Company under this PPA. If no cure period is provided below, such default shall be deemed an Event of Default by Company immediately upon its occurrence. If a cure period is provided below, such default shall mature into an Event of Default if not cured within the indicated cure period, subject to Section 13.3 below.

1. Company's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for Company or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of 60 Days from inception.

Energy Purchase Agreement

Cure Period: None.

2. Company's authorization or filing of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction or the institution of such proceedings against Company without such authorization, application or consent, which proceedings remain undismissed or unstayed for 60 Days from inception or which result in adjudication of bankruptcy or insolvency within such time.

Cure Period: None.

3. Company's assignment of this PPA, not permitted by Section 19.2.

Cure Period: None.

4. Any representation or warranty by Company in this PPA that has a Material Adverse Effect on Company's ability to perform this PPA is proven to have been false in any material respect when made.

Cure Period: None.

5. Company's failure to make any payment to Seller as and when required by this PPA, including invoiced amounts, Actual Damages and any required indemnification.

Cure Period: Ten (10) Business Days after Seller provides notice that the amount is overdue.

6. Any representation or warranty by Company in this PPA that has a Material Adverse Effect on Company's ability to perform this PPA ceases to remain true during the Term, other than due to a change of law.

Cure Period: Thirty (30) Days after Seller provides notice of such breach.

7. The failure by Company to perform or observe any other material obligation to Seller under this PPA, unexcused by Force Majeure.

Cure Period: Thirty (30) Days after Seller provides notice thereof; *provided*, that if such default is not reasonably capable of cure within such 30-Day period, Company shall have such additional period of time (not to exceed 90 Days in any event) as is reasonably necessary for cure, so long as Company initiates cure within such 30-Day period and diligently prosecutes the cure to conclusion thereafter.

Energy Purchase Agreement

(B) Remedies for Default. In connection with any default by Company (whether or not cured by Company), Seller may:

1. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA; and/or
2. Offset against any payments due to Company, any Actual Damages and other amounts due from Company.

(C) Termination for Event of Default. Upon an Event of Default by Company, in addition to its rights under Section 12.3(B) above, Seller may terminate this PPA immediately upon notice to Company, without penalty or further obligation to Company, and in connection therewith, collect from Company all Actual Damages arising from such Event of Default through the Scheduled Termination Date.

12.4 Limitations on Damages.

(A) Except as otherwise provided in Section 12.4(B), following the Contract Start Date Seller's aggregate financial liability to Company for Actual Damages shall not exceed \$2,500,000 (the "Damage Cap"). If at any time following the Contract Start Date, Company incurs damages in excess of the Damage Cap that Seller does not pay when billed by Company, Company shall have the right to terminate this PPA upon notice to Seller, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

(B) Actual Damages payable by Seller arising out of any of the following events shall not be subject to the Damage Cap and shall not be credited against the Damage Cap:

1. damage to Company-owned facilities proximately caused by negligence, breach of this PPA or misconduct by Seller, its directors, officers, employees and agents;
2. Seller's intentional misrepresentation or intentional misconduct in connection with this PPA or the operation of the Facility;
3. the sale or diversion by Seller to a third party of any Contract Energy from the Facility, excluding any sales in mitigation of damages;
4. Seller's failure to maintain insurance coverages in the types and amounts required by this PPA;
5. any indemnification claim under this PPA;
6. any Environmental Contamination caused or exacerbated by Seller; or

Energy Purchase Agreement

7. damages incurred by Company in connection with any bankruptcy or insolvency proceeding involving Seller, including Company's loss of the benefit of its bargain due to rejection or other termination of this PPA in such proceeding.

(C) The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to all direct damages proximately caused by such default ("Actual Damages") incurred by the non-defaulting Party, provided that if Seller is the defaulting Party, Actual Damages recoverable by Company hereunder may include Replacement Power Costs. **Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, treble, equitable or indirect damages, lost profits or other business interruption damages, regardless of whether the relevant cause of action arises from statute, tort or contract** (except to the extent expressly provided herein); *provided, however*, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for all such damages.

(D) To the extent damages required to be paid hereunder are liquidated, the Parties acknowledge that actual damages would be substantial but difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

12.5 Bankruptcy. This PPA grants each Party the contractual right to "cause the liquidation, termination or acceleration" of the transactions within the meaning of Sections 556, 560 and 561 of the U.S. Bankruptcy Code, as they may be amended superseded or replaced from time to time. Upon a bankruptcy, a non-defaulting Party shall be entitled to exercise its rights and remedies under this PPA in accordance with the safe harbor provisions of the Bankruptcy Code set forth in, *inter alia*, §362(b)(6), §362(b)(17), §362(b)(27), §362(o), §546(e), §548(d)(2), §556, §560 and §561, as they may be amended, superseded or replaced from time to time.

12.6 Cumulative Remedies. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein

12.7 Duty to Mitigate. Each Party shall use Commercially Reasonable Efforts to mitigate any damages it may incur as a result of a default by the other Party under this PPA.

Energy Purchase Agreement

12.8 Additional Company Termination Right. Company may terminate this PPA in the event the Facility sustains property damage equal to or in excess of eighty percent (80%) of the replacement cost of the Facility.

Article 13 - Dispute Resolution

13.1 Negotiation.

(A) In the event of any dispute arising under or associated with the Parties' performance of this PPA which has not been resolved by the Management Committee pursuant to Section 10.8 (a "Dispute"), within 10 Business Days following notice by either Party (a "Dispute Notice"), either Party may request that consideration and resolution of the Dispute be transferred to senior management. Within 10 Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within 10 Business Days after receipt of each Party's Dispute summaries, the designated senior managers for both Parties shall negotiate in good faith to resolve the Dispute. If such senior managers are unable to resolve the Dispute thereafter, either Party may seek available legal remedies, subject to Section 13.3.

13.2 Time Bar. If no Dispute Notice has been issued within six (6) months following the occurrence of events or circumstances giving rise to the Dispute (regardless of the actual knowledge of either Party of such events and circumstances), all claims related to such Dispute (including any allegations of billing errors) shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.

13.3 No Termination Pending Dispute Resolution. Notwithstanding Section 12.1 or Section 12.3 to the contrary:

(A) An Event of Default shall not be deemed to have occurred (and hence neither Party may terminate this PPA) for failure by the other Party to pay any amount(s) allegedly due totaling less than \$100,000, if (1) such amount(s) are disputed in good faith, (2) the Party alleged to owe such amount(s) promptly commences and diligently pursues resolution of the Dispute pursuant to Section 13.1, and (3) the owed amount (if any) is paid within 10 Business Days after all dispute resolution mechanisms are completed with respect thereto.

(B) An Event of Default by Seller shall not be deemed to have occurred (and hence Company may not terminate this PPA) for failure by Seller to pay any amount(s) allegedly due totaling \$100,000 or more, if

1. such amount(s) are disputed by Seller in good faith;
2. Seller promptly commences and diligently pursues resolution of the Dispute pursuant to Sections 10.8 and 13.1;
3. Seller either holds an Investment Grade Credit Rating, or posts cash collateral to secure its obligations (if any) with respect to the disputed amount(s),

Energy Purchase Agreement

in an amount equal to the amount(s) in dispute, under a mutually agreeable third-party escrow and account control agreement, in addition to the Security Fund; and

4. the owed amount (if any) is paid by Seller within 10 Business Days after all dispute resolution mechanisms are completed with respect thereto.

(C) An Event of Default by Company shall not be deemed to have occurred (and hence Seller may not terminate this PPA) for failure by Company to pay any amount(s) allegedly due totaling \$100,000 or more, if

1. such amount(s) are disputed by Company in good faith;

2. Company promptly commences and diligently pursues resolution of the Dispute pursuant to Sections 10.8 and 13.1;

3. Company either holds an Investment Grade Credit Rating, or posts cash collateral to secure its obligations (if any) with respect to the disputed amount(s), in an amount equal to the amount(s) in dispute, under a mutually agreeable third-party escrow agreement; and

4. the owed amount (if any) is paid by Company within 10 Business Days after all dispute resolution mechanisms are completed with respect thereto.

13.4 Governing Law. The interpretation and performance of this PPA, and all actions related hereto (whether sounding in contract, tort or otherwise), shall be governed and construed in accordance with the laws of the State of Minnesota, exclusive of conflict of laws principles.

13.5 Venue. The Parties submit to the exclusive jurisdiction of the state courts of the State of Minnesota for purposes of resolving any Dispute hereunder. Venue for any court proceedings shall lie exclusively in the Minnesota District Court for the Fourth District or, if jurisdictionally available, the U.S. District Court for the District of Minnesota.

13.6 Waiver of Jury Trial. **Seller and Company each hereby knowingly, voluntarily and intentionally waive any rights they may have to a trial by jury** in respect of any litigation based hereon, or arising out of, under, or in connection with, this PPA or any course of conduct, course of dealing, statements (whether oral or written) or actions of Seller and Company related hereto and expressly agree to have any Disputes be adjudicated by a judge of the court having jurisdiction, without a jury.

Article 14 - Force Majeure

14.1 Definition. For purposes hereof, "Force Majeure" means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not anticipated as of the Effective Date, (ii) is not within the control of or the result of the fault or negligence of the Party claiming excuse, and (iii) which by exercise of due diligence and foresight could not reasonably have been avoided.

Energy Purchase Agreement

Subject to the foregoing, causes or events that could qualify as Force Majeure include, but are not limited to the following:

1. actions of the elements such as floods, storms, earthquakes, hurricanes, tornadoes, high winds of sufficient strength or duration to materially damage the Facility or significantly impair its operation;
2. sabotage, vandalism, acts of the public enemy (including acts of terrorism), war (declared or undeclared), riots or similar civil disturbance, blockades, insurrection, revolution, expropriation or confiscation; and
3. actions or inactions by any Governmental Authority taken after the Effective Date and not taken on account of any act or omission of Seller to impose environmental constraints that affect the operation or maintenance of the Facility, or generation or delivery of Contract Energy to the Point of Delivery.

Force Majeure shall not include:

- (A) Inability, or excess cost, to procure any equipment necessary to perform this PPA;
- (B) Acts or omissions of a third party (including vendors and contractors to Seller), unless such acts or omissions are themselves excused by reason of Force Majeure;
- (C) Failure timely to apply for, maintain, renew, or diligently pursue any Permits;
- (D) mechanical or equipment breakdown or inability to operate, attributable to circumstances occurring within design criteria and normal operating tolerances of similar equipment;
- (E) Environmental Contamination at the Site;
- (F) Changes in market conditions;
- (G) Changes of law; or
- (H) Labor strikes, slowdowns, work stoppages, or other labor disruptions.

14.2 Applicability of Force Majeure. A Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA if and to the extent such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome the Force Majeure and resumes performance of its obligations under this PPA as soon as

Energy Purchase Agreement

practicable thereafter; and (iv) such Party provides notice upon conclusion of the Force Majeure.

14.3 Limitations on Effect of Force Majeure.

(A) Force Majeure shall relieve a Party of only such obligations as are actually precluded by the Force Majeure.

(B) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

(C) If Force Majeure affecting Seller continues for a period of ninety (90) consecutive Days or any one hundred eighty (180) non-consecutive Days in any single Contract Year, including any such corresponding contract year period under the Original PPA, Company may, at any time following the end of such period, terminate this PPA upon notice to Seller, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

Article 15 - Representations, Warranties and Covenants

15.1 Mutual Representations and Warranties. Each Party hereby represents and warrants to the other as follows, which representations and warranties shall be deemed to be repeated, if applicable, by each Party throughout the Term:

(A) Such Party is a valid separate legal entity, duly organized, validly existing and in good standing under Applicable Law. It is qualified to do business in the State in which the Facility is located and each other jurisdiction where the failure to so qualify would have a Material Adverse Effect on the business or financial condition of the other Party. It has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

(B) The Party's execution, delivery, and performance of all of its obligations under this PPA have been duly authorized by all necessary organizational action, and do not and will not:

1. require any consent or approval by any governing corporate or management body, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to the other Party upon its request);

2. violate any Applicable Law, the violation of which could have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA;

3. result in a breach or constitute a default under the representing Party's formation documents, bylaws or equivalent, or under any agreement relating to its management or affairs, any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which it is a party or by

Energy Purchase Agreement

which it or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA; or

4. result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of the representing Party now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA.

(C) This PPA is a valid and binding obligation of the representing Party.

(D) The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which the representing Party is a party or any judgment, order, or Applicable Law, applicable to it or its business.

(E) Such Party is (i) a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of this PPA, or the products and/or by products thereof; and (ii) entering into this PPA solely for purposes related to its business as such.

15.2 Seller Representations, Warranties, and Covenants.

(A) Seller covenants to Company throughout the Term that Seller shall deliver to Company the products and services required by this PPA free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any Person.

(B) Seller represents and warrants that, as of the Effective Date,

1. No litigation, arbitration, investigation, involuntary bankruptcy or other proceeding and no claim, lien, or judgment is pending or to the best of its knowledge threatened against Seller, or any of its Affiliates:

a. With respect to this Agreement and the transaction contemplated thereby, the Site or the Facility; or

b. Which would, if adversely determined, have a Material Adverse Effect on the business, operations, property, financial or other condition of Seller taken as a whole or the ability of Seller to perform its obligations under this Agreement.

2. No liens exist against the Facility except those held by Facility Lenders.

Energy Purchase Agreement

3. No event of default, potential event of default, or senior event of default exists, as those terms are defined under the Original PPA.

4. Seller has filed or caused to be filed all required tax returns and has paid, or is contesting in good faith, all taxes, fees or other charges shown to be due and payable on said returns or on any assessments made against it or any of its property including the Site, or imposed on it or any of its property by any Governmental Authority except for the City of St. Paul, Minnesota, acting solely in its capacity as lender to District Energy St. Paul, Inc. or District Cooling St. Paul, Inc.; and no tax liens have been filed and no claims are being asserted with respect to any such taxes, fees or other charges, except such liens or claims that are being contested in good faith.

5. Neither Seller nor any of its representatives has entered into any form of collusive arrangement with any Person or entity which has to any extent, directly or indirectly, lessened competition between Seller and any other Person or entity for the supply of Capacity and Energy to Company.

Article 16 - Insurance

16.1 Evidence of Insurance. No later than the Contract Start Date and thereafter at least thirty (30) Days after each applicable expiration date, Seller shall provide Company with two copies of insurance certificates acceptable to Company evidencing that insurance coverages for the Facility are in force and in compliance with the specifications for insurance coverage set forth in Exhibit E – Insurance Coverage to this PPA. Such certificates shall

(A) name Company as an additional insured (except worker's compensation and property);

(B) provide that Company shall receive 30 Days prior written notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such notice may be 10 Days for non-payment of premiums);

(C) provide a waiver of any rights of subrogation against Company, its Affiliates and their officers, directors, agents, subcontractors, and employees; and

(D) indicate that the Commercial General Liability policy has been endorsed as described above.

16.2 Policy Requirements. All policies shall be written with insurers with an AM Best rating of at least A-VII or a Standard & Poor's rating of at least A. All policies shall be written on an occurrence basis, except as provided in Section 16.4. All policies shall contain an endorsement that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by Company. Seller may satisfy its insurance requirements using any reasonable combination of primary and secondary coverage.

Energy Purchase Agreement

16.3 No Implied Limitation. Seller's liability under this PPA is not limited to the amount of insurance coverage required herein.

16.4 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six years after the Term.

(B) Company shall have the right, at times deemed appropriate to Company during the Term, to request Seller to modify the insurance minimum limits specified in Exhibit E – Insurance Coverage in order to maintain Commercially Reasonable coverage amounts. Seller shall make Commercially Reasonable Efforts to comply with any such request.

(C) If any insurance required to be maintained by Seller hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Seller shall provide notice to Company, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such notice, Seller shall use Commercially Reasonable Efforts to obtain other insurance that would provide comparable protection against the risk to be insured.

Article 17 - Indemnity

17.1 Indemnification: General. Each Party (the "Indemnifying Party") shall indemnify, defend and hold the other Party (the "Indemnified Party") harmless from and against all claims, demands, lawsuits (including citizen suits), losses, liabilities, fines, penalties, and expenses (including attorneys' fees) (generally, "Losses"), to the extent proximately caused by

- a default under this PPA by the Indemnifying Party;
- a violation or alleged violation of Applicable Laws by the Indemnifying Party; and
- the negligence, intentional acts and other misconduct of the directors, officers, employees, or agents of the Indemnifying Party.

17.2 Indemnification: Environmental. Seller shall indemnify, defend and hold Company harmless from and against all Losses arising out of any claim by any Governmental Authority or other third party alleging Environmental Contamination at the Site and/or illegal disposal of Hazardous Materials off-Site, regardless of merit and regardless of Seller's responsibility therefor.

Energy Purchase Agreement

17.3 Indemnification: House Power. If Seller obtains House Power from the Facility and/or a self-generation source other than the Facility, Seller shall: (i) provide evidence reasonably satisfactory to Company that it is permitted to do so under Applicable Law, and (ii) shall indemnify, defend and hold Company harmless from and against all claims, demands, lawsuits (including citizen suits), losses, liabilities, fines, penalties, and expenses (including attorneys' fees) that may result therefrom.

17.4 Limitations.

(A) The foregoing indemnification obligations shall apply notwithstanding any contributory misconduct of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's misconduct caused the damages.

(B) Neither Party shall be indemnified for Losses resulting from the sole negligence or willful misconduct of the directors, officers, employees, or agents of such Party.

(C) These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy. Nothing in this Section 17.4 shall enlarge or relieve Seller or Company of any liability to the other for any breach of this PPA.

17.5 Procedures.

(A) Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 17 may apply, the Indemnified Party shall provide notice thereof to the Indemnifying Party; *provided* that a delay in providing such notice shall limit the obligations of the Indemnifying Party only to the extent that such delay actually prejudices the ability of the Indemnifying Party to contest the claim or defend the proceeding.

(B) The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall reasonably conclude that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense.

(C) If an Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may contest, settle, or pay such claim at the expense of the Indemnifying Party, *provided, however, that* settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or otherwise warrants settlement.

Energy Purchase Agreement

17.6 Amounts Owed. In the event that a Party is obligated for indemnification under this Article 17, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual Losses net of any insurance proceeds received by the Indemnified Party following a Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds.

Article 18 - Lender Provisions

18.1 Accommodation of Facility Lender.

(A) Company shall provide such consents to collateral assignment, certifications, representations, estoppels, information or other documents, as may be reasonably requested by Seller in connection with the financing of the Facility consistent with the terms set forth in Exhibit K – Lender Consent Provisions (generally, a "Lender Consent"), *provided, however*, that in providing a Lender Consent, Company shall have no obligation to

1. modify the terms of this PPA;
2. provide any consent or enter into any agreement that has a Material Adverse Effect on any of Company's rights, benefits, risks, or obligations under this PPA;
3. transfer or release any property or property interests of Company;
4. release or subordinate (or cause the release or subordination) of any lien on any property of Company for the benefit of Seller or the Facility Lender; or
5. permit any lien to be placed on property of Company.

18.2 Reimbursement. Seller shall reimburse, or shall cause the Facility Lender to reimburse, Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in the preparation, negotiation, execution and/or delivery of each Lender Consent and any documents requested by Seller or the Facility Lender pursuant to this Section 18.1.

18.3 Notices.

(A) Seller shall provide Company with a notice identifying the Facility Lender and providing appropriate contact information for the Facility Lender. Following receipt of such notice, Company shall provide to the Facility Lender a copy of each notice of alleged default delivered to Seller under Section 12.1, and Company will accept a cure thereof performed by the Facility Lender, so long as the cure is accomplished within the applicable cure period set forth in this PPA or the relevant Lender Consent.

Energy Purchase Agreement

(B) Within 10 Days following Seller's receipt of each notice of default or Facility Lender's intent to exercise any remedies under the Financing Documents, Seller shall deliver a copy of such notice to Company.

Article 19 - Assignment

19.1 Assignment by Seller.

(A) Seller shall not sell, exchange or otherwise transfer the Facility or any material portion thereof to any third party, nor shall Seller undergo any Change of Control (whether voluntary or by operation of law), absent the prior written consent of Company, which shall not be unreasonably withheld or delayed. Company shall have no obligation to provide any consent under this Article 19 unless:

1. Seller has provided to Company such information concerning the transferee's direct and indirect ownership as Company reasonably requests;
2. the transferee has substantial experience in the operation of power generation facilities akin to the Facility, either directly, through its affiliates or through an operator acceptable to Company;
3. the transferee (together with its parents and affiliates) possesses an Investment Grade Credit Rating or other creditworthiness satisfactory to Company;
4. Seller has provided to Company at least 30 days' prior notice of the transaction; and
5. Seller pays or reimburses Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in connection with the transaction.

(B) Any Change of Control or sale, transfer, or assignment of any interest in the Facility effected without fulfilling the requirements of this PPA shall be null, void and a breach of this PPA.

(C) Seller shall assign this PPA to any successor owner of the Facility, and shall cause such successor to assume all obligations of Seller (accrued and prospective) hereunder via a writing reasonably satisfactory to Company.

1. Seller may assign this PPA for collateral purposes to any Facility Lender, and may subcontract some or all of its duties under this PPA, upon notice to but without the consent of Company

(D) Except as permitted in this Section 19.1, Seller may not assign this PPA or any portion hereof. Unless otherwise agreed to in writing by the Company, no assignment shall relieve Seller of its obligations under this PPA, nor impair any security posted by Seller unless such security is replaced in accordance with Article 11. Before

Energy Purchase Agreement

this PPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable Governmental Authorities.

19.2 Assignment by Company.

(A) Company may assign this PPA to any Affiliate, or to any successor that provides retail electric service in all or substantially all of Company's service territory and is subject to rate and quality service regulation under the jurisdiction of the MPUC or ND PSC. Any other assignment of this PPA by Company shall require the prior written consent of Seller, not to be unreasonably withheld or delayed.

(B) If an assignee of Company possesses a Credit Rating equal to or better than Investment Grade or Company's Credit Rating as of the date of assignment (whichever is higher), Seller shall release Company from its obligations hereunder if so requested by Company. Except for the foregoing, no assignment shall relieve Company of its obligations under this PPA.

(C) Any assignee of Company shall assume all obligations of Company (accrued and prospective) hereunder via a writing reasonably satisfactory to Seller. Before this PPA is assigned by Company, the assignee must first obtain such approvals as may be required by all applicable Governmental Authorities.

Article 20 - Miscellaneous

20.1 Notices.

(A) Notices required by this PPA shall be addressed to the other Party at the addresses noted in Exhibit D – Notices and Contact Information, as either Party updates such addresses from time to time by notice to the other Party. A Notice shall be deemed to have been received as follows: (1) if it is delivered by email, when the recipient, by an email sent to the email address for the sender stated in Exhibit D – Notices and Contact Information or by a notice delivered by another method in accordance with this Section 20.1(A), acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this Section 20.1(A); and (2) If delivered in writing, then when receipt is acknowledged in writing by the counterparty (or absent such acknowledgement, when delivered via third-party messenger or via FedEx or other reputable overnight courier service). Any notice shall be deemed to have been received by the close of the Business Day on which it was delivered. Real-time or routine communications concerning Facility operations shall be exempt from this Section 20.1(A).

(B) The Parties recognize the need for accurate communications between them. Each Party consents to the recording of telephone conversations between their employees and representatives, related to the performance and administration of this PPA.

Energy Purchase Agreement

20.2 Taxes.

(A) Company shall purchase all Contract Energy on a wholesale basis, for resale to Company's wholesale and retail customers. Company shall obtain and provide Seller with any certificates required by any Governmental Authority or otherwise reasonably requested by Seller to evidence that the deliveries of Contract Energy hereunder are sales for resale.

(B) As between the Parties, Company shall be solely responsible for the payment of (1) any sales, use or equivalent taxes imposed by Governmental Authorities, whether now in existence or hereafter enacted, on the purchase of the products and services provided hereunder, and (2) any taxes imposed by Governmental Authorities, whether now in existence or hereafter enacted, on the transmission of the products and services provided hereunder beyond the Point of Delivery.

(C) Subject to Section 20.2(B) above and Section 20.4 below, Seller shall be solely responsible for any and all present and future taxes and other impositions of Governmental Authorities relating to the ownership or leasing, operation or maintenance of the Facility and the Site (including *ad valorem* taxes on the Facility and the Site), and any taxes imposed at or prior to the Point of Delivery with respect to the products and services to be sold and delivered to Company hereunder, whether calculated based upon cost, value, labor, capital, production, savings, green attributes or other parameters. Seller's prices under Article 8 are inclusive of such taxes and impositions during the Term, and Seller assumes the risk of changes in such taxes after the Effective Date.

(D) The Parties shall cooperate to minimize tax exposure, *provided, however,* that neither Party shall be obligated to incur any financial burden to reduce taxes for which the other Party is responsible hereunder.

20.3 Applicable Laws.

(A) Each Party shall comply with all Applicable Laws in connection with its performance of this PPA, at its own expense, except for any non-compliance that (individually or in the aggregate) could not reasonably be expected to have a Material Adverse Effect on the other Party or on such Party's ability to perform this PPA.

(B) As applicable, each Party shall give all required notices, shall procure and maintain all Permits necessary for performance of this PPA, and shall pay its respective charges and fees in connection therewith.

(C) Each Party shall promptly disclose to the other Party, any violation of Applicable Laws arising out of performance of this PPA.

(D) Seller acknowledges that as a government contractor Company is subject to Applicable Laws regarding equal employment opportunity and affirmative action, including 41 C.F.R. §60-1.4(a)(1-7). Such Applicable Laws may also be applicable to Seller as a subcontractor to Company. All such Applicable Laws shall be deemed to be incorporated herein as required by Applicable Law.

Energy Purchase Agreement

20.4 Change of Law. Except as specifically set forth in this Section 20.4 and elsewhere in this PPA, each Party assumes the risk of changes in Applicable Laws following the Effective Date, that affect such Party's costs of ownership and operation of its assets, and its performance of this PPA.

20.5 Fines and Penalties. Seller shall pay when due all fees, fines, penalties and costs incurred by Company, Seller and/or their agents, employees or contractors arising from noncompliance by Seller, its employees, or subcontractors with any provision of this PPA, or any contractual obligation, Permit or requirements of Applicable Law, except for such fines, penalties and costs that are being actively contested in good faith and with due diligence by Seller and for which adequate financial reserves have been set aside to pay such fines, penalties or costs in the event of an adverse determination.

20.6 Rate Changes.

(A) The terms and conditions and the rates for service specified in this PPA shall remain in effect for the Term hereof. Neither Party shall seek (nor support any third party seeking) any prospective or retroactive change to the rates or terms of service under this PPA pursuant to §205, §206 or §306 of the Federal Power Act.

(B) The standard of review for changes to this PPA whether proposed by a Party, a non-party, or FERC acting *sua sponte* shall be the "public interest" standard of review set forth in *United Gas Pipe Line v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (aka the "Mobile-Sierra doctrine"), as interpreted in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1*, 128 S. Ct. 2733 (2008).

20.7 Certifications. Each Party shall deliver or cause to be delivered to the other Party certificates of its officers, accountants, engineers or agents as to matters as may be reasonably requested, and shall make available personnel and records relating to the Facility to the extent that the requesting Party requires the same in order to fulfill any regulatory reporting requirements, or to assist the requesting Party in litigation, including administrative proceedings before the MPUC and ND PSC.

20.8 Disclaimer of Third Party Beneficiaries. In executing this PPA, Company does not and does not intend to extend its credit or financial support for the benefit of any Facility Lender or any other third party transacting with Seller. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a party to this PPA.

20.9 Relationship of the Parties.

(A) This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties, nor to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Energy Purchase Agreement

(B) Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform such services, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of Company for any purpose; nor shall Seller represent to any person that he or she is or shall become a Company employee.

20.10 Survival of Obligations. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

20.11 Severability. In the event any of the terms, covenants, or conditions of this PPA, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the PPA and their application not adversely affected thereby shall remain in force and effect; *provided, however, that* Company and Seller shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this PPA with a view toward effecting the purposes of this PPA by replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.

20.12 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between Company and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between Company and Seller with respect to the purchase, sale and delivery of Contract Energy and other products and services required by this PPA. Any amendment of this PPA, or any waiver of any provision hereof, shall be evidenced by a writing signed by the Party/ies to be bound thereby.

20.13 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

20.14 Binding Effect. This PPA is binding upon and shall inure to the benefit of the Parties hereto and their respective successors, legal representatives, and assigns.

20.15 Headings. Captions and headings used in this PPA are for ease of reference only and do not constitute a part of this PPA.

20.16 Counterparts and Electronic Signatures. This PPA may be executed in counterparts, and each executed counterpart shall have the same force and effect as an original instrument. A manually signed copy of this PPA, or a copy of this PPA signed

Energy Purchase Agreement

with an electronic or digital signature, delivered by e-mail shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a Party until such Party has delivered or caused to be delivered a signed copy of this PPA.

20.17 Press Release. Upon the request of either Party, the Parties shall develop a mutually agreed joint press release to be issued describing the location, size and nature of the Facility, the Term, and other relevant factual information about the relationship.

20.18 Exhibits. Either Party may change the information in Exhibit D – Notices and Contact Information at any time by notice without the approval of the other Party. All other Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

20.19 Confidentiality.

(A) For purposes hereof, "Confidential Information" means

1. information specifically designated as Confidential Information in this PPA; and

2. written information delivered by one Party to the other from time to time during the Term, which information is labeled prominently as "Confidential," "Proprietary" or the like and specifically references this PPA.

provided, however, that "Confidential Information" shall not include information that

(a) is publicly available as of the Effective Date, or becomes publicly available during the Term through no fault of the recipient Party;

(b) can be documented was independently developed by the recipient Party; and/or

(c) is disclosed to the recipient Party from an ultimate source other than the protected Party, without breach of this PPA by the recipient Party.

(B) The recipient Party shall (i) maintain the confidentiality of all Confidential Information of the protected Party, using the same degree of care used by the recipient Party to protect its own Confidential Information (and in any event not less than a reasonable degree of care), and (ii) shall use Confidential Information only in connection with its performance of this PPA. Confidential Information may be disclosed by the recipient Party to its agents, employees, directors, officers, consultants, auditors, lenders and equity investors, subject to their acceptance of the obligations of confidentiality imposed hereby and for whose violations of this Section 20.19 the recipient Party shall be responsible.

(C) In the event that Confidential Information is disclosed to the MPUC or ND PSC, its staff, parties, intervenors, participants or consumer counsel in any regulatory

Energy Purchase Agreement

or administrative proceedings before the MPUC or ND PSC, the disclosing Party shall submit such Confidential information in accordance with the MPUC or ND PSC confidentiality rules and procedures, as appropriate, MPUC or ND PSC protective order or signed non-disclosure agreement. In the event that Confidential Information must otherwise be disclosed by Applicable Law (e.g. pursuant to subpoena or civil discovery), the Party required to make disclosure shall notify the protected Party sufficiently in advance to allow the protected Party a reasonable opportunity to obtain a protective order or seek other remedies, prior to disclosure by the recipient Party.

20.20 Accounting Treatment.

(A) If and when Company reasonably determines that Company must consolidate financial information of Seller into Company's financial statements under FASB ASC 810 or other accounting standard applicable to Company:

1. the Parties shall use Commercially Reasonable Efforts to amend this PPA and/or the Parties' protocols for operation of the Facility to avoid such treatment, at the least possible cost to the Parties, consistent with the intent of this PPA to the extent possible; or

2. if such avoidance is not reasonably feasible, Seller shall provide to Company from time to time upon request such quarterly and annual financial information as may be needed for Company to comply with such standard, in such format and within such time frames as Company may reasonably request.

(B) If and when Company reasonably determines that Company must treat this PPA as a "finance lease" under FASB ASC 840 or other accounting standard applicable to Company, the Parties shall use Commercially Reasonable Efforts to amend this PPA and/or the Parties' protocols for operation of the Facility to avoid such treatment, at the least possible cost to the Parties, consistent with the intent of this PPA to the extent possible, if so requested by Company.

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Energy Purchase Agreement

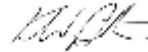
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Energy Purchase Agreement

IN WITNESS WHEREOF, the Parties have executed this PPA as of the date first set forth above.

Seller:

St. Paul Cogeneration, LLC

By: 
Name: Kenneth W. Smith

Title: Member, St. Paul Cogeneration, LLC
Board of Governors

Company:

Northern States Power Company, a Minnesota corporation

By: _____
Christopher Clark
President
Northern States Power Company, a Minnesota Corporation

Energy Purchase Agreement

IN WITNESS WHEREOF, the Parties have executed this PPA as of the date first set forth above.

Seller:

St. Paul Cogeneration, LLC

By: _____
[name and title]

Company:

Northern States Power Company, a Minnesota corporation

By:  _____
Christopher B. Clark, President

Energy Purchase Agreement

**EXHIBIT A
DEFINITIONS**

The following terms shall have the meanings set forth herein:

“Actual Damages” shall have the meaning set forth in Section 12.4(C).

“Affiliate” of any designated person or entity means any person or entity that directly or indirectly controls, is under the control of, or is under common control with, the designated person or entity by the power to direct or cause the direction of the management of the policies of designated person or entity, whether through ownership interest, by contract or otherwise.

“ANSI” means the American National Standards Institute or its successor organization, if any.

“Applicable Law” means all laws, statutes, treaties, codes, ordinances, regulations, certificates, orders, licenses and permits of any Governmental Authority that are applicable to a Party, the business of a Party or the Facility, now in effect or hereafter enacted, including amendments to or interpretations of any of the foregoing by a Governmental Authority having jurisdiction, and all applicable judicial, administrative, arbitration and regulatory decrees, judgments, injunctions, writs, orders, awards and/or like actions. Applicable Law includes all Environmental Laws. As to Seller, Applicable Law includes Seller’s articles of incorporation and bylaws or other organizational or governing documents of Seller.

“Business Day” means any Day that is not a Saturday, a Sunday, or a NERC recognized holiday.

“Capacity” means the output potential a machine or system can produce or carry under specified conditions. The capacity of generating equipment is generally expressed in kilowatts (“kW”) or megawatts (“MW”). In terms of transmission lines, capacity refers to the maximum power flow a line is capable of carrying under specified conditions. Capacity is also referred to as “Capability” in the industry and for the purposes of this Agreement the terms are synonymous.

“Change of Control” means the occurrence of any one of the following events with respect to Seller or any direct or indirect owner of a majority of the ownership interests in Seller: (a) a transfer of a majority of the ownership interests in Seller or such owner; (b) any consolidation or merger of Seller or such owner in which Seller or such owner, as the case may be, is not the continuing or surviving entity; or (c) a sale or conveyance of any direct or indirect ownership interest in Seller following which District Energy St. Paul, Inc. and DTE Energy Resources (“Ultimate Parents”) are each no longer the direct or indirect owner of 50% of the ownership interests of Seller, *provided, however*, that a Change of Control shall not be deemed to have occurred as a result of

- (i) transactions exclusively among Affiliates of Seller,

Energy Purchase Agreement

- (ii) any exercise by the Facility Lender of its rights and remedies under the Financing Documents, with respect to any Facility Debt secured only by the Facility,
- (iii) a change of control of one or both of the Ultimate Parents, or
- (iv) any change of economic and/or voting rights triggered in Seller's organizational documents arising from (a) a tax-equity financing of the Facility, or (b) a transaction in which interests in Seller or any direct or indirect owner are sold to or by a tax equity investor.

"Commercial Operation" means the period beginning on the commercial operation date under the Original PPA and continuing through the balance of the Term.

"Commercial Operation Date" or "COD" means the date that Commercial Operation was achieved under the Original PPA.

"Commercially Reasonable" or "Commercially Reasonable Efforts" means, with respect to any action to be taken or attempted by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Good Utility Practices; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action, and the competitive environment in which such action occurs.

"Company" shall have the meaning set forth in the introductory paragraph.

"Confidential Information" shall have the meaning set forth in Section 20.19(A).

"Contract Capacity" of the Facility shall have the meaning as set forth in Section 3.2(C).

"Contract Energy" means the Energy generated by the Facility up to the Contract Capacity as delivered and adjusted for losses to the Point of Delivery.

"Contract Energy Cap" shall have the meaning set forth in Section 7.1.

"Contract Start Date" shall have the meaning set forth in Section 2.2.

"Contract Year" means the period starting at 12:01 a.m. on the Contract Start Date and ending at 11:59 p.m. on the last Day of the calendar month in which the first anniversary of the Contract Start Date occurs, and each successive "Contract Year" shall mean the 12-month period following the prior Contract Year.

"Coordinating Committee" means one representative each from Company and Seller, pursuant to Section 10.7.

"Credit Rating" of any person or entity means the lowest rating assigned to such person or entity's long-term debt or deposit obligations (unenhanced by third-party

Energy Purchase Agreement

support) by Standard & Poor's and Moody's. If such person or entity has no outstanding long-term debt or deposit obligations, or if no rating is assigned to such obligations, "Credit Rating" shall mean the lowest general corporate credit rating or long-term issuer rating assigned to such person or entity by Standard & Poor's or Moody's.

"Damage Cap" shall have the meaning set forth in Section 12.4(A).

"Day" means a calendar day.

"Derate" means a condition that requires the load on the Facility to be reduced.

"Dispute" shall have the meaning set forth in Section 13.1(A).

"Dispute Notice" shall have the meaning set forth in Section 13.1(A).

"Effective Date" shall have the meaning set forth in the introductory paragraph.

"Electric Metering Devices" means revenue quality meters, metering equipment and data processing equipment used to measure, record and transmit data with respect to the Contract Energy, including metering current transformers and metering voltage transformers. The Electric Metering Devices must transmit to Company five-minute revenue quality meter data.

"Emergency" means any condition or situation that causes Company to disconnect the Facility due to a system emergency and imminent danger to the public.

"Energy" means the amount of electricity either used or generated over a period of time, which is expressed in terms of kilowatt-hours (kWh) or megawatt-hours (MWh).

"Energy Markets Control Center" or "EMCC" means Company's merchant representatives responsible for dispatch of the Facility.

"Environmental Attributes" includes but is not limited to existing and future, (i) environmental credits, benefits or attributes, (ii) emissions reductions, (iii) avoided emissions and reporting rights for avoided emissions of pollutants to the air, soils or waters, such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), greenhouse gases (such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF₆)) that have been or may in the future be determined by the United Nations Intergovernmental Panel on Climate Change or by Applicable Law to contribute to the threat of climate change; (iv) avoidances (including emission rate credits), offsets, allowances and green tags, and (v) Zero-Emission Electricity Credits, that are attributable to the Facility during the Term and/or Contract Energy sold to Company under this PPA, recognized by Applicable Law, including any rights to compensation therefor.

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, that (i) requires remediation under Applicable Law, (ii) present a material risk that the Site will

Energy Purchase Agreement

not be available or usable for the purposes contemplated by this PPA, and/or (iii) will preclude or interfere with Seller's ability to perform its obligations under this PPA as and when due.

"Environmental Law" means any federal, state or local law, including, but not limited to, statutes, regulations, ordinances, rulings, orders, administrative rules and written decisions and interpretations and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants, solid waste or process waste water or otherwise relating to the environment or hazardous substances all as amended from time to time.

"Environmental Liability" means any and all liabilities, obligations, claims, or defense costs arising under, resulting from or imposed by any Environmental Law or a Governmental Authority enforcing any Environmental Law.

"ERO" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization. The certified ERO as of the Effective Date is Midwest Reliability Organization (MRO).

"Escrow Account" shall have the meaning set forth in Section 11.3(B).

"Event of Default" shall have the meaning set forth in Article 12.

"Facility" means Seller's electric generating facilities, associated balance of plant, parts, fixtures and equipment, and all equipment necessary to interconnect to the Distribution System, all as further described in Exhibit C – Facility Description and Site Maps, including Seller's rights to the Site and all of the following: buildings, turbines, generators, step-up transformers, output breakers, facilities necessary to connect to the Interconnection Point, protective and associated equipment, fuel interconnection facilities, fuel storage areas, above-ground and underground piping, gas compression, heating and filter/separation equipment, control systems, improvements, and other tangible and intangible assets, contract rights, Permits, easements, rights of way, surface use agreements and other interests or rights in real estate, owned or used for operation, maintenance, generation and delivery of the capacity and energy subject to this PPA.

"Facility Debt" means the obligations of Seller or its Affiliates to any lender or tax equity or other equity investor pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any fees or interest due with respect to any of the foregoing.

"Facility Lender" means, collectively, any lenders or tax equity or other equity investors providing Facility Debt, including any successors or assigns thereof.

"Facility Substation" means the substation constructed, owned and operated by Seller on the Site to receive and transform the Energy produced by the Facility and physically interconnected with the Distribution System at the Point of Interconnection.

Energy Purchase Agreement

"Federal Power Act" means the provisions of 16 U.S.C. §791(A) *et seq.*, and amendments or supplements thereto.

"FERC" means the Federal Energy Regulatory Commission, or any successor agency.

"Financing Documents" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, equity contribution agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements and other documents relating to the development, bridge, construction, back-leverage or permanent debt financing and/or tax equity financing for the Facility, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller in connection with development, construction, ownership, leasing, operation or maintenance of the Facility.

"Forced Derate" means an unplanned Facility failure or other condition that requires reducing the Facility's Capacity below the Contract Capacity immediately or before the next weekend. Failure to achieve Capacity levels shall constitute a Forced Derate for any month Capacity as tested falls below the levels of the Contract Capacity.

"Forced Outage" means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or any portion thereof, from service, another outage state, or a Reserve Shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

"Fuel Delivery Point" means the natural gas delivery system point at which Company makes available and delivers to Seller the natural gas fuel consumed by the Facility to produce the Contract Energy dispatched by Company, as described in Section 5.6.

"GADS" means the NERC Generation Availability Data System.

"Good Utility Practices" means the practices, methods, standards and acts engaged in or approved by a significant portion of the applicable segment of the electric power generation industry pertaining to facilities of the type, similar size and location to the Facility that, at a particular time, in the exercise of Commercially Reasonable judgment, in light of the facts that are known (or reasonably should have been known) at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Law, Permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Good Utility Practices is not limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods, standards and acts generally acceptable or approved by a significant portion of the applicable segment of the electric power generation industry in the relevant region, during the relevant period.

Energy Purchase Agreement

“Governmental Authority” means any federal, state, local or municipal governmental body; any governmental, quasi-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 or power; and/or any court or governmental tribunal. By way of example only, “Governmental Authorities” include, but are not limited to, NERC, the ERO, the Market Operator (if any), an applicable PUC, MISO, FERC, and successor organizations. For the avoidance of doubt, Company is not a Governmental Authority for purposes of this PPA.

“Guarantor” shall have the meaning set forth in Section 11.3(C).

“Hazardous Materials” means any substance, contaminant, chemical, material, gas, or particulate matter that is regulated by any Governmental Authority as an environmental pollutant or which is deemed or may be deemed hazardous, dangerous, damaging or toxic to public health, public welfare, or the natural environment (including protection of non-human forms of life, land, water, groundwater, and air), including any material or substance that is (i) defined as “toxic,” “polluting,” “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “solid waste” or “restricted hazardous waste” under any provision of Applicable Law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) per- and polyfluoroalkyl substances (vi) radioactive material; (vii) designated as a “hazardous substance” pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (viii) defined as a “hazardous waste” pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6901); (ix) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601); (x) defined as a “chemical substance” under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (xi) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).

“House Power” shall have the meaning set forth in Section 1.2(B).

“IEEE” means the Institute of Electrical and Electronic Engineers, or its successor organization, if any.

“Indemnified Party” shall have the meaning set forth in Section 17.1.

“Indemnifying Party” shall have the meaning set forth in Section 17.1.

“Interconnection” means construction, installation, operation and maintenance of all Interconnection Facilities.

“Interconnection Facilities” means all facilities installed for the purpose of interconnecting the Facility to the NSP System or to a transmission system owned by another Person, including, but not limited to, transformers and associated equipment, relay and switching equipment, and safety equipment, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably

Energy Purchase Agreement

necessary for the construction, operation and maintenance of such facilities, whether owned by Seller, Company, or another entity. This equipment is conceptually depicted in Exhibit C – Facility Description and Site Maps. For avoidance of doubt, the step-up transformer is owned by Company.

“Investment Grade” means a Credit Rating of both (a) Baa3 or higher by Moody’s, and (b) BBB- or higher by Standard & Poor’s.

“Issuer” shall have the meaning set forth in Section 11.3(A).

“kW” means kilowatt, and “kWh” means kilowatt hour.

“Lender Consent” shall have the meaning set forth in Section 18.1(A).

“Letter of Credit” shall have the meaning set forth in Section 11.3(A).

“Local Gas Provider” shall have the meaning set forth in Section 1.2(C).

“Local Provider” shall have the meaning set forth in Section 1.2(B).

“Losses” shall have the meaning set forth in Section 17.1.

“Management Committee” means one representative each from Company and Seller, pursuant to Section 10.8.

“Market Operator” means the entity that instructs market participants and/or generators to regulate generation assets (including the Facility) within any energy market in which Company participates, based on price-based offer curves for the purpose of matching generation output to system load demand while maintaining bulk electric system reliability.

“Material Adverse Effect” means any effect (or effects taken together) that is materially adverse to the present or future business, operations, assets, liabilities, properties, results in operations or condition (financial or otherwise), prospects, or property of a Party, its business, or this PPA.

“MISO” shall mean Midcontinent Independent System Operator Inc., or successor agency.

“MISO Tariff” means the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (as amended from time to time and approved by FERC).

“Moody’s” means Moody’s Investor Services, Inc., and any successor thereto.

“MPUC” means the Minnesota Public Utilities Commission, or any successor agency.

“MW” means megawatt or one thousand kW, and “MWh” means megawatt hours.

Energy Purchase Agreement

“ND PSC” means the North Dakota Public Service Commission, or any successor agency.

“NERC” means the North American Electric Reliability Council, or any successor organization.

“NSP System” means the electric generation, transmission, subtransmission, and distribution facilities, owned, operated, and maintained by Company and its Affiliates.

“Operating Records” means all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

“Outage” means a physical state in which all or a significant portion of the Facility is unavailable to provide Energy.

“Outage and Derate Schedule” means the schedule for Planned Outages and Planned Derates for the Facility determined by the Coordinating Committee.

“Party” and “Parties” shall have the meanings set forth in the introductory paragraph.

“Permit” shall have the meaning set forth in Section 4.3.

“Person” means any individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity.

“Planned Derate” means the removal of a portion of the Facility’s Capacity from service or Reserve Shutdown to perform repairs scheduled pursuant to Section 10.7(F), and having a predetermined duration.

“Planned Outage” means the removal of all of the Facility from service or Reserve Shutdown to perform repairs scheduled pursuant to Section 10.7(F), and having a predetermined duration, including, but not limited to, annual overhaul, inspections and testing.

“Point of Delivery” means the physical point at which Seller makes available and delivers to Company the Contract Energy. The Point of Delivery is specified in Exhibit C – Facility Description and Site Maps.

“Point of Interconnection” means the on-site point(s) on the electrical system where the facilities of Company and Seller are physically interconnected and ownership of the facilities changes, as more particularly described in Exhibit C – Facility Description and Site Maps.

Energy Purchase Agreement

“Point of Metering” means a point at which the Energy transferred between Seller and Company is measured. Each Point of Metering is described in Exhibit C – Facility Description and Site Maps.

“Potential Event of Default” means an event which, but for the passage of time or the giving of notice or both, would constitute an Event of Default.

“PUC Approval” shall have the meaning set forth in Section 6.1(D).

“Replacement Power Costs” for any period mean the costs incurred by Company to replace the Contract Energy and other products and services which Seller was required to provide under this PPA (but failed to so provide) during such period, less the sum of any payments from Company to Seller under this PPA that were eliminated with respect to such period as a result of such failure. Replacement Power Costs shall be determined on an hourly basis and shall equal the sum of the following for each hour where the following calculation achieves a positive number:

Hourly Replacement Power Costs = (A + B + C) – D, where

- “A” = the product of (x) the number of MW of lost capacity, derived by subtracting the number of MW of capacity of the Facility that qualifies for capacity credit actually made available to Company from the amount of qualifying capacity associated with the entire Facility, and (y) the applicable market price for capacity made available to Company’s system, for such hour;
- “B” = the price paid by Company for the MWh of energy purchased by Company to replace the Contract Energy that was not delivered under this PPA during such hour;
- “C” = the actual cost of transmission, fuel and fuel transportation, other incremental costs, and any related penalties that could not be avoided or mitigated, and transaction charges to deliver reasonably available energy to Company in amounts equal to the number of MWh for which Replacement Power Costs are owed; and
- “D” = the sum of all payments avoided by Company as a result of Seller’s breach, for such hour, including avoided payments under Article 8 and avoided fuel costs.

“Reserve Shutdown” means a state in which the Facility is available for service but not in service.

“Security Fund” shall have the meaning set forth in Section 11.1(A).

“SCADA System” means supervisory control and data acquisition.

Energy Purchase Agreement

“Scheduled Termination Date” shall have the meaning set forth in Article 2.

“Seller” shall have the meaning set forth in introductory paragraph.

“Site” means the parcel of real property on which the Facility is located, including any easements, rights of way, surface use agreements and other interests or rights in real estate necessary for the operation and maintenance of the Facility. The Site is more specifically described in Exhibit C – Facility Description and Site Maps to this PPA.

“Standard and Poor's” means Standard & Poor’s Rating Service, a division of McGraw Hill Incorporated, and its successors and assigns.

“Term” means the period of time during which this PPA remains in full force and effect, as further defined in Article 2.

“Ultimate Parents” shall have the meaning set forth in the definition of Change of Control.

* * * * *

Energy Purchase Agreement

**EXHIBIT B
PRICING**

This entire Exhibit shall be deemed Confidential Information subject to Section 20.19.

Energy Purchase Agreement

**EXHIBIT C
FACILITY DESCRIPTION AND SITE MAPS**

The Facility is located on the Site and shall be identified as Seller's St. Paul Cogeneration Generation Facility. Maps and one-line diagrams of the Facility and associated equipment are included as part of this Exhibit.

The address of the Facility is 125 Shepard Road W, St. Paul, MN 55102, Latitude: 44.9436, Longitude: -93.0950.

The Facility must include the following specific components:

- have the panel space and 125VDC battery supplied voltage necessary to accommodate the metering, telemetering and communications equipment required by the PPA;
- have communication circuits from the Facility to the EMCC for the purpose of telemetering, SCADA System, and voice communications as required by Company;
- be capable of sending real time data (including fuel flows) and OPC interface to Company's plant information system (OPC is the Object Linking and Embedding for Process Control interface);
- be capable of operating or continuing to operate without interruption in all required operating modes in the event of a Planned or unplanned Outage.
- a Point of Delivery located at metering cabinet at the 13.8kV switchgear at the St. Paul Cogeneration facility.

Facility Description:

Facility consists of a wood and natural gas-fired steam boiler which produces superheated steam at 1250 psig and 950 degF which is delivered to an extraction steam turbine generator with capability of 25 MWe net generation in full cogeneration mode and 33 MWe net generation in full condensing mode. Condensing operation is provided by forced draft cooling towers with water supplied by an on-site well with municipal water supply as back up. Thermal energy is extracted as 20 psi steam and converted to hot water for the co-located district energy system that serves the St. Paul business district. Electricity is produced at 13.8kV and metered at the facility switchgear via utility-provided metering and delivered via dedicated duct bank to the Xcel Energy High Bridge Substation, where it is stepped up via dedicated step-up transformer at the grid interconnection point.

Energy Purchase Agreement

Wood fuel is primarily tree residuals that are processed into boiler fuel by grinding or chipping of brush and logs gathered from municipal and commercial tree management and Emerald Ash Borer management activities.

**EXHIBIT D
NOTICES AND CONTACT INFORMATION**

Company	Seller
<p>Notices: Tara Fowler Purchased Power Manager Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202 Phone: 303-571-7846 E-mail: Tara.Fowler@xcelenergy.com</p> <p><i>with a cc to:</i> Stephen Wilson Purchased Power Consultant Xcel Energy Services Inc. 401 Nicollet Mall, 4th Floor Minneapolis, MN 55401 Phone: 612-330-7980 E-mail: Stephen.A.Wilson@xcelenergy.com</p>	<p>Notices: Michael J. Burns St. Paul Cogeneration, LLC 305 St. Peter St. Saint Paul, MN 55102 Phone: 651-925-8132 E-mail: michael.burns@ever-greenenergy.com</p> <p><i>with a cc to:</i> General Counsel Ever-Green Energy 305 St. Peter St. St. Paul, MN 55102 Phone: 651-925-8119 E-mail: michael.auger@ever-greenenergy.com</p> <p>and:</p> <p>DTE St. Paul, LLC 414 S. Main St., Suite 600 Ann Arbor, MI 48104</p> <p>Attn: General Counsel Phone: (734) 302-4800 Email: DTEER_CONTRACT_NOTICES@dteenergy.com</p>

Energy Purchase Agreement

Company	Seller
<p>Coordinating Committee Representative: Tara Fowler Purchased Power Manager Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202 Phone: 303-571-7846 E-mail: Tara.Fowler@xcelenergy.com</p> <p>Alternate: Stephen Wilson Purchased Power Consultant Xcel Energy Services Inc. 401 Nicollet Mall, 4th Floor Minneapolis, MN 55401 Phone: 612-330-7980 E-mail: Stephen.A.Wilson@xcelenergy.com</p>	<p>Coordinating Committee Representative: Michael J. Burns St. Paul Cogeneration, LLC 305 St. Peter St. Saint Paul, MN 55102 Phone: 651-925-8132 E-mail: michael.burns@ever-greenenergy.com</p> <p>Alternate: Chris Peterson St. Paul Cogeneration, LLC 76 Kellogg Boulevard West Saint Paul, MN 55102 Phone: 651-925-8137 E-mail: chris.peterson@ever-greenenergy.com</p>
<p>Management Committee Representative: Tara Fowler Purchased Power Manager Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202 Phone: 303-571-7846 E-mail: Tara.Fowler@xcelenergy.com</p> <p>Alternate: Stephen Wilson Purchased Power Consultant Xcel Energy Services Inc. 401 Nicollet Mall, 4th Floor Minneapolis, MN 55401 Phone: 612-330-7980 E-mail: Stephen.A.Wilson@xcelenergy.com</p>	<p>Management Committee Representative: Michael J. Burns St. Paul Cogeneration, LLC 305 St. Peter St. Saint Paul, MN 55102 Phone: 651-925-8132 E-mail: michael.burns@ever-greenenergy.com</p> <p>Alternate: Chris Peterson St. Paul Cogeneration, LLC 76 Kellogg Boulevard West Saint Paul, MN 55102 Phone: 651-925-8137 E-mail: chris.peterson@ever-greenenergy.com</p>

Energy Purchase Agreement

Company	Seller
<p>Real-Time Contact Information <u>EMCC</u> (24 hour coverage): Phone: 303-571-7426 E-mail: dlrtelectricmarketersnsp@xcelenergy.com</p> <p><u>Distribution Operation Contact:</u> Phone: 303-273-4811 E-mail: AGCOpr@xcelenergy.com</p>	<p>Real-Time Contact Information <u>SPC Control Room</u> (24 hour coverage): Phone:651-225-4308 Ext. 157</p>

Energy Purchase Agreement

**EXHIBIT E
 INSURANCE COVERAGE**

Type of Insurance	Minimum Limits of Coverage
-------------------	----------------------------

Commercial General Liability (CGL) and commercial umbrella	\$1,000,000 per occurrence/\$2,000,000 aggregate CGL. If CGL insurance contains a general aggregate limit, it shall apply separately to the Facility
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CGL insurance shall be written on ISO occurrence form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

Company shall be included as an insured under the CGL policy, using ISO additional insured endorsement CG 20 10 (or a substitute providing equivalent coverage), and under the commercial umbrella insurance. The commercial umbrella insurance shall provide coverage over the top of the CGL insurance, the Business Automobile Liability insurance, and the Employers Liability insurance. The CGL and commercial umbrella insurance to be obtained by or on behalf of Seller shall be endorsed as follows:

Such insurance as afforded by this policy for the benefit of Company shall be primary as respects any claims, losses, damages, expenses, or liabilities arising out of this PPA, and insured hereunder, and any insurance carried by Company shall be excess of and noncontributing with insurance afforded by this policy.

Business Automobile Liability	\$2,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos.
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Business Automobile Liability insurance shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

Workers Compensation	Statutory Requirements. Seller may comply with these requirements through the use of a qualified self-insurance plan.
Umbrella/Excess Liability	\$10,000,000 per occurrence/\$10,000,000 aggregate

Energy Purchase Agreement

[Exhibit E - continued]

Type of Insurance	Minimum Limits of Coverage
-------------------	----------------------------

Employers Liability	\$2,000,000 each accident for bodily injury by accident, or \$2,000,000 each employee for bodily injury by disease.
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Environmental Impairment Liability	\$5,000,000 each occurrence.
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All-Risk Property insurance covering physical loss or damage to the Facility	Full replacement value of the Facility. A deductible may be carried which deductible shall be the absolute responsibility of Seller.
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All-Risk Property insurance shall include: (i) coverage for fire, flood, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sublimits of no less than \$5,000,000 each for flood and earthquake; and (ii) Boiler and Machinery insurance covering all objects customarily subject to such insurance, including boilers and turbines, in an amount equal to their full replacement value.

Business Interruption insurance	Amount required to cover Seller's continuing or increased expenses, resulting from full interruption, for a period of 12 calendar months.
---------------------------------	---

Business Interruption insurance shall cover loss of revenues or the increased expense to resume operations attributable to the Facility by reason of total or partial suspension or delay of, or interruption in, the operation of the Facility as a result of an insured peril covered under Property insurance as set forth above, to the extent available on Commercially Reasonable terms as determined by Company, subject to a Commercially Reasonable deductible that shall be the responsibility of Seller. Notwithstanding any other provision of this PPA, Seller shall not be required to have Business Interruption insurance until the Contract Start Date.

Energy Purchase Agreement

**EXHIBIT F
RESERVED**

Energy Purchase Agreement

**EXHIBIT G
FORM OF LETTER OF CREDIT**

[LETTERHEAD OF ISSUING BANK]

Irrevocable Standby Letter of Credit Date of Issuance: _____
No: _____

Beneficiary: [OpCo] Initial Expiration Date: [Must be at least
one year after date of issuance]

Applicant:

As the Issuing Bank ("Issuer"), we, [Name of Issuing Bank], hereby establish this irrevocable Standby Letter of Credit No. _____ (this "Letter of Credit") in favor of the above-named beneficiary ("Beneficiary") for the account of the above-named applicant ("Applicant") in the amount of US\$_____ (_____ Million U.S. Dollars).

Beneficiary may draw all or any portion of this Letter of Credit at any time and from time to time, and Issuer will make funds immediately available to Beneficiary upon presentation of Beneficiary's draft(s) at sight in substantially the form attached hereto as Exhibit "A" ("Sight Draft"), drawn on Issuer and accompanied by this Letter of Credit. All Sight Drafts must be signed on behalf of Beneficiary, and the signator must indicate his or her title or other official capacity. No other documents will be required to be presented. Issuer will effect payment under this Letter of Credit within twenty-four (24) hours after presentment of any Sight Draft. Payment shall be made in U.S. Dollars with Issuer's own funds in immediately available funds.

Issuer will honor any Sight Draft presented in substantial compliance with the terms of this Letter of Credit at the Issuer's letterhead office, the office located at _____ or any other full service office of the Issuer on or before the above-stated expiration date, as such expiration date may be extended hereunder. Partial and multiple draws and presentations are permitted on any number of occasions. Following any partial draw, Issuer will endorse this Letter of Credit and return the original to Beneficiary.

This Letter of Credit is issued pursuant to the provisions of that certain Power Purchase Agreement between Beneficiary and Applicant dated as of _____, 20__ (as the same may have been or may be amended from time to time, the "PPA"). Notwithstanding any reference in this Letter of Credit to the PPA or any other documents, instruments or agreements, or references in the PPA or any other documents, instruments or agreements to this Letter of Credit, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit will be automatically extended each year without amendment for a period of one (1) year from the expiration date hereof, as extended, unless at least thirty (30) days prior to the expiration date, Issuer notifies Beneficiary by registered mail that it

Energy Purchase Agreement

elects not to extend this Letter of Credit for such additional period. Notice of non-extension will be given by Issuer to Beneficiary at Beneficiary's address set forth herein or at such other address as Beneficiary may designate to Issuer in writing at Issuer's letterhead address.

This Letter of Credit is freely transferable by Beneficiary in whole or in part, and the number of transfers is unlimited. Issuer shall effect any transfers immediately upon presentation to Issuer of this Letter of Credit and a completed written transfer request substantially in the form attached hereto as Exhibit "B." Such transfer will be effected at no cost to Beneficiary. Any transfer fees assessed by Issuer will be payable solely by Applicant, and the payment of any transfer fees will not be a condition to the validity or effectiveness of the transfer of this Letter of Credit.

Issuer waives any rights it may have, at law or otherwise, to subrogate to any claims which Beneficiary may have against Applicant or Applicant may have against Beneficiary.

This Letter of Credit is subject to the uniform customs and practice for documentary credits (2007 Revision), International Chamber of Commerce publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. With respect to Article 14(b) of the UCP, Issuer shall have a reasonable amount of time, not to exceed three (3) banking days following the date of Issuer's receipt of documents from Beneficiary (to the extent required herein), to examine the documents and determine whether to take up or refuse the documents and to inform Beneficiary accordingly.

In the event of an act of God, riot, civil commotion, insurrection, war or any other cause beyond Issuer's control that interrupts Issuer's business and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

ISSUER:

By: _____
Authorized Signature

Energy Purchase Agreement

EXHIBIT "A"
TO LETTER OF CREDIT

SIGHT DRAFT

Draft Number _____
\$ _____

At sight, pay to the order of [Name of Beneficiary to be inserted], the amount of
USD \$ _____ (_____ and 00/100ths U.S. Dollars).

Value received and charged to the account of: [Name of Issuer and address].
Drawn under [Name of Issuer to be inserted] Standby Letter of Credit No.
_____.

Dated: _____

[OpCo]

By: _____
[name and title]

Account: [Applicant to be inserted]

Energy Purchase Agreement

EXHIBIT "B"
TO LETTER OF CREDIT

FORM OF TRANSFER REQUEST

Irrevocable Standby Letter of Credit No. _____

Current Beneficiary:

Applicant:

To: [Name of Issuer] ("Issuer")

The undersigned, as the current "Beneficiary" of the above-referenced Letter of Credit, hereby requests that you reissue the Letter of Credit in favor of the transferee named below [insert transferee name and address below]:

From and after the date this transfer request is delivered to Issuer, the transferee shall be the "Beneficiary" under the Letter of Credit for all purposes and shall be entitled to exercise and enjoy all of the rights, privileges and benefits thereof.

Dated: _____

[OpCo]

By: _____

Name: _____

Title: _____

[Notary Acknowledgement]

To be signed by a person purporting to be an authorized representative of Beneficiary and indicating his or her title or other official capacity, and acknowledged by a notary public.

Energy Purchase Agreement

EXHIBIT H FORMS OF GUARANTY

GUARANTY

THIS GUARANTY (this "Guaranty"), dated as of August 1, 2021, is issued and delivered by District Energy St. Paul, Inc., a Minnesota not for profit corporation whose principal place of business is 305 St. Peter St., St. Paul, Minnesota (the "Guarantor"), for the account of St. Paul Cogeneration, LLC, a Minnesota limited liability company (the "Obligor"), and for the benefit of Northern States Power Company, a Minnesota corporation (the "Beneficiary").

Background Statement

WHEREAS, the Beneficiary and Obligor entered into that certain Energy Purchase Agreement, dated as of ____, 2021 (the "Agreement").

Agreement

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the Guarantor hereby agrees as follows:

1. Guaranty; Limitation of Liability. The Guarantor absolutely and unconditionally guarantees the timely payment of the Obligor's payment obligations arising during the Term of the Agreement (the "Guaranteed Obligations"); provided, however, that except as provided in Section 10 herein, the Guarantor's aggregate liability hereunder shall not exceed two hundred and fifty thousand U.S. Dollars (U.S. \$250,000).

Subject to the other terms of this Guaranty, the liability of the Guarantor under this Guaranty is limited to payments expressly required to be made under the Agreement, and except as specifically provided therein, the Guarantor shall not be liable for or required to pay any consequential or indirect loss (including but not limited to loss of profits), exemplary damages, punitive damages, special damages, or any other damages or costs.

2. Effect of Amendments, Cumulative Rights. The Guarantor agrees that the Beneficiary and the Obligor may modify, amend and supplement the Agreement and that the Beneficiary may without in any way impairing or affecting this Guaranty delay or extend the date on which any payment must be made pursuant to the Agreement or delay or extend the date on which any act must be performed by the Obligor thereunder, all without notice to or further assent by the Guarantor, who shall remain bound by this Guaranty, notwithstanding any such act by the Beneficiary. No failure on the part of Beneficiary to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Beneficiary

Energy Purchase Agreement

of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to Beneficiary or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Beneficiary from time to time.

3. Waiver of Rights. The Guarantor expressly waives (i) protest, (ii) notice of acceptance of this Guaranty by the Beneficiary, and (iii) demand for payment of any of the Guaranteed Obligations.

4. Waiver of Defenses. Guarantor hereby waives all defenses, including, without limitation, all suretyship defenses (*i.e.*, defenses which, pursuant to the laws of suretyship, would otherwise relieve a guarantor of its obligations under a guaranty), and agrees that it will remain bound and liable upon this Guaranty notwithstanding any such defenses, except however, Guarantor does not waive and hereby reserves the right to assert Certain Obligor Defenses (as hereinafter defined). For purposes of this paragraph, the term "Certain Obligor Defenses" shall mean only those defenses to payment of any Guaranteed Obligation which Obligor may assert in good faith as a primary obligor under the Agreement, other than defenses arising from the bankruptcy or insolvency of Obligor, other than defenses arising from incapacity or lack of corporate or other authority to execute the Agreement, and other than as expressly provided herein.

5. Settlements Conditional. If any monies paid to the Beneficiary in reduction of the indebtedness of the Obligor under the Agreement have to be repaid by the Beneficiary by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force, the liability of the Guarantor under this Guaranty shall be computed as if such monies had never been paid to the Beneficiary.

6. Notice. The Beneficiary will provide written notice to the Guarantor if the Obligor defaults under the Agreement.

7. Primary Liability of the Guarantor. The Guarantor agrees that the Beneficiary may enforce this Guaranty without the necessity at any time of resorting to or exhausting any other security or collateral. This is a continuing Guaranty of payment and not merely of collection. In the event that any payment by Obligor in respect of any Guaranteed Obligations is rescinded or must otherwise be returned for any reason whatsoever, this Guaranty shall remain in effect and the Guarantor shall remain liable hereunder in respect of such Guaranteed Obligations as if such payment had not been made. Guarantor agrees that Beneficiary may resort to Guarantor for payment of any of the Guaranteed Obligations, whether or not Beneficiary shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligations.

8. Term of Guaranty. This Guaranty shall remain in full force and effect until the earlier of (i) such time as all the Guaranteed Obligations have been discharged, and

Energy Purchase Agreement

(ii) December 31, 2024 (the “Expiration Date”); provided, however, the Guarantor will remain liable hereunder for Guaranteed Obligations that were outstanding prior to the Expiration Date.

9. Governing Law. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of New York, including Section 5-1401 of the General Obligations Law of the State of New York, but otherwise without giving effect to principles of conflicts of law.

10. Expenses. The Guarantor agrees to pay all reasonable out-of-pocket expenses (including the reasonable fees and expenses of the Beneficiary’s counsel) relating to the enforcement of the Beneficiary’s rights hereunder in the event the Guarantor disputes its obligations under this Guaranty and it is finally determined (whether through settlement, arbitration or adjudication, including the exhaustion of all permitted appeals), that the Beneficiary is entitled to receive payment of a portion of or all of such disputed amounts. All payments under this Section 10 shall be in addition to the aggregate amount limitations set forth in Section 1, but in no event shall the Guarantor’s aggregate liability in this Section 10 exceed fifty thousand U.S. Dollars (U.S. \$50,000).

11. Waiver of Jury Trial. The Guarantor and the Beneficiary, through acceptance of this Guaranty, waive all rights to trial by jury in any action, proceeding or counterclaim arising or relating to this Guaranty.

12. Entire Agreement: Amendments. This Guaranty integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all oral negotiations and prior writings in respect to the subject matter hereof. This Guaranty may only be amended or modified by an instrument in writing signed by each of the Guarantor and the Beneficiary.

13. Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

14. No Third-Party Beneficiary. This Guaranty is given by the Guarantor solely for the benefit of the Beneficiary, and is not to be relied upon by any other person or entity.

15. Assignment. Neither the Guarantor nor the Beneficiary may assign its rights or obligations under this Guaranty without the prior written consent of the other, which consent may not be unreasonably withheld or delayed, except that:

- (i) the Guarantor may make such an assignment without such consent if (a) in conjunction with the assignment by the Obligor of all of its rights and obligations under the Agreement, the assignee’s long term senior unsecured debt has an investment grade rating (unenhanced by third party

Energy Purchase Agreement

support) by Standard and Poor's ("S&P") or Moody's Investor Services, Inc. ("Moody's"), or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade; (b) the Obligor ceases to be a person or entity controlled by, controlling or under common control with the Guarantor and the assignee's long-term senior unsecured debt has an investment grade rating (unenhanced by third party support) by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade or (c) to an entity whose long-term senior unsecured debt has an investment grade rating (unenhanced by third party support) by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade; provided that if the respective ratings from both S&P and Moody's are not equivalent, the lower rating shall apply provided, further, that if any long-term senior unsecured debt rating (unenhanced by third party support), Corporate Credit Rating by S&P, or Issuer Rating by Moody's is equivalent to BBB- by S&P / Baa3 by Moody's, the assignee must not be on credit watch or negative outlook by such rating agency; provided, further, that the Guarantor's obligations hereunder must be expressly assumed in writing, in a form reasonably acceptable to the Beneficiary; and

(ii) the Beneficiary may, upon thirty (30) days prior written notice, make such an assignment without such consent if it is in conjunction with any assignment of the Agreement by the Beneficiary permitted under the Agreement.

Any reasonable uncertainty on the part of Beneficiary concerning the ability on the part of any potential assignee of the Guarantor to carry out the Guarantor's obligations hereunder shall be considered a reasonable and sufficient basis for Beneficiary to withhold its consent, unless and until the potential assignee can satisfy Beneficiary, in Beneficiary's commercially reasonably exercised discretion, that the potential assignee is capable of fully performing the obligations of the Guarantor hereunder.

Any purported assignment in violation of this Section 15 shall be void and without effect.

16. Notices. Any communication, demand or notice to be given hereunder will be duly given when delivered in writing to the Guarantor or to the Beneficiary, as applicable, at its address as indicated below:

Energy Purchase Agreement

If to the Guarantor, at:

District Energy St. Paul, Inc.
305 St. Peter St.
St. Paul, MN 55102
Attention: Andrew Kasid, EVP CFO

With copies to:

District Energy St. Paul, Inc.
305 St. Peter St.
St. Paul, MN 55102
Attention: General Counsel

and

If to the Beneficiary, at:

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
Attention: President, NSP Generation

or such other address as the Guarantor or the Beneficiary shall from time to time specify. Notice shall be deemed given (a) when received, as evidenced by signed receipt, if sent by hand delivery, overnight courier or registered mail or (b) when received, as evidenced by transmission confirmation report, if sent by facsimile and received on or before 4 pm local time of recipient, or (c) the next business day, as evidenced by transmission confirmation report, if sent by facsimile and received after 4 pm local time of recipient.

17. Subrogation. The Guarantor will not exercise any right that it may now or hereafter acquire against Obligor that arises from the existence payment, performance or enforcement of the Guarantor's obligations under this Guaranty, including, without limitation any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Beneficiary against Obligor or any collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law (including, without limitation, the right to take or receive from Obligor, directly or indirectly, in cash or other property or by setoff or in any other manner, payment or security on account of such claim, remedy or right), unless and until all of the Guaranteed Obligations of Obligor under the Agreement and all other amounts payable under this Guaranty shall have been paid to Beneficiary in full in cash (and not subject to disgorgement in bankruptcy or otherwise). If any amount shall be paid to the Guarantor in violation of the preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations and all other amounts payable

Energy Purchase Agreement

under this Guaranty, the Guarantor shall hold such amount in trust for the benefit of Beneficiary, which amount shall immediately be paid to Beneficiary by Guarantor to be credited and applied to the Guaranteed Obligations pursuant to the Agreement and all other amounts payable under this Guaranty, whether matured or unmatured. Subject to the foregoing, upon payment of all the Guaranteed Obligations and all other amounts payable under this Guaranty, Guarantor shall be subrogated to all rights of Beneficiary against Obligor and Beneficiary agrees to take, at Guarantor's expense, such steps as Guarantor may reasonably request to implement such subrogation.

18. Representations and Warranties. (i) Guarantor is a corporation duly existing and in good standing under the laws of the State of Michigan. (ii) The execution, delivery and performance of this Guaranty have been duly authorized by all necessary corporate action and do not conflict with or violate any provision of law, any regulation, or Guarantor's charter or by-laws, or any agreement binding upon it. (iii) No consent, approval and authorization of, registration with, or declaration to any governmental authority are required in connection with the execution, delivery and performance of this Guaranty. (iv) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, subject as to enforcement to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

[Remainder of Page Intentionally Left Blank]

Energy Purchase Agreement

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the day and year first above written.

DISTRICT ENERGY ST. PAUL, INC.

By: _____

Name: Kenneth W. Smith

Title: President & CEO

Energy Purchase Agreement

GUARANTY

THIS GUARANTY (this "Guaranty"), dated as of August 1, 2021, is issued and delivered by DTE Energy Company, a Michigan corporation whose principal place of business is One Energy Plaza, Detroit, Michigan 48226 (the "Guarantor"), for the account of St. Paul Cogeneration, LLC, a Minnesota limited liability company (the "Obligor"), and for the benefit of Northern States Power Company, a Minnesota corporation (the "Beneficiary").

WHEREAS, the Beneficiary and Obligor entered into that certain Energy Purchase Agreement, dated as of ____, 2021 (the "Agreement").

Agreement

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the Guarantor hereby agrees as follows:

1. Guaranty; Limitation of Liability. The Guarantor absolutely and unconditionally guarantees the timely payment of the Obligor's payment obligations arising during the Term of the Agreement (the "Guaranteed Obligations"); provided, however, that except as provided in Section 10 herein, the Guarantor's aggregate liability hereunder shall not exceed two hundred and fifty thousand U.S. Dollars (U.S. \$250,000).

Subject to the other terms of this Guaranty, the liability of the Guarantor under this Guaranty is limited to payments expressly required to be made under the Agreement, and except as specifically provided therein, the Guarantor shall not be liable for or required to pay any consequential or indirect loss (including but not limited to loss of profits), exemplary damages, punitive damages, special damages, or any other damages or costs.

2. Effect of Amendments, Cumulative Rights. The Guarantor agrees that the Beneficiary and the Obligor may modify, amend and supplement the Agreement and that the Beneficiary may without in any way impairing or affecting this Guaranty delay or extend the date on which any payment must be made pursuant to the Agreement or delay or extend the date on which any act must be performed by the Obligor thereunder, all without notice to or further assent by the Guarantor, who shall remain bound by this Guaranty, notwithstanding any such act by the Beneficiary. No failure on the part of Beneficiary to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Beneficiary of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to Beneficiary or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Beneficiary from time to time.

Energy Purchase Agreement

3. Waiver of Rights. The Guarantor expressly waives (i) protest, (ii) notice of acceptance of this Guaranty by the Beneficiary, and (iii) demand for payment of any of the Guaranteed Obligations.

4. Waiver of Defenses. Guarantor hereby waives all defenses, including, without limitation, all suretyship defenses (*i.e.*, defenses which, pursuant to the laws of suretyship, would otherwise relieve a guarantor of its obligations under a guaranty), and agrees that it will remain bound and liable upon this Guaranty notwithstanding any such defenses, except however, Guarantor does not waive and hereby reserves the right to assert Certain Obligor Defenses (as hereinafter defined). For purposes of this paragraph, the term "Certain Obligor Defenses" shall mean only those defenses to payment of any Guaranteed Obligation which Obligor may assert in good faith as a primary obligor under the Agreement, other than defenses arising from the bankruptcy or insolvency of Obligor, other than defenses arising from incapacity or lack of corporate or other authority to execute the Agreement, and other than as expressly provided herein.

5. Settlements Conditional. If any monies paid to the Beneficiary in reduction of the indebtedness of the Obligor under the Agreement have to be repaid by the Beneficiary by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force, the liability of the Guarantor under this Guaranty shall be computed as if such monies had never been paid to the Beneficiary.

6. Notice. The Beneficiary will provide written notice to the Guarantor if the Obligor defaults under the Agreement.

7. Primary Liability of the Guarantor. The Guarantor agrees that the Beneficiary may enforce this Guaranty without the necessity at any time of resorting to or exhausting any other security or collateral. This is a continuing Guaranty of payment and not merely of collection. In the event that any payment by Obligor in respect of any Guaranteed Obligations is rescinded or must otherwise be returned for any reason whatsoever, this Guaranty shall remain in effect and the Guarantor shall remain liable hereunder in respect of such Guaranteed Obligations as if such payment had not been made. Guarantor agrees that Beneficiary may resort to Guarantor for payment of any of the Guaranteed Obligations, whether or not Beneficiary shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligations.

8. Term of Guaranty. This Guaranty shall remain in full force and effect until the earlier of (i) such time as all the Guaranteed Obligations have been discharged, and (ii) December 31, 2024 (the "Expiration Date"); provided, however, the Guarantor will remain liable hereunder for Guaranteed Obligations that were outstanding prior to the Expiration Date.

Energy Purchase Agreement

9. Governing Law. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of New York, including Section 5-1401 of the General Obligations Law of the State of New York, but otherwise without giving effect to principles of conflicts of law.

10. Expenses. The Guarantor agrees to pay all reasonable out-of-pocket expenses (including the reasonable fees and expenses of the Beneficiary's counsel) relating to the enforcement of the Beneficiary's rights hereunder in the event the Guarantor disputes its obligations under this Guaranty and it is finally determined (whether through settlement, arbitration or adjudication, including the exhaustion of all permitted appeals), that the Beneficiary is entitled to receive payment of a portion of or all of such disputed amounts. All payments under this Section 10 shall be in addition to the aggregate amount limitations set forth in Section 1, but in no event shall the Guarantor's aggregate liability in this Section 10 exceed fifty thousand U.S. Dollars (U.S. \$ 50,000).

11. Waiver of Jury Trial. The Guarantor and the Beneficiary, through acceptance of this Guaranty, waive all rights to trial by jury in any action, proceeding or counterclaim arising or relating to this Guaranty.

12. Entire Agreement: Amendments. This Guaranty integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all oral negotiations and prior writings in respect to the subject matter hereof. This Guaranty may only be amended or modified by an instrument in writing signed by each of the Guarantor and the Beneficiary.

13. Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

14. No Third-Party Beneficiary. This Guaranty is given by the Guarantor solely for the benefit of the Beneficiary, and is not to be relied upon by any other person or entity.

15. Assignment. Neither the Guarantor nor the Beneficiary may assign its rights or obligations under this Guaranty without the prior written consent of the other, which consent may not be unreasonably withheld or delayed, except that:

- (i) the Guarantor may make such an assignment without such consent if (a) in conjunction with the assignment by the Obligor of all of its rights and obligations under the Agreement, the assignee's long term senior unsecured debt has an investment grade rating (unenhanced by third party support) by Standard and Poor's ("S&P") or Moody's Investor Services, Inc. ("Moody's"), or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by

Energy Purchase Agreement

Moody's shall be investment grade; (b) the Obligor ceases to be a person or entity controlled by, controlling or under common control with the Guarantor and the assignee's long-term senior unsecured debt has an investment grade rating (unenhanced by third party support) by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade or (c) to an entity whose long-term senior unsecured debt has an investment grade rating (unenhanced by third party support) by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating (unenhanced by third party support), then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade; provided that if the respective ratings from both S&P and Moody's are not equivalent, the lower rating shall apply provided, further, that if any long-term senior unsecured debt rating (unenhanced by third party support), Corporate Credit Rating by S&P, or Issuer Rating by Moody's is equivalent to BBB- by S&P / Baa3 by Moody's, the assignee must not be on credit watch or negative outlook by such rating agency; provided, further, that the Guarantor's obligations hereunder must be expressly assumed in writing, in a form reasonably acceptable to the Beneficiary; and

(ii) the Beneficiary may, upon thirty (30) days prior written notice, make such an assignment without such consent if it is in conjunction with any assignment of the Agreement by the Beneficiary permitted under the Agreement.

Any reasonable uncertainty on the part of Beneficiary concerning the ability on the part of any potential assignee of the Guarantor to carry out the Guarantor's obligations hereunder shall be considered a reasonable and sufficient basis for Beneficiary to withhold its consent, unless and until the potential assignee can satisfy Beneficiary, in Beneficiary's commercially reasonably exercised discretion, that the potential assignee is capable of fully performing the obligations of the Guarantor hereunder.

Any purported assignment in violation of this Section 15 shall be void and without effect.

16. Notices. Any communication, demand or notice to be given hereunder will be duly given when delivered in writing to the Guarantor or to the Beneficiary, as applicable, at its address as indicated below:

Energy Purchase Agreement

If to the Guarantor, at:

DTE Energy Company
One Energy Plaza
Detroit, MI 48226
Attention: David R. Murphy – Assistant Treasurer

With copies to:

DTE Energy Services, Inc.
414 South Main Street, Suite 600
Ann Arbor, MI 48104
Attention: President
Telephone: 734-302-4834

and

DTE Energy Services, Inc.
414 South Main Street, Suite 600
Ann Arbor, MI 48104
Attention: General Counsel
Telephone: 734-302-4894

and

St. Paul Cogeneration, LLC
[_____]
[_____]
Attention: [_____]

If to the Beneficiary, at:

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
Attention: President, NSP Generation

or such other address as the Guarantor or the Beneficiary shall from time to time specify. Notice shall be deemed given (a) when received, as evidenced by signed receipt, if sent by hand delivery, overnight courier or registered mail or (b) when received, as evidenced by transmission confirmation report, if sent by facsimile and received on or before 4 pm local time of recipient, or (c) the next business day, as evidenced by transmission confirmation report, if sent by facsimile and received after 4 pm local time of recipient.

Energy Purchase Agreement

17. Subrogation. The Guarantor will not exercise any right that it may now or hereafter acquire against Obligor that arises from the existence payment, performance or enforcement of the Guarantor's obligations under this Guaranty, including, without limitation any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Beneficiary against Obligor or any collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law (including, without limitation, the right to take or receive from Obligor, directly or indirectly, in cash or other property or by setoff or in any other manner, payment or security on account of such claim, remedy or right), unless and until all of the Guaranteed Obligations of Obligor under the Agreement and all other amounts payable under this Guaranty shall have been paid to Beneficiary in full in cash (and not subject to disgorgement in bankruptcy or otherwise). If any amount shall be paid to the Guarantor in violation of the preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations and all other amounts payable under this Guaranty, the Guarantor shall hold such amount in trust for the benefit of Beneficiary, which amount shall immediately be paid to Beneficiary by Guarantor to be credited and applied to the Guaranteed Obligations pursuant to the Agreement and all other amounts payable under this Guaranty, whether matured or unmatured. Subject to the foregoing, upon payment of all the Guaranteed Obligations and all other amounts payable under this Guaranty, Guarantor shall be subrogated to all rights of Beneficiary against Obligor and Beneficiary agrees to take, at Guarantor's expense, such steps as Guarantor may reasonably request to implement such subrogation.

18. Representations and Warranties. (i) Guarantor is a corporation duly existing and in good standing under the laws of the State of Michigan. (ii) The execution, delivery and performance of this Guaranty have been duly authorized by all necessary corporate action and do not conflict with or violate any provision of law, any regulation, or Guarantor's charter or by-laws, or any agreement binding upon it. (iii) No consent, approval and authorization of, registration with, or declaration to any governmental authority are required in connection with the execution, delivery and performance of this Guaranty. (iv) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, subject as to enforcement to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

[Remainder of Page Intentionally Left Blank]

Energy Purchase Agreement

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the day and year first above written.

DTE ENERGY COMPANY

By: _____

Name: _____

Title: _____

Energy Purchase Agreement

**EXHIBIT I
RESERVED**

**EXHIBIT J
FUEL CERTIFICATION REQUIREMENTS**

Annual Fuel Certification

Pursuant to Section 5.5(C), Seller shall provide a written Fuel Certification Report to Company no more than sixty (60) days after the completion of each Contract Year. The Fuel Certification Report shall include the following information:

1. A summary listing each of the specific fuels consumed at the Facility during the most recently completed Contract Year and a listing of all of the specific fuel types consumed on a contract-to-date basis.
2. A fuel consumption summary table that identifies: (1) the quantity of each fuel types burned; (2) the typical heating value of each of those fuels, in MMBtu/lb. lower heating value, (3) a calculation of the total heat input provided by each of those fuels, in MMBtu, and includes a calculation of the percentage of heat input provided by each of those fuels out of the total heat input provided by all fuels. The summary table shall provide such information for the most recently completed contract year as well as on a contract-to-date basis.
3. A report by an independent, third party testing laboratory acceptable to Company certifying that the test methods for heating values, for fuels other than natural gas set forth above are accurate for the samples tested.
4. The report set forth in (2) shall be based on results from fuel samples taken for each of the listed fuels once during each quarter of the most recently completed Contract Year. Copies of scale and/or meter certification reports for each instrument used to measure the quantities of fuels consumed by the Seller's Facility during the most recently completed Contract Year.
5. Copies of receipt and/or bills of lading for all fuel delivered to the Seller's Facility during the most recent contract year will be available for review at Seller's Facility with copies saved for the most recent three (3) years.

The Fuel Certification Report shall be certified by an individual or individuals authorized to bind the Seller.

Energy Purchase Agreement

**EXHIBIT K
LENDER CONSENT PROVISIONS**

In the event Seller collaterally assigns its rights hereunder to a Facility Lender as security, any related Lender Consent will contain provisions substantially as follows:

1. Seller and Company will neither modify nor terminate the PPA in any material respect, without the prior written consent of the Facility Lender.
2. The Facility Lender shall have the right, but no obligation, to do any act required to be performed by Seller under the PPA, and any such act performed by the Facility Lender shall be as effective to prevent or cure a default as if done by Seller itself.
3. If Company becomes entitled to terminate the PPA due to an Event of Default by Seller, Company shall not terminate the PPA unless it has first given notice of such Event of Default to the Facility Lender and has given the Facility Lender the same cure period afforded to Seller under Article 12 of the PPA, plus an additional 30 Days beyond Seller's cure period to cure such Event of Default; *provided, however*, that if the Facility Lender requires possession of the Facility in order to cure the Event of Default, and if the Facility Lender diligently seeks possession, the Facility Lender's additional 30-Day cure period shall not begin until foreclosure is completed, a receiver is appointed, any bankruptcy stay is removed, or possession is otherwise obtained by or on behalf of the Facility Lender.
4. The Facility Lender shall provide to Company a copy of any notices of default and/or intent to exercise remedies delivered to Seller under the Financing Documents.
5. Upon any foreclosure, deed-in-lieu or other exercise of the rights and remedies of the Facility Lender that results in a successor owner or operator of the Facility, the Facility Lender shall require and cause the successor (i) to assume all of Seller's prospective obligations under the PPA, (ii) to cure any then-existing defaults by Seller that are capable of cure by performance or the payment of money damages, (iii) to have substantial experience in the operation of power generation facilities akin to the Facility, either directly, through its affiliates or through an operator acceptable to Company, and (iv) to enjoy (together with its parents and affiliates) an Investment Grade Credit Rating or other creditworthiness satisfactory to Company. Except for the foregoing, the Facility Lender shall not be obligated to perform or be liable for any obligation of Seller under the PPA.
6. Upon any rejection or other termination of the PPA in connection with any bankruptcy or insolvency of Seller, the Facility Lender (or its successor) and Company shall enter into a new power purchase agreement on the same terms and conditions as the PPA and for the period that would have been remaining under the PPA but for such termination.

* * * * *

Energy Purchase Agreement

**EXHIBIT L
ACH PAYMENT INFORMATION**

Bank Information:

BMO Harris Bank N.A.
111 W. Monroe St.
Chicago, IL 60603

ABA#: **071000288**

Account #: **402-578-9**

Ref: St. Paul Cogeneration

Company Information:

St. Paul Cogeneration, LLC
305 St. Peter St.
Saint Paul, MN 55102

CERTIFICATE OF SERVICE

I, Crystal Syvertsen, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota; or

xx by electronic filing.

MPUC Docket No: E002/M-21-_____
Miscellaneous Electric Service List

Dated this 30th day of July 2021.

/s/

Crystal Syvertsen
Regulatory Administrator

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Alison C	Archer	aarcher@misoenergy.org	MISO	2985 Ames Crossing Rd Eagan, MN 55121	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
James J.	Bertrand	james.bertrand@stinson.com	STINSON LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
James	Canaday	james.canaday@ag.state.mn.us	Office of the Attorney General-RUD	Suite 1400 445 Minnesota St. St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
John	Coffman	john@johncoffman.net	AARP	871 Tuxedo Blvd. St. Louis, MO 63119-2044	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Riley	Conlin	riley.conlin@stoel.com	Stoel Rives LLP	33 S. 6th Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Brooke	Cooper	bcooper@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
George	Crocker	gwillc@nawo.org	North American Water Office	PO Box 174 Lake Elmo, MN 55042	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
John	Farrell	jfarrell@ilsr.org	Institute for Local Self- Reliance	2720 E. 22nd St Institute for Local Self- Reliance Minneapolis, MN 55406	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Edward	Garvey	edward.garvey@AESLconsulting.com	AESL Consulting	32 Lawton St Saint Paul, MN 55102-2617	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Michael	Hoppe	lu23@ibew23.org	Local Union 23, I.B.E.W.	445 Etna Street Ste. 61 St. Paul, MN 55106	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2950 Yellowtail Ave. Marathon, FL 33050	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Sarah	Johnson Phillips	sarah.phillips@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Mark J.	Kaufman	mkaufman@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Avenue South Burnsville, MN 55337	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Thomas	Koehler	TGK@IBEW160.org	Local Union #160, IBEW	2909 Anthony Ln St Anthony Village, MN 55418-3238	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Peder	Larson	plarson@larkinhoffman.com	Larkin Hoffman Daly & Lindgren, Ltd.	8300 Norman Center Drive Suite 1000 Bloomington, MN 55437	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Kavita	Maini	kmairi@wi.rr.com	KM Energy Consulting, LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Joseph	Meyer	joseph.meyer@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St Paul, MN 55101-2131	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Stacy	Miller	stacy.miller@minneapolismn.gov	City of Minneapolis	350 S. 5th Street Room M 301 Minneapolis, MN 55415	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
David	Moeller	dmoeller@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022093	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Carol A.	Overland	overland@legalectric.org	Legalelectric - Overland Law Office	1110 West Avenue Red Wing, MN 55066	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd St. Paul, MN 55102	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Byron E.	Starns	byron.starns@stinson.com	STINSON LLP	50 S 6th St Ste 2600 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
James M	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	150 S 5th St Ste 700 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Lynnette	Sweet	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Thomas	Tynes	jjazynka@energyfreedomcoalition.com	Energy Freedom Coalition of America	101 Constitution Ave NW Ste 525 East Washington, DC 20001	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Lisa	Veith	lisa.veith@ci.stpaul.mn.us	City of St. Paul	400 City Hall and Courthouse 15 West Kellogg Blvd. St. Paul, MN 55102	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Joseph	Windler	jwindler@winthrop.com	Winthrop & Weinstine	225 South Sixth Street, Suite 3500 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Patrick	Zomer	Pat.Zomer@lawmoss.com	Moss & Barnett a Professional Association	150 S. 5th Street, #1200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric