



414 Nicollet Mall  
Minneapolis, Minnesota 55401

June 25, 2015

— VIA ELECTRONIC FILING —

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

RE: PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT WITH BEST  
POWER INTL., LLC  
DOCKET NO. E002/M-15-\_\_\_\_\_

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, encloses for filing a Petition for approval of a Power Purchase Agreement with Best Power Intl., LLC for .718 MW (AC) of solar-photovoltaic generation at the School Sisters of Notre Dame site in Mankato, MN.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list.

Please contact Rebecca Eilers at [rebecca.d.eilers@xcelenergy.com](mailto:rebecca.d.eilers@xcelenergy.com) or (612) 330-5570 or me at [paul.lehman@xcelenergy.com](mailto:paul.lehman@xcelenergy.com) or (612) 330-7529 if you have any questions regarding this filing.

Sincerely,

/s/

PAUL J LEHMAN  
MANAGER, REGULATORY COMPLIANCE & FILINGS

Enclosures  
c: Service List

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

|                         |              |
|-------------------------|--------------|
| Beverly Jones Heydinger | Chair        |
| Nancy Lange             | Commissioner |
| Dan Lipschultz          | Commissioner |
| John Tuma               | Commissioner |
| Betsy Wergin            | Commissioner |

IN THE MATTER OF THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL OF THE SCHOOL SISTERS  
POWER PURCHASE AGREEMENT WITH  
BEST POWER INT'L, LLC

DOCKET NO. E002/M-15-\_\_\_\_\_

**PETITION**

**INTRODUCTION**

Northern States Power Company, doing business as Xcel Energy, submits this Petition to the Minnesota Public Utilities Commission seeking approval of a Power Purchase Agreement with Best Power Int'l, LLC for .718 MW (AC) of solar-photovoltaic (PV) generation at the School Sisters of Notre Dame site in Mankato, MN (School Sisters).

This agreement for solar generation with Best Power is the result of contract negotiations for the purchase of energy from a project selected to receive a grant award from Xcel Energy's Renewable Development Fund (RDF) program. The Company respectfully requests the Commission approve the School Sisters PPA between Xcel Energy and Best Power. As a solar energy resource that can be used to meet the Solar Energy Standard (SES), the Company requests approval to recover the PPA costs through the Company's Fuel Clause Rider pursuant to Minn. Stat. §216B.1645.

The School Sisters PPA negotiated with Best Power is in the public interest, reasonable and protects the interest of ratepayers. This PPA will contribute to the Company meeting SES compliance for a reasonable cost comparable to other solar purchase contracts, while allowing developers and the Company to learn more about new components of solar technology.

Xcel Energy is asking the Commission to 1) approve the Best Power PPA subject to the Company's continued obligation to prudently administer the PPA; 2) find that the

PPA is a resource that is suitable to allow the Company to satisfy the solar energy standards set forth in Minn. Stat. § 216B.1691; and 3) authorize Xcel Energy to recover from Minnesota retail customers the Minnesota jurisdictional portion of the amounts incurred by the Company during the full term of this Agreement.

## **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, we have served a copy of the Petition Summary on all parties on Xcel Energy's miscellaneous electric 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**

Alison Archer  
Assistant General Counsel  
Xcel Energy  
414 Nicollet Mall, 5<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 215-4662

### **C. Date of Filing**

Xcel Energy submits this Petition on June 25, 2015. No change in rates will occur until acceptable delivery of energy when the project begins, which will be no later than December 31, 2017.

**D. Statute Controlling Schedule for Processing the Filing**

This filing is made under Minn. Stat. §216B.1645 (Power Purchase Contract or Investment) and costs incurred in connection with this Agreement are recoverable consistent with Minn. Stat. §216B.1645. No specific statute imposes a schedule controlling the processing of the filing. However, the Commission has usually set a comment schedule by notice to interested parties for power purchase contracts, and we request the Commission do so in this proceeding. Approval of this PPA is one of the conditions that must be met before the Company can disburse RDF grant funds to Best Power for this project. If there are no objections to this PPA, the Company respectfully requests Commission action on this Petition at the earliest convenient opportunity.

**E. Utility Employee Responsible for Filing**

Paul J Lehman  
Manager, Regulatory Compliance and Filings  
Xcel Energy  
414 Nicollet Mall, 7<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 330-7529

**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:

|  |  |
|--|--|
| Alison Archer                            | Regulatory Records                       |
| Assistant General Counsel                | Xcel Energy                              |
| Xcel Energy                              | 414 Nicollet Mall, 7 <sup>th</sup> Floor |
| 414 Nicollet Mall, 5 <sup>th</sup> floor | Minneapolis, MN 55401                    |
| Minneapolis, MN 55401                    | regulatory.records@xcelenergy.com        |
| alison.c.archer@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 the PPA, provided as Attachment A, for solar generation resources from Best Power. In support of this filing, we provide:

- Background information;
- Overview of the solar generation resource;
- Interconnection Agreement information;
- Summary of relevant terms of the power purchase agreement;
- Proposed use of fuel and resource recovery clauses related to the purchases; and
- Demonstration that the PPA is in the public interest, reasonable and protects the interest of ratepayers.

## **A. Background**

### *1. RDF Selection*

In 2014, the Commission approved a grant award in the amount of \$900,000 from Xcel Energy's RDF program<sup>1</sup> to Best Power for the construction of a .718 MW solar PV system. This grant award stemmed from the Request for Proposals (RFP) issued in 2012 by the RDF program to identify and support various renewable energy production projects as well as renewable energy research and development projects in its Cycle 4 grant round.

In response to the issued RFP, the RDF program received 46 energy production proposals (35 solar projects, five biomass projects, four wind projects, and two combination projects). The RDF advisory group recommended approval of grant awards for sixteen solar projects including the proposal by Best Power, and these proposed projects were submitted to the Commission for approval. The Commission concurred with the RDF advisory group's recommendations, including the approval of more solar production projects than other generation sources. The Commission approved all of the recommended projects, including Best Power, in its Order dated March 11, 2014.<sup>2</sup>

The RDF program and Best Power entered into an RDF grant contract in order to proceed with the project. On October 23, 2014, the Company filed the grant contract to comply with Order Point No. 6 of the February 6, 2013 Commission

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<sup>1</sup> The RDF program was established in 1994 by the Minnesota legislature. As a condition of storing spent nuclear fuel in dry casks at both the Prairie Island plant and the Monticello Nuclear Power Plant, Minn. Stat. §116C.779 currently requires the Company to transfer \$26.0 million annually to the RDF account. The purpose of RDF is to provide financial support for new and emerging renewable energy production projects as well as renewable energy research and development projects.

<sup>2</sup> Docket No. E002/M-12-1278

Order.<sup>3</sup> Because Best Power signed a standard RDF contract, no further Commission action was required to proceed with project activity.

## 2. *Selection of Best Power*

The School Sisters solar installation is a learning opportunity that will contribute to the diversification of solar systems in Minnesota. This PV facility will utilize a 1,000 volt direct-current (Vdc) platform, versus a 600 Vdc platform used by most systems, which will provide an opportunity for local electrical inspectors to understand the unique 1,000 Vdc system. This higher voltage system can produce savings in terms of wire size and other components as well as reduce installation time. The technology has been deployed in California and Europe but has not yet been used in Minnesota. The project is in a good location for solar production, and it will be the first RDF project in the Mankato area. The project was strongly supported by the RDF advisory group due to its use of new technology and related educational benefits.

The RDF advisory group took into account a heightened interest in solar PV technology and growing support for distributed generation (DG) projects in making its recommendations in the Cycle 4 grant round. The substantial interest in solar PV installations led to material discussions amongst the advisory group and the Company as to which installations were best selected for funding based on a holistic review. Furthermore, to meet the SES, Xcel Energy is committed to providing a range of solar energy choices to meet the varying needs and interests of customers at the best price and in a way that is fair to all customers. By using a range of solar energy choices, the Company can manage customer costs, while supporting the growth of Minnesota's solar industry. All of these factors made the School Sisters project attractive for selection to receive RDF grant funds and to Xcel Energy to add the installation to its solar portfolio.

The Company has more experience negotiating solar PPAs today than in 2009 when we executed our first solar PPA with Best Power, having executed additional solar PPAs in the intervening years. The agreed upon price per MWh in the School Sisters PPA is comparable to the price per MWh in other recent solar PPAs executed by the Company. The comparable cost per MWh of this small facility is comparable to that of larger solar installations, despite the unique design features, which we believe makes this PPA a prudent solar resource selection for our customers.

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<sup>3</sup> Docket No. E002/M-12-1278. Order Point No. 6 requires Xcel Energy to file all grant contracts with the Commission for compliance with the final selection.

## **B. Overview of the Generation Resources**

Best Power's solar installation with a nameplate capacity of .718 MW (AC) will be a ground-mounted photovoltaic facility constructed on the School Sisters of Notre Dame (SSND) campus in Mankato, MN. Best Power will lease approximately five acres of land from SSND and will own, operate, and maintain the system.

The array racking will be fixed, facing at an angle of 190 degrees from north to increase the amount of energy produced in the afternoon. The installation will be the first large-scale solar project to utilize a maximum operating voltage of 1,000 Vdc. By switching to a 1,000 Vdc platform, from the typical 600 Vdc platform, savings in wire size, other construction components, as well as installation time will help drive down the cost of solar in the industry.

The facility is expected to produce approximately 1,130 MWh on an average annual basis over the 15-year contract term, translating to an annual capacity factor of approximately 14 percent. This connection is at the distribution level with no need to involve MISO, as production from the project will not exceed the substation load. This line will also serve as the Company's point of receipt. Best Power plans to sign an interconnection agreement with Xcel Energy. Best Power will install and operate the facilities necessary to interconnect the project to Xcel Energy's system at the point of delivery at no cost to Xcel Energy. Project construction began on June 1, 2015, and Best Power has procured all required permits for construction. The project is required to achieve full operational status by December 31, 2017, but we anticipate an earlier commercial operation date since construction is currently underway.

## **C. Interconnection Agreement**

The interconnection agreement between Xcel Energy and Best Power will be the standard form DG interconnection agreement as approved in Docket No. E002/GR-05-1428 and contained in our Electric Rate Book. No further PUC approval of the interconnection Agreement is required.

## **D. Relevant Terms of the Transaction**

Following is a brief description of the relevant terms of this particular PPA:

### *1. Purchase Price and Term*

Xcel Energy will purchase the net output of the project over a 15-year term of the contract. The price in this PPA is an unlevelized amount over fifteen years. The Solar Energy Payment Rate is \$72.54/MWh (year 1) escalating at two percent (2%)

annually, \$85.38/MWh (levelized). The overall price Xcel Energy will pay for energy through this PPA term is equivalent to the estimate provide in the project's original RDF grant proposal.

### 2. *Commercial Operation Date*

The Commercial Operation Date (COD) for the purposes of the PPA must not be earlier than July 1, 2015 or later than December 31, 2017. A COD later than March 1, 2018 or as extended for reasons other than Force Majeure, Event of Default by the Company or delay attributable to Company, is considered an Event of Default. We anticipate the COD will occur much sooner than December 31, 2017 since construction is currently underway.

### 3. *Security*

Most PPAs typically include a security provision in the event that the project does not achieve commercial operation by an agreed upon date or otherwise not operate in accordance with the PPA. However, this PPA was entered into as a result of the RDF program, and therefore will not receive RDF grant funds until the project has achieved commercial operation. We believe that since the funding is contingent on commercial operation, an appropriate level of security has been ensured without inclusion of security clauses which are typical in this type of PPA for a non-RDF-funded project.

### 4. *Transmission and Curtailment*

PPAs for wind generation projects typically include a provision pertaining to possible transmission upgrades and compensation in the event of curtailments due to certain circumstances beyond the control of the Seller. This solar PPA contains similar provisions for curtailment.

### 5. *Other Terms and Conditions*

The Agreement contains terms and conditions typical in a power purchase agreement relating to the construction of new resources. These include representations of each party about their ability to enter the transaction, force majeure provisions, dispute resolution, listing of responsibilities, and provisions relating to defaults and similar issues. This Agreement contains similar, although not identical provisions, to other PPAs previously reviewed and approved by the Commission. Consequently, we have not provided a term-by-term review. We are willing to provide any additional analysis that the Commission, the Department, or other interested parties believe would be helpful to facilitate review of the Agreement.



## **E. Fuel and Resource Recovery Clauses Related to the Purchases**

The Company intends to count this purchase toward the legislative requirements of Minn. Stat. § 216B.1691 subd. 2, and similar renewable energy statutes in the other jurisdictions we serve. Upon PPA approval, costs incurred in connection with this Agreement are recoverable consistent with Minn. Stat. §216B.1645. Similar to all of Xcel Energy's power purchases, costs for this solar purchase are priced entirely on an energy basis. As with energy purchases from wind and other solar projects,<sup>4</sup> Xcel Energy is seeking approval to recover Minnesota's portion of these power purchase costs pursuant to Minn. Stat. § 216B.1645 through the fuel cost charge of the fuel clause rider. This recovery method is the same as that set forth for other generation projects to satisfy the legislative requirements of Minn. Stat. § 216B.1691 subd. 2.

## **F. Description of the Proposed Tariff**

Specific tariff changes are not necessary as existing tariff language provides for recovery of the costs of the energy through the Company's renewable resource recovery clause. The proposed terms of the Agreement and associated costs to ratepayers are described in the petition.

## **G. The PPA is in the Public Interest, Reasonable and Protects the Interests of Xcel Energy Ratepayers**

Xcel Energy is asking the Commission to 1) approve the Best Power PPA subject to the Company's continued obligation to prudently administer the PPA; 2) find that the PPA is a resource that is suitable to allow the Company to satisfy the solar energy standards set forth in Minn. Stat. § 216B.1691; and 3) authorize Xcel Energy to recover from Minnesota retail customers the Minnesota jurisdictional portion of the amounts incurred by the Company during the full term of this Agreement.

We believe the School Sisters solar project, and accordingly the Best Power PPA, provides significant benefits beyond energy production itself. The RDF advisory group selected, the Company recommended, and the Commission approved the Best Power RDF grant award because the project is well-aligned with the RDF program mission. More specifically, the Best Power project and approval of the School Sisters PPA will 1) increase market penetration of solar energy in our service territory; 2) promote the expansion of renewable energy projects and companies; and 3) support emerging alternative solar energy technology that provides real-world results.

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<sup>4</sup> Except for those proposed in the Windsource program, Docket No. E002/M-01-1479.

As part of the RDF grant contract, Best Power will provide the Company and the public with annual reports for the next ten years that includes information on power generated, system operating performance, seasonality implications, and other metrics. This information will help build upon our knowledge base regarding commercial scale solar PV systems in our territory. The total cost of this project's energy is fairly low over the contract term, which is a good characteristic of a small project that will benefit our ratepayers. Furthermore, the PPA is based on the Model RDF NSP Solar Energy PPA and is a pay-for-performance energy contract, so risk to our customers is minimized.

## **VI. EFFECT OF CHANGE ON XCEL ENERGY REVENUE**

The PPA is expected to result in annual average energy expenditures of approximately \$91,600 over the 15-year term starting with the COD of the project. Minn. Stat. §216B.1645 allows the Company to automatically recover the costs of power purchase contracts that are entered into satisfy the renewable energy standards set forth in Minn. Stat. § 216B.1691. In particular, if the Commission approves the Best Power PPA then we propose to recover the Minnesota portion of these costs through the automatic adjustment mechanism of the Company's electric rate tariffs on file with the Commission.

No net increase in revenue to Xcel Energy will result from this transaction, as the Minnesota costs of the power purchase will equal the Minnesota revenue collected.

### **CONCLUSION**

Xcel Energy respectfully requests the Commission approve the School Sisters PPA with Best Power. If approved, the Company will apply the solar energy purchased from Best Power to meet our SES requirement under Minn. Stat. §216B.1691. As a renewable resource used to meet the SES, the Company requests approval to recover the costs through the Company's Fuel Clause Rider pursuant to Minn. Stat. §216B.1645.

Dated: June 25, 2015

Northern States Power Company

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

|                         |              |
|-------------------------|--------------|
| Beverly Jones Heydinger | Chair        |
| Nancy Lange             | Commissioner |
| Dan Lipschultz          | Commissioner |
| John Tuma               | Commissioner |
| Betsy Wergin            | Commissioner |

IN THE MATTER OF THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL OF A POWER PURCHASE  
AGREEMENT WITH BEST POWER INT'L,  
LLC

DOCKET NO. E002/M-15-\_\_\_\_\_

**PETITION**

**SUMMARY OF FILING**

Please take notice that on June 25, 2015, Northern States Power Company, doing business as Xcel Energy, filed with the Minnesota Public Utilities Commission a Petition for approval of a Power Purchase Agreement with Best Power Int'l, LLC to purchase .718 MW of solar-photovoltaic energy for a term of 15 years from its installation to be constructed at the School Sisters of Notre Dame site in Mankato, MN.

## SOLAR ENERGY PURCHASE AGREEMENT

This Solar Energy Purchase Agreement ("Agreement") is entered into this 11 day of May, 2015 (the "Effective Date") by and between Northern States Power Company, a Minnesota corporation ("NSP"), and Best Power Int'l, LLC, ("Seller") a Minnesota LLC .

### RECITALS

1. Seller has agreed to construct, own and operate a solar powered electric generating facility on a site located in Blue Earth, County, with a nameplate capacity of .718 MW (AC) to be interconnected to the Interconnection Provider's system.
2. Seller has obtained a grant contract from the Renewable Development Fund ("RDF") to facilitate the construction of the Facility.
3. Seller has agreed to interconnect into the Interconnection Provider's System and be responsible for all costs associated with delivering Net Energy from the Facility to the Point of Delivery including but not limited to any losses, ancillary service costs, wheeling, and any applicable tariff charges.
4. NSP desires to purchase and Seller desires to sell, all of the Capacity and Net Energy of the Facility, subject to the terms and conditions and at the prices set forth in this Agreement.

**NOW THEREFORE**, in consideration of these premises and the mutual promises set forth below, Seller and NSP agree as follows:

### AGREEMENT

#### ARTICLE I - DEFINITIONS

- 1.1 **AC.** Alternating electric current.
- 1.2 **Acceptance Criteria.** The criteria that will be used to determine whether and when the Facility is capable of producing Energy associated with the Committed Nameplate Capacity and delivering such Energy to the Point of Delivery, as set forth in Appendix A.
- 1.3 **Agreement.** This contract, including all appendices, for the purchase of Capacity and Net Energy entered into between Seller and NSP, as amended by the Parties from time to time in accordance with this Agreement.
- 1.4 **Available Capacity:** This term is defined in Section 5.5(c).
- 1.5 **Capacity:** The output potential a machine or system can produce or carry under specified conditions. The capacity of generating equipment is generally expressed in

MW. Capacity is also referred to as "capability" in the industry and for the purposes of this Agreement the terms are synonymous.

- 1.6 Capacity Resource.** The amount of net generating Capacity associated with the Facility for which Capacity credit may be obtained under applicable planning reserve procedures and requirements. Initially, such requirements are set forth in Module E of MISO's OATT and MISO Business Practices Manual for Resource Adequacy.
- 1.7 Change of Control.** This term is defined in Section 9.2(a).
- 1.8 Commercial Operation.** When (a) one hundred percent (100%) of the Committed Nameplate Capacity of the Facility is installed, (b) the Facility has operated at a generation level acceptable to the Interconnection Provider without experiencing any abnormal or unsafe operating conditions on any interconnected system, (c) Seller has obtained all Permits necessary to authorize that production and delivery, and (d) Seller or the Facility have completed all other Acceptance Criteria as set forth in Appendix B.
- 1.9 Commercial Operation Date.** The first Day following a successful demonstration that the Facility has reached Commercial Operation and Seller has met the other criteria of Appendix B; provided that such date must not be earlier than July 1, 2015 or later than December 31, 2017,
- 1.10 Committed Nameplate Capacity.** The total maximum designed power output, expressed in MW (AC), of all installed solar panels at the Facility as specified by the equipment manufacturer. Such capacity is capacity that Seller agrees to construct and maintain at the Facility in order to sell and deliver Capacity and Energy to NSP pursuant to this Agreement.
- 1.11 Damages.** This term is defined in Section 7.5(a).
- 1.12 Day** means a calendar day.
- 1.13 DC.** Direct electric current.
- 1.14 Delay Damages.** This term is defined in Section 7.4(d).
- 1.15 Eligible Renewable Energy Resource.** Any resource that qualifies as a Renewable Energy resource eligible to be certified to receive, claim, own or use Renewable Energy Credits pursuant to the protocols and procedures developed and approved by the MPUC in the M-RETS Program.
- 1.16 Electric Metering Devices.** Revenue quality meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the Energy from the Facility, including the metering current transformers and the metering voltage transformers.

- 1.17 Emergency.** Any condition or situation that in the judgment of NSP, the Interconnection Provider, MISO or MRO (as communicated to NSP) (i) endangers or might endanger life or property or public safety (ii) affects or might affect NSP's ability, or the ability of any participant of MRO, or MISO, to maintain safe, adequate and continuous electric service to NSP's or the Interconnection Provider's customers or the customers of any participant of MRO, or MISO, and any emergency as defined in the Interconnection Agreement.
- 1.18 Energy.** The amount of electricity either used or generated over a period of time; expressed in terms of MWh.
- 1.19 Environmental Contamination** means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of Applicable Law, and present a material risk under Applicable Laws that the Site will not be available or usable for the purposes contemplated by this Agreement.
- 1.20 Environmental Law.** Any federal, state and local laws, including statutes, regulations, rulings, orders, administrative interpretations and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants, process waste water or otherwise relating to the environment or hazardous substances as amended from time to time.
- 1.21 Extension.** This term is defined in Section 2.1.
- 1.22 Facility.** The generation and distribution facilities owned by Seller and located on the Site and between the Site and the Point of Interconnection for the generation of solar powered electricity and delivery of such electricity to NSP. A description of the Facility is set forth in Appendix C and incorporated by reference.
- 1.23 FERC.** Federal Energy Regulatory Commission or its successor organization, if any.
- 1.24 Financier.** Any individual or entity providing money or extending credit (including any capital lease, sale, sale-leaseback or power purchase agreement) for (i) the construction, term, ownership or permanent financing of the Facility or (ii) working capital or other ordinary business requirements for the Facility. "Financier" shall not include common trade creditors of Seller.
- 1.25 Force Majeure.** This term is defined in Section 6.1.
- 1.26 Governmental Authority.** Any nation, government, state or other political subdivision thereof, whether foreign or domestic, including, without limitation, any municipality, township and county, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.
- 1.27 Guaranteed Price.** The prices expressed in dollars per MWh set forth in Section 2.3(a) and used as the basis for determining payments by NSP to Seller for the Net Energy of the Facility.

- 1.28** **Hazardous Materials**” means any substance, material, gas, or particulate matter that is regulated by any local Governmental Authority, any applicable State, or the United States of America, as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including, without limitation, 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 local, state, or federal law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive material; (vi) designated as a “hazardous substance” pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (vii) 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); (viii) 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); (ix) defined as a “chemical substance” under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (x) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).
- 1.29** **Interconnection Agreement.** The separate agreement between Seller and Interconnection Provider for the interconnection of the Facility to the Interconnection Provider's System, as such agreement may be amended from time to time, that is described in Section 4.5.
- 1.30** **Interconnection Facilities.** All the facilities installed for the purpose of interconnecting the Interconnection Provider's System and the Facility.
- 1.31** **Interconnection Provider.** The Person that owns and operates the transmission lines, Distribution Facilities and other equipment and facilities with which the Facility interconnects at the Point of Delivery, and its successors and assignees.
- 1.32** **Interconnection Provider's System.** The facilities of the Interconnection Provider by which the Interconnection Provider provides interconnection service to the Facility.
- 1.33** **kW.** Kilowatt.
- 1.34** **kWh.** Kilowatt hour.
- 1.35** **Material Adverse Effect.** 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.
- 1.36** **MISO.** Midcontinent Independent System Operator, Inc., a non-profit, non-stock corporation organized and existing under the laws of the State of Delaware, or its successor organization, if any.

- 1.37 MPUC.** Minnesota Public Utilities Commission and any successor agency.
- 1.38 M-RETS Program.** The Midwest Renewable Energy Trading System program, MPUC Docket No. E-999/CI-04-1616, and subsequent related proceedings.
- 1.39 MRO.** The Midwest Reliability Organization, a NERC regional electric reliability council, or its successor organization, if any.
- 1.40 MW.** Megawatt.
- 1.41 MWh.** Megawatt hour.
- 1.42 NERC.** North American Electric Reliability Corporation or its successor agency, if any.
- 1.43 Net Energy.** The actual number of MWh generated by the Facility during the period being considered less any generating output in MWh used for the Facility's Station Auxiliary as measured by the meter installed pursuant to Section 3.2.
- 1.44 Network Upgrades.** All or a portion of the modifications or additions to transmission related facilities that are integrated with and support the Interconnection Provider's (or other applicable transmission owner's) overall transmission system for the general benefit of all users of the transmission system.
- 1.45 NSP.** This term is defined in the introductory paragraph and includes NSP's successors and assignees.
- 1.46 OATT.** Any Open Access Transmission Tariff on file with FERC, including MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff, as amended from time to time.
- 1.47 Outage.** A physical state in which all or a portion of the Plant is Unavailable to provide Energy.
- 1.48 Parties.** NSP, Seller and their respective permitted successors and assignees.
- 1.49 Party.** NSP or Seller and their respective permitted successors and assignees.
- 1.50 Pending Facility Transaction.** This term is defined in Section 9.2(b).
- 1.51 Permits.** All state, federal and local authorizations, certificates, permits, licenses and approvals required by any Governmental Authority for the construction, operation and maintenance of the Facility.
- 1.52 Person.** An individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trusts, unincorporated association, joint venture, Governmental Authority or other entity.
- 1.53 PFT Notice.** This term is defined in Section 9.2(b)ii.



- 1.54 PI.** This term is defined in Section 9.17.
- 1.55 Point of Delivery.** The point at which NSP accepts title to and risk of loss for the Net Energy and Capacity sold and delivered by Seller to NSP and the amount of Net Energy delivered and purchased is established for purposes of billing. The Point of Delivery shall be at a location within Interconnection Provider's distribution system and is shown in Appendix A. For purpose of this Agreement, the Point of Delivery is the Point of Interconnection.
- 1.56 Point of Interconnection.** The point on the electrical system where the Facility is physically interconnected with the Interconnection Provider's System. The Point of Interconnection is shown in Appendix A.
- 1.57 Proprietary Data.** This term is defined in Section 9.18(c).
- 1.58 Prudent Electric Industry Practice.** Those methods, practices and use of certain equipment, as changed from time to time, that are commonly used and accepted in electrical engineering and operations to operate electric equipment lawfully, safely, dependably and efficiently, including, but not limited to, the requirements of the National Electric Safety Code, the National Electrical Code, NERC, MRO procedures, NERC standards and procedures and any governmental code or regulations.
- 1.59 Qualifying Production Loss Event.** This term is defined in Section 5.5(b).
- 1.60 RDF Contract.** The contract between Seller and the board of the Renewable Development Fund awarding Seller a grant for the purposes of developing the Facility, a copy of which is attached as Appendix F. The RDF Contract contains the "Working Statement" referred to in Section 4.1(b).
- 1.61 Renewable Energy Credits.** Any contractual right to the full set of non-Energy attributes, including any and all credits, benefits, emissions reductions, offsets and allowances, howsoever entitled, directly attributable to a specific amount of Capacity or electric Energy generated from an Eligible Renewable Energy Resource, including any and all environmental air quality credits, benefits, emissions reductions, off-sets, allowances or other benefits as may be created or under any existing or future statutory or regulatory scheme (federal, state or local) by virtue of or due to the Facility's actual Energy production or the Facility's Energy production capability because of the Facility's environmental or renewable characteristics or attributes, including any Renewable Energy Credits or similar rights arising out of or eligible for consideration in the M-RETS Program. For the avoidance of doubt, "Renewable Energy Credits" excludes (i) any local, state or federal tax credits, depreciation deductions or other tax credits, deductions or exclusions, guarantees, or preferred or special financing rates or terms, in each case providing a benefit to Seller (or any Financier) (or any benefit or payment in lieu of any of the foregoing) based on ownership of, or Energy production from, or operation of, any portion of the Facility, (ii) depreciation and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean Energy and (iii) any federal, state, local or other grants related to the Facility.

- 1.62 Replacement Energy Costs.** If Seller commits an Event of Default pursuant to Section 7.2(a), the costs actually and reasonably incurred by NSP to purchase renewable Energy (including Capacity) or non-renewable Energy and Capacity from a third Person, in each case including any actual transmission costs for delivery of such replacement Energy to NSP, and any associated transaction costs, less the amount that NSP would have paid Seller for an equivalent amount of Net Energy pursuant to this Agreement during the applicable period of time given the available solar resource, plus all incremental costs suffered by NSP to replace the Renewable Energy Credits that Seller fails to deliver to NSP under this Agreement with alternative solar or other renewable Energy that meets the requirements of the MPUC, if applicable; provided that if solar Renewable Energy Credits are not reasonably available, Seller may provide an alternative type of Renewable Energy Credits, the market price of the aggregate of which is equal to the then-current market price of the number of solar Renewable Energy Credits that Seller failed to deliver. For example if the market price for solar Renewable Energy Credits is \$10.00/MWh, the market price for wind Renewable Energy Credits is \$1.00/MWh, and Replacement Energy Costs are being calculated for 150 MWh of Net Energy, Seller could provide either 150 MWh of solar Renewable Energy Credits or 1500 MWh of wind Renewable Energy Credits as part of replacement Energy. The market prices of such alternative type of Renewable Energy Credits and solar Renewable Energy Credits shall be determined based on indexes agreed on by NSP and Seller. If NSP and Seller cannot agree on which indexes to use, each party shall select one index for the alternative type of Renewable Energy Credits and one index for the solar Renewable Energy Credits. The market price for the alternative type of Renewable Energy Credits shall be deemed to be the average of the two indexes the parties selected for such alternative type of Renewable Energy Credits, and the market price for the solar Renewable Energy Credits shall be deemed to be the average of the two indexes the parties selected for the solar Renewable Energy Credits. In the event that Replacement Energy Costs for any hour are less than the Guaranteed Price for such hour, Replacement Energy Costs shall be deemed to be equal to the Guaranteed Price for such hour for purposes of this Agreement Liability limits of section 7.4 (c) apply.
- 1.63 Requirements of Law.** Collectively, the certificate of incorporation and bylaws or other organizational or governing documents of Seller or NSP and any United States or Canadian federal, state or provincial law, treaty, franchise, rule, regulation, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon Seller or NSP or any of Seller's property or to which Seller or any of its respective properties are subject.
- 1.64 Seller.** This term is defined in the introductory paragraph and includes any of Seller's permitted successors or assignees.
- 1.65 Seller's Contractual Obligations.** As to Seller, any provision of any security issued by it or any material agreement, instrument or undertaking to which Seller is a party or by which it or any of its property is bound.
- 1.66 Site.** The real property on which the Facility will be constructed and located, including all related solar easements and on which Seller receives electric service. The legal description of the Site is set forth in Appendix C and incorporated by reference.

- 1.67 Station Auxiliary.** Energy used by Seller to operate the Facility.
- 1.68 Term.** The period of time during which this Agreement is in effect.
- 1.69 Test Energy.** Any Net Energy generated by the Facility and delivered to the Point of Delivery prior to the Commercial Operation Date for the Facility.
- 1.70 Unavailable.** A physical state in which the Facility is not capable of providing Net Energy or Capacity to the Point of Delivery, or in which any other equipment or facility is not capable of performing its intended purpose.

## ARTICLE II - PURCHASE AND SALE

### 2.1 Term.

This Agreement shall be effective upon execution by authorized representatives of both Parties, and shall continue until the end of the 15th year after the Commercial Operation Date unless otherwise terminated in accordance with its terms. Except as set forth in Section 2.3(b) with respect to Test Energy, NSP's obligation to purchase the Capacity and Net Energy of the Facility, as set forth herein, shall be effective on the Commercial Operation Date. No later than six (6) months prior to the end of the Term, the Parties may extend this Agreement ("Extension") for a period up to five (5) years. The Extension shall be in writing and signed by a duly authorized officer or representative of the applicable Party or Parties. In NSP's sole discretion it may file and request approval of the Extension and the payments to be made to Seller pursuant to the Extension from the MPUC. If: (1) within sixty (60) Days of filing the MPUC fails to issue an order on NSP's request for approval; or, (2) the MPUC declines to approve the Extension or approves the Extension subject to conditions that are unacceptable to NSP in its sole discretion, NSP may terminate the Extension upon written notice to Seller, with no further obligations to Seller.

- 2.2 Sale and Purchase.** NSP agrees to purchase the entire Capacity and Net Energy of the Facility during the Term and to accept delivery of the Capacity and Net Energy at the Point of Delivery during the Term, subject to the terms of this Agreement (including, without limitation, the contingencies and termination rights set forth in Section 5.3). Seller agrees to deliver and sell the entire Capacity and Net Energy from the Facility to NSP at the Point of Delivery for the Term. Seller shall not contract to sell any Energy or Capacity from the Facility to any Person other than NSP for the Term and Seller acknowledges that NSP is entitled to receive all Capacity and Energy from the Facility during the Term.

### 2.3 Energy Rate.

- (a) **Guaranteed Price.** From and after the Commercial Operation Date, NSP shall pay Seller the Guaranteed Price set forth in Exhibit E for the Net Energy that Seller delivers to NSP at the Point of Delivery. NSP and Seller agree that the applicable Guaranteed Price is intended to compensate Seller for both the Net Energy and Capacity delivered to NSP, and that Seller is not entitled to a

separate price or payment for the Capacity of the Facility to which NSP is entitled.

- (b) **Test Energy.** NSP shall purchase all Test Energy produced by the Facility during startup and testing and delivered to NSP at the Point of Delivery at 70% of the Guaranteed Price for Year 1.
- (c) **Qualified Production Loss Event.** If delivery of Net Energy is curtailed by NSP pursuant to a Qualifying Production Loss Event (as defined in Section 5.5), NSP shall make payments to the extent provided in, and in accordance with, Section 5.5.

**2.4 Tax Credits.** Seller is responsible to apply and qualify for the federal investment tax credit pursuant to 26 U.S.C. Section 48 and any other tax credits or payments or other assistance, grants or credits that might be available to Seller or the Facility from any Governmental Authority or other source, and NSP agrees that Seller is entitled to receive any such credits, assistance or grants. Seller and NSP agree that the Guaranteed Price and other pricing set forth in this Agreement are not subject to adjustment or amendment due to Seller's receipt, or failure to receive, any such credits, assistance or grants, in whole or in part, after the date of this Agreement, including without limitation failure of the Facility to qualify to receive any tax credit for any reason.

**2.5 Committed Nameplate Capacity.** Seller agrees that the Committed Nameplate Capacity shall be .718 MW (AC), and that the Committed Nameplate Capacity shall include only Capacity from the Facility.

**2.6 Capacity Accreditation.** MISO places upon the Company certain planning, operating and reporting requirements. If required by MISO specifically for the Facility, Seller shall complete at its own expense all applicable testing and reporting requirements for the Facility, including any required capacity testing.

**2.7 Renewable Energy Credits.** The Parties agree that the Guaranteed Price includes compensation for the Renewable Energy Credits associated with the Net Energy and Capacity purchased by NSP pursuant to this Agreement and that NSP is entitled to utilize any and all such Renewable Energy Credits for purposes determined by NSP, including without limitation to (i) meet any voluntary, statutory or regulatory mandate to own, construct or contract for the purchase of solar Energy, including but not limited to the terms of any MPUC order and any other similar existing or future requirement; (ii) meet the requirements of any green pricing program by which NSP resells the Net Energy to retail customers as solar or renewable Energy; and (iii) offset, avoid, reduce or obtain credit for reduction of pollutants or air emissions created by NSP's electric generating facilities. To the full extent allowed by such Applicable Law, NSP shall own or be entitled to claim all Renewable Energy Credits to the extent such credits may exist during the Term and, to the extent necessary, Seller shall assign to NSP all rights, title and authority for NSP to register, own, hold and manage such credits in NSP's own name and to NSP's account,

including any rights associated with any renewable Energy information or tracking system that may be established with regard to monitoring, tracking, certifying or trading such credits. For the avoidance of doubt, Renewable Energy Credits do not include State and Federal Cash Incentive Payments or Credits.

### **ARTICLE III - DELIVERY, METERING AND BILLING**

#### **3.1 Delivery Arrangements.**

(a) Seller shall be solely responsible to deliver the Net Energy and Capacity from the Facility to the Point of Delivery. Net Energy shall be measured by electric metering devices located at the Point of Interconnection (the "Electric Metering Devices").

(b) Seller shall be responsible for all interconnection, electric losses, distribution, transmission, and ancillary service arrangements and costs required to deliver the Net Energy from the Facility to NSP at the Point of Delivery.

(c) NSP shall be responsible for all electric losses, transmission and ancillary service arrangements and costs from the Point of Delivery to points beyond the Point of Delivery. NSP may elect at NSP's sole option whether to obtain and utilize firm transmission service, non-firm transmission service, or any combination of transmission service, for the delivery of Energy from the Point of Delivery.

**3.2 Metering Requirements.** The transfer of electric Capacity and Energy between Seller and NSP shall be measured by metering equipment installed in accordance with the Interconnection Agreement at no cost to NSP under this Agreement. Seller shall provide NSP access to all metering equipment for all purposes necessary to perform under this Agreement and shall provide NSP the reasonable opportunity to be present at any time the metering equipment is to be inspected and tested or adjusted in accordance with the Interconnection Agreement. Seller shall provide NSP with all authorizations necessary to have access to the metering equipment, including obtaining any consent or other agreement from the Interconnection Provider necessary to allow NSP such access. If the metering equipment fails to register, or is found upon testing to be inaccurate by more than one percent (1%) (for a mechanical meter) or three tenths of a percent (.3%) (for an electronic meter), an adjustment shall be made correcting all measurements by the inaccurate or defective device using the best available information; provided that such correction shall be limited to no more than the preceding one hundred eighty (180) Days prior to the discovery of the error. Either Party may install back-up metering at its own cost; provided that such back-up metering meets the same technical standards applicable to the metering equipment.

**3.3 Billing.** NSP shall read the meter approximately once a month. Within fifteen (15) Days of the date on which NSP reads the meter, NSP shall send Seller a settlement statement for the previous month that contains data for the computation of payments owed to Seller. Based on such settlement statement, Seller shall send NSP an invoice for Net Energy and Capacity, in accordance with the price terms of this Agreement, within fifteen (15) Days of

the date on which NSP delivered such settlement statement to Seller. Seller shall use the invoice format provided by NSP. In the event that NSP is unable or fails to read the meter, if available and upon request, Seller shall provide to NSP data related to back-up metering.

- 3.4 Billing and Payment Records.** To facilitate payment and verification, Seller shall maintain all books and records necessary for billing and payments, including without limitation copies of all invoices and curtailment data with respect to the Facility for a period of at least two (2) years, and Seller shall grant NSP reasonable access to those books, records and data on the premises of the Facility or at the principal place of business of Seller. NSP may examine such books and records relating to transactions under and administration of this Agreement, at any time during the period the records are required to be maintained, upon request with reasonable notice and during normal business hours.
- 3.5 Payment.** NSP's payment to Seller for Net Energy and Capacity delivered shall be posted, if by mail, twenty (20) Days following the date of the bill. If such due date falls on a weekend or legal holiday, such due date shall be the next business day. Payments posted after the due date shall be considered late and shall bear interest on the unpaid balance at a rate equal to three percent (3%) plus the average daily prime rate as determined from the "Money Rates" section of the Midwest Edition of the Wall Street Journal for the Days of the late payment period multiplied by the number of Days elapsed from and including the Day after the due date, to and including the payment date. In the event this index is discontinued or its basis is substantially modified, the Parties shall agree on a substitute equivalent index.
- 3.6 Wire Transfer.** NSP shall make payment of bills via wire transfer of funds if requested in writing by Seller, at Seller's sole expense, and if the request contains adequate payment information. NSP shall be entitled to presume conclusively, without any liability whatsoever, that the payment information furnished by Seller (for example, name, financial institution, account numbers and payee) is accurate. In no event will NSP be required to pay any bill more than once when the invoice was first paid in accordance with Seller's instructions.

#### ARTICLE IV - SELLER'S OBLIGATIONS

During the Term of this Agreement, Seller hereby agrees to be bound by and to perform the following affirmative obligations:

**4.1 Design, Construction and Operation of the Facility.**

Seller shall:

- (a) At its sole expense, design and construct the Facility and any related facilities in accordance with Prudent Electric Industry Practice. The Facility shall at all times operate exclusively using the process described in the Working Statement.
- (b) In a timely manner, seek, obtain, maintain, comply with and, as necessary, renew and modify, at Seller's sole expense, the Permits and all other permits,

certificates or other authorizations that are required by any Requirement of Law or Governmental Authority as prerequisites to engaging in the activities envisioned by this Agreement and to meeting Seller's obligation to operate the Facility consistently with the terms of this Agreement, but excluding any MPUC approval for which NSP is responsible pursuant to Section 5.3.

- (c) At its sole expense, operate, maintain and repair the Facility in accordance with this Agreement, all Requirements of Law, Seller's Contractual Obligations, Permits, the practices and requirements of NSP, MISO and MRO, and in accordance with Prudent Electric Industry Practice.
- (d) At its sole expense, obtain and maintain the policies of insurance in the initial amount specified in Appendix D during the Term of this Agreement. The insurance policies shall list NSP as an additional insured and shall not be cancelable without sixty (60) Days prior written notice by the insurer to NSP.
- (e) Comply with MISO, MRO and NERC procedures and the requirements of any new transmission authority, and cooperate with all reasonable requests by NSP relating to NSP's compliance with such entities.
- (f) Comply with all current NSP outage reporting requirements, as they may be revised from time to time, and as they apply to the Facility. Seller shall have suitable solar radiation and other meteorological meters of the types necessary to characterize fully the solar resource and ambient conditions to support calculations under this Agreement, including the estimation of the quantity of Energy subject to Qualifying Production Loss Event payments under Section 5.5.
- (g) No later than 60 days following the Effective Date of this Agreement, Seller shall conduct a Phase I environmental investigation of the Site and shall provide Company with a copy of the report summarizing the Phase I environmental investigation of the Site, together with any data or information generated pursuant to such investigation. The report shall include disclosure of any Environmental Contamination identified in the investigation and confirm that such Environmental Contamination has been remediated or is capable of being remediated and that the Site remains appropriate for its intended use by Seller. Seller shall promptly inform Company if due to any Environmental Contamination Seller is constrained in a way that will limit, reduce, interfere with or preclude Seller's ability to perform its obligations under this PPA, along with a statement of whether and to what extent this circumstance may limit or preclude Seller's ability to perform under this PPA. Seller shall provide Company with written recommendations to overcome any such issue(s) that would allow Seller to fully perform under this PPA. Seller shall promptly disclose to Company the presence of any such Environmental Contamination or the existence of any enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

## 4.2 General Obligations.

- (a) Seller, during the Term of this Agreement, shall pay all present or future federal, state, municipal or other lawful taxes or fees applicable to Seller or the Facility or by reason of the sale of Energy or Capacity under this Agreement (excluding any federal, state, municipal, sales, use, excise or other similar taxes on the sale of electricity). Seller shall receive the benefit of any new tax credits, allowances or other credits related to the Facility.
- (b) Seller shall obtain in its own name and at its own expense any and all pollution or environmental credits or offsets necessary to operate the Facility in compliance with the Environmental Laws.
- (c) To the best of Seller's knowledge, the Site does not contain any hazardous material or wastes (as defined by any applicable Environmental Law), whether or not the substance is prohibited, limited or regulated by any Governmental Authority. Seller agrees to defend, indemnify and hold NSP and its officers, directors, employees, agents and representatives, and their respective successors and assigns, harmless from and against all claims, actions, demands, losses, liabilities, damages, judgments, penalties, injuries and expenses arising from or related to any Environmental Contamination concerning Seller, the Facility or the Site, including but not limited to (a) any claim for personal injury or property damage by any Person arising out of, resulting from or caused by any violation of any applicable Environmental Law by Seller or concerning the Facility or the Site; (b) any assessment, fine, penalty, lien or other imposition by any Governmental Authority; and (c) any liability, losses or remedial costs suffered because a Governmental Authority finds NSP to be a responsible party, owner or operator of the Facility or Site.
- (d) The Parties acknowledge that this Agreement does not provide for the supply of any retail electric service by NSP to the Facility. Seller shall provide its own Station Auxiliary power and Energy pursuant to separate arrangements, which may include obtaining Station Auxiliary power and Energy from the gross output of the Facility when it is operating. Seller shall arrange with the Interconnection Provider or applicable retail service provider to measure separately such Station Auxiliary to ensure proper computing of Net Energy. This may be accomplished with a single net meter as long as Station Auxiliary power can be read separately from gross output. If the facility is ever a net user of electric energy, Seller expressly recognizes that, for purposes of this Agreement, the supplier of retail electric services to the Facility shall be deemed to be a separate entity and separate contracting party whether or not the arrangement for the supply of retail electric services to the Facility is entered into with NSP or an affiliate of NSP.



- (e) Seller shall keep complete and accurate operating and other records and all other data for the purposes of proper administration of this Agreement, including such records as may be required by any Governmental Authority, NSP, the Parties and as otherwise required by Prudent Electric Industry Practice. NSP shall provide reasonable notice of NSP's specific requirements of Seller.
- (f) Seller shall continue to (i) to the extent applicable, preserve, renew and keep in full force and effect its organizational existence and good standing, and take all reasonable action to maintain all permits, rights, privileges, licenses and franchises necessary or desirable in the ordinary course of its business; and (ii) comply with all Seller's Contractual Obligations and Requirements of Law.
- (g) Seller shall provide to NSP such other information regarding the permitting, engineering, construction, condition and operations of Seller or the Facility, financial or otherwise, or other data concerning Seller or the Facility as NSP may, from time to time, reasonably request.

**4.3 Merger.** Seller shall not merge, consolidate or join with or into any other Person (or permit or suffer any subsidiary, if any, to do the same) without the prior written consent of NSP, which shall not be unreasonably withheld, receipt of which will be contingent upon Seller's demonstration to NSP's satisfaction that the proposed changes will not adversely affect the ability of Seller or any successor entity to perform its obligations under this Agreement.

**4.4 Sale of Assets.**

- (a) Seller shall not lease, sell, agree to sell, convey or otherwise transfer or dispose of (in one or a series of related transactions) any of its interest or title in any material portion of its Facility assets, now owned or hereafter acquired, except as part of a financing arrangement with a Financier (such as a sale-leaseback or a lease) or a collateral assignment or other security instrument in favor of a Financier, or in the ordinary course of business as parts need repair or replacement, without NSP's consent, which shall not be unreasonably withheld.
- (b) Notwithstanding any provision in this Agreement to the contrary, the members of Seller may not sell or transfer any of their membership interests in Seller to any Person without NSP's consent, which shall not be unreasonably withheld.

**4.5 Interconnection Agreement.**

- (a) The Parties acknowledge that Seller will be interconnecting into the Interconnection Provider's system pursuant to the Interconnection Agreement. Seller shall be responsible for negotiating, entering into and performing the Interconnection Agreement with the Interconnection Provider and any other necessary Persons for design, installation and operation of the Interconnection Facilities necessary to permit delivery and transformation of the Net Energy

and Capacity on Seller's side of the Point of Delivery. Seller shall provide the transmission provider, the Interconnection Provider and any applicable transmission owner's written permission to release transmission study results to NSP.

- (b) The Parties acknowledge that NSP's responsibilities and obligations under this Agreement are those of NSP's merchant function, not of its transmission function, and that this Agreement imposes no responsibilities or obligations on NSP's transmission function. The Parties recognize that Seller will enter into a separate Interconnection Agreement with the Interconnection Provider, which will be a separate and free-standing contract. Seller expressly recognizes that, for purposes of this Agreement, the Interconnection Provider shall be deemed to be a separate entity and separate contracting party whether or not the Interconnection Agreement is entered into with NSP or an affiliate of NSP. Notwithstanding any other provision in this Agreement, nothing in the Interconnection Agreement shall alter or modify Seller's or NSP's rights, duties and obligations under this Agreement. Furthermore, this Agreement shall not be construed to create any rights between Seller and the Interconnection Provider.
- (c) The Parties recognize that Seller will be obligated to comply with the terms of the Interconnection Agreement.

**4.6 Renewable Energy Credits.** To the full extent allowed by law, NSP shall own or be entitled to claim all Renewable Energy Credits as such credits may exist or be created during the Term. To the extent necessary, Seller shall provide NSP with any assistance or documentation necessary for NSP to claim such Renewable Energy Credits. Without limiting the foregoing, Seller will upon NSP request, assign to NSP all rights and authority for NSP to hold such credits in NSP own name and to NSP account, including any rights associated with any renewable Energy tracking system that may be established with regard to monitoring or tracking such credits

**4.7 Provision of Real-Time Data.** Seller shall install equipment at the Point of Interconnect that is capable of providing real-time access to Facility production data directly to NSP or through the Interconnection Provider. To the extent such data is not readily available electronically or in real time, Seller agrees to provide such data on a historical basis in a CSV format or Excel spreadsheet upon request by NSP.

## ARTICLE V - NSP OBLIGATIONS; TRANSMISSION SERVICE; CURTAILMENT

**5.1 Cooperation.** NSP agrees to cooperate with Seller in any applications that Seller is making for tax credits, grants or assistance as described in Section 2.4, at NSP's expense. NSP's obligation shall consist only of providing nonproprietary information in its possession, custody or control necessary to complete any such applications, responding to requests from the relevant Governmental Authorities and similar activities.

**5.2 Collateral Assignments.**

(a) Subject to Section 9.1(b), NSP shall not be required to enter into a consent to collateral assignments of this Agreement except as provided by this Section 5.2. Subject to the terms and conditions of this Agreement, NSP shall, upon prior written request by Seller, execute a commercially reasonable consent and agreement with respect to a collateral assignment hereof in favor of any Financier in a form acceptable to NSP, provided that (i) Seller shall reimburse NSP for all reasonable expenses incurred by NSP in connection therewith, including without limitation reasonable attorneys' fees, (ii) NSP shall have no obligation to alter or modify the terms of this Agreement or provide any consent or enter into any agreement, that has a Material Adverse Effect on any of NSP's rights, benefits, risks, or obligations under this Agreement, and (iii) NSP's duty to make factual statements or representations in such consent and agreement shall be contingent upon the truthfulness and accuracy of such statements or representations at the time the consent and agreement is delivered.

(b) NSP further acknowledges that the Financiers may have other or further requests with respect to the assignment of this Agreement (such as requests for legal opinions or certificates from NSP) and may request that certain terms be incorporated into a consent and agreement or assignment agreement to be executed by NSP. NSP will consider any such requests and will cooperate and negotiate any such consent and agreement or assignment in good faith. Seller shall reimburse NSP for all reasonable expenses incurred by NSP in connection therewith, including without limitation reasonable attorneys' fees.

**5.3 MPUC Approval.** NSP shall request approval of this Agreement and the payments to be made to Seller pursuant to this Agreement from the MPUC. Seller agrees to cooperate with NSP with respect to any such request by providing information reasonably necessary to support the request and to respond to discovery requests by parties to the proceeding to the extent requested by NSP. NSP shall file this Agreement with the MPUC for approval within forty-five (45) Days following (a) the date both parties have executed this Agreement or (b) the date on which Seller and NSP have entered into a grant contract under which Seller will obtain funds pursuant to the grant awarded pursuant to the RDF Contract, whichever is later. If the MPUC declines to approve this Agreement or approves this Agreement subject to conditions that are unacceptable to NSP in its sole discretion, then NSP may terminate this Agreement upon written notice to Seller within thirty (30) Days after the MPUC decision, with no further obligations under this Agreement. The MPUC

has approved the RDF contract as of October 4, 2014. If the Seller cannot complete the conditions of the RDF Contract by December 31, 2017, then Seller may terminate this Agreement upon written notice to NSP within thirty (30) Days after the termination of the RDF Contract, with no further obligations under this Agreement.

#### **5.4 Delivery Service.**

- (a) In the event NSP elects to utilize non-firm transmission service for the delivery of Net Energy and Capacity from the Point of Delivery, and any Person with authority curtails such non-firm transmission service resulting in a reduction or inability of the Facility to produce and deliver Net Energy at the Point of Delivery, any lost production that is the result of NSP using non-firm transmission service shall be compensated for by NSP as a Qualifying Production Loss Event pursuant to Section 5.5.

#### **5.5 Curtailment; Production Losses.**

- (a) The Parties acknowledge that there may be circumstances in which NSP, the Interconnection Provider or another Person with authority will direct Seller to curtail deliveries of Energy and Capacity from the Facility in accordance with applicable laws, tariffs or agreements. If and to the extent a curtailment is due to (i) an Emergency, (ii) Force Majeure, (iii) failure of Seller to maintain all permits or authorizations necessary to deliver Net Energy to the Point of Delivery, or (iv) the operation of Seller's system protection equipment or any malfunction of Seller's equipment that causes the Facility to be disconnected from the Interconnection Provider's system, Seller shall not be entitled to any compensation for any lost production; provided that nothing in this Section 5.5(a) or elsewhere in this Agreement shall limit or affect any rights Seller may have against any Person under the Interconnection Agreement or under any other agreement or at law as a result of such events.
- (b) In the event that a curtailment is directed by NSP or other Person with authority or NSP refuses or fails to accept delivery of Net Energy and Capacity at the Point of Delivery for reasons other than as set forth in Section 5.5(a), including without limitation due to (i) lack of available transmission capacity at the time of the curtailment, (ii) lack of transmission service, (iii) low load conditions that require curtailment of generation for system stability purposes, or (iv) transmission loading relief or comparable procedures implemented under a tariff (each hereinafter a "Qualifying Production Loss Event"), and the Facility was otherwise capable of providing and delivering Energy and Capacity to the Point of Delivery, then Seller shall be able to claim compensation pursuant to Section 5.5(c).
- (c) Upon the occurrence of a Qualifying Production Loss Event, Seller shall calculate the amount of Net Energy and Capacity that it would have produced and delivered to NSP at the Point of Delivery but for the Qualifying Production Loss Event, using the manufacturer's power curve for the solar

panels (adjusted for actual operating experience at the Facility, as necessary) and the recorded solar irradiation at the Facility for each hour during the duration of the Qualifying Production Loss Event. For each hour during a Qualifying Production Loss Event, the lost production shall be based on the actual availability of all solar panels during the hour, excluding any solar panels unavailable for outages and reflecting any other operating restrictions applicable to any solar panels during the hour (the "Available Capacity"). The Available Capacity shall be multiplied by the product of hourly average solar resource as measured at the Site and the power curve specified by the manufacturer for each applicable solar panel and summed to equal the lost production of the Facility for that hour. Any actual Net Energy produced by the Facility and delivered to the Point of Delivery during the applicable hour shall be subtracted from the estimated lost production for that hour to obtain the amount in MWh of lost production experienced by Seller for that hour. The Parties may revise the calculation of Available Capacity and lost production based on changes in the actual operational characteristics of the Facility and other circumstances.

- (d) Upon the occurrence of a Qualifying Production Loss Event, NSP shall be obligated to pay Seller an amount equal to the Guaranteed Price then in effect that Seller would have received under this Agreement for the Net Energy, measured in MWh, that Seller would have otherwise produced and delivered to the Point of Delivery but for the Qualifying Production Loss Event.
- (e) Seller shall invoice NSP for amounts due as a result of Qualifying Production Loss Events together with its regular monthly invoices for the applicable month as set forth in Section 3.2. Seller shall include information with the invoice documenting (i) the nature and duration of the Qualifying Production Loss Event, (ii) meteorological data gathered at the Site for the period during such Qualifying Production Loss Event used to calculate the lost production amounts, and (iii) the computation of amounts due under this Section 5.5 for the invoiced lost production, all in a format provided by NSP. NSP shall notify Seller within thirty (30) Days of receipt if NSP believes that the circumstances described do not constitute a Qualifying Production Loss Event and the reason for that conclusion. If the Parties cannot resolve the difference of opinion by negotiation, either Party may utilize the dispute resolution procedures in this Agreement.
- (f) Seller shall install, or arrange for the Interconnection Provider to install pursuant to the Interconnection Agreement, equipment necessary to disconnect the Facility. Seller and NSP shall each use commercially reasonable efforts to develop a mutually acceptable procedure for NSP to notify Seller, of curtailments.

## ARTICLE VI - FORCE MAJEURE

- 6.1 Force Majeure.** The performance of each Party under this Agreement may be subject to interruptions or reductions due to an event of Force Majeure. The term "Force Majeure" shall mean an event or circumstance beyond the control of the Party claiming Force Majeure that, by exercise of due diligence and foresight, could not reasonably have been avoided, including but not limited to an Emergency; a Force Majeure event on the Interconnection Provider's System as defined in the Interconnection Agreement to the extent it causes the Facility to be physically incapable of delivering Energy or NSP from receiving Energy at the Point of Delivery; a Force Majeure event (or comparable uncontrollable circumstances as may be defined in the applicable tariff) on the regional transmission system to the extent it causes NSP to be unable to accept delivery of Energy at the Point of Delivery or to transmit such energy from and after the Point of Delivery; flood; earthquake; storm; fire; lightning; epidemic; war; riot; civil disturbance; sabotage; terrorism; labor strike, slowdowns or stoppages or other labor disruptions against Seller or Seller's contractors or subcontractors; act of God or any other cause beyond the control of the Party claiming Force Majeure. However, the obligation to use due diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. In no event will the existence of Force Majeure extend this PPA beyond its stated Term.
- 6.2 Remedial Action.** A Party shall not be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to an event of Force Majeure. The Party rendered unable to fulfill any obligation by reason of a Force Majeure shall take all action necessary to remove such inability with all due speed and diligence. The nonperforming Party shall be prompt and diligent in attempting to remove the cause of its failure to perform, and nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed.
- 6.3 Exclusions from Definition of Force Majeure.** Notwithstanding anything in this Agreement to the contrary, "Force Majeure" shall not mean:
- (a) General inclement weather normally experienced within the vicinity of the Site and affecting construction, start-up, operation or decommissioning of the Facility or related facilities.
  - (b) Changes in market conditions, governmental action or weather conditions that affect the cost of Seller's supply of Energy from the Facility.
  - (c) Unavailability of solar irradiation.
  - (d) Unavailability of equipment, repairs or spare parts for the Facility, except to the extent due to a qualifying event of Force Majeure.

- (e) Inability to obtain, maintain or renew any Permit or any delay in obtaining, maintaining or renewing any Permit.
- (f) Litigation or administrative or judicial action pertaining to this Agreement, the Site, the Facility, the acquisition, maintenance or renewal of financing or any Permits, or the design, construction, maintenance or operation of the Facility.
- (g) Any acts or omissions of any third party, including, without limitation, any vendor or supplier of Seller, except to the extent due to a qualifying event of Force Majeure.
- (h) Any mechanical or equipment breakdown or other mishap at the Facility or events or conditions attributable to normal wear and tear or flaws or failure to operate or maintain such component in accordance with Prudent Electric Industry Practice, unless such mishap is caused by a qualifying event of Force Majeure.

**6.4 Notice.** In the event of any delay or nonperformance resulting from Force Majeure, the Party suffering the event of Force Majeure shall provide notice to the other Party. The notice shall be in writing and be given twenty-four (24) hours after the occurrence or the Party's knowledge of the occurrence of the Force Majeure event or, if such notice is not possible, as soon as practicable thereafter and include the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance.

## **ARTICLE VII - TERMINATION/DEFAULT/REMEDIES**

**7.1 Events of Default by NSP.** The following shall each constitute an Event of Default by NSP:

- (a) NSP breaches any curable non-monetary material obligation under this Agreement and fails to cure such breach within thirty (30) Days after written notification by Seller of the breach.
- (b) After the Commercial Operation Date, for any reason other than an event of Force Majeure or an Event of Default by Seller, and except as allowed pursuant to Sections 5.4 and, when Seller is being compensated, 5.5, NSP refuses to purchase Energy after the Commercial Operation Date for either ninety (90) consecutive Days or one hundred twenty (120) nonconsecutive Days in any three hundred sixty-five (365) Day period.
- (c) NSP fails to make any material payment due under this Agreement within thirty (30) Days after written notice from Seller that such payment is past due, unless such payment is contested or a right of set-off has been claimed by NSP.
- (d) Any other material breach of this Agreement not specifically enumerated that is not cured within thirty (30) Days after NSP receives written notification of default from Seller.

**7.2 Events of Default by Seller.** The following shall each constitute an Event of Default by Seller:

- (a) For any reason other than an event of Force Majeure or an Event of Default by NSP, the Facility being Unavailable to provide Energy for ninety (90) consecutive Days or one hundred twenty (120) non-consecutive Days in any three hundred sixty-five (365) Day period commencing on the Commercial Operation Date and prior to expiration of the Term of this Agreement.
- (b) Seller breaches any curable material obligation under this Agreement and fails to cure the breach within thirty (30) Days after written notification by NSP of the breach.
- (c) Any other material breach of this Agreement not specifically enumerated that is not cured within thirty (30) Days after Seller receives written notification of default from NSP.
- (d) The Facility shall fail to achieve Commercial Operation on or before sixty (60) Days following the latest authorized Commercial Operation Date for reasons other than as a result of a Force Majeure or an Event of Default by NSP.
- (e) Seller's breach of the RDF Contract

**7.3 Termination.**

- (a) In the event the defaulting Party fails to cure the Event of Default within the period for curative action under Sections 7.1 or 7.2, as applicable, or upon the occurrence of an incurable Event of Default, the non-defaulting Party may terminate this Agreement by notifying the defaulting Party in writing of the decision to terminate and the effective date of the termination.
- (b) In the event (i) the Facility is Unavailable to provide Energy for ninety (90) consecutive Days or one hundred twenty (120) non-consecutive Days in any three hundred sixty-five (365) Day period commencing on the Commercial Operation Date and prior to expiration of the Term of this Agreement or (ii) the Facility fails to achieve Commercial Operation on or before the last authorized Commercial Operation Date for any reason other than Force Majeure, if mutually agreeable to Seller and NSP, NSP agrees to forego its right to terminate this Agreement so long as for the duration of such circumstance, Seller compensates NSP for actual Damages incurred, including but not limited to the difference, if any, between the Guaranteed Price and Replacement Energy Costs.
- (c) In the event that Seller and NSP are unable to finalize the terms and conditions of the RDF Contract by December 31, 2017, Seller shall have the right to terminate this Agreement by providing written notice to NSP within thirty (30) Days after RDF Contract termination.



- (d) Upon termination of this Agreement by NSP due to an Event of Default by Seller pursuant to Section 7.3(a), NSP shall have no future or further obligation to purchase the Capacity or Net Energy of the Facility or to make any payment whatsoever under this Agreement, except for payments for obligations arising or accruing prior to the effective date of termination. Upon termination of this Agreement by Seller due to an Event of Default by NSP pursuant to Section 7.3(a) or pursuant to Section 7.3(c) or Section 7.3(d), Seller shall have no future or further obligation to deliver the Capacity or Net Energy of the Facility to NSP or to satisfy any other obligation of this Agreement, except for payments or other obligations arising or accruing prior to the effective date of termination. After the effective date of termination, this Agreement shall not be construed to provide any residual value to either Party or any successor or any other Person, for rights to, use of or benefits from the Facility or the Interconnection Provider's System.
- (e) Notwithstanding any provisions in this Agreement to the contrary, upon the occurrence of an Event of Default by Seller, NSP shall provide notice of the Event of Default to each Financier for which an address or other contact information has been provided to NSP by Seller. Each Financier shall have the right to cure the Event of Default on behalf of Seller within the cure periods set forth in Section 7.2, and NSP agrees to accept any such cure to the same extent as if made by Seller. If a Financier needs to foreclose on the Facility or otherwise take legal action to gain possession of the Facility in order to cure the applicable Event of Default, the applicable cure period shall be extended by the amount of time necessary for the Financier, using all reasonable due diligence, to obtain possession of the Facility. If a Financier, or its permitted designee, obtains possession of the Facility and assumes all of the obligations of Seller under this Agreement, and cures any Event of Default, NSP agrees to recognize the Financier, or its permitted designee, as Seller under this Agreement and to perform its obligations to such Financier or its permitted designee.
- (f) If an Event of Default by Seller will require more than the prescribed cure period to cure, and Seller is diligently pursuing a cure, as reasonably demonstrated to NSP, then the applicable cure period shall be extended up to an additional ninety (90) Days so long as Seller is diligently pursuing the cure. This provision shall not apply to monetary defaults.
- (g) If the Parties are engaged in a dispute as to whether an Event of Default has occurred or whether a Party has the right to terminate this Agreement, and the Parties are handling the dispute through the procedures established in Article VIII, the Party claiming the Event of Default or the right to terminate shall not be entitled to terminate this Agreement until a ruling of the arbitrators is received pursuant to Section 8.2

#### 7.4 Other Damages

- (a) For all claims, causes of action and damages, the Parties shall be entitled to the recovery of actual damages allowed by law unless otherwise limited by this Agreement. Neither the enumeration of Events of Default in Sections 7.1 and 7.2, nor the termination of this Agreement by a non-defaulting Party pursuant to Section 7.3(a), shall limit the right of a non-defaulting Party to rights and remedies available at law, including but not limited to claims for breach of contract or failure to perform by the other Party and for direct damages incurred by the non-defaulting Party as a result of the termination of this Agreement.
- (b) Except as otherwise specifically and expressly provided in this Agreement, no Party shall be liable to the other Party under this Agreement for any indirect, special, punitive, exemplary, incidental or consequential damages, including without limitation loss of use, loss of revenues, loss of profit, interest charges, cost of capital, or claims of customers to which service is made, from any cause whether arising under statute or in tort or contract. Notwithstanding the foregoing, in the event that NSP breaches this Agreement by failing to purchase or accept delivery of Energy and Capacity (except as contemplated by Section 5.4 and for curtailments allowed pursuant to Section 5.5 or as otherwise excused pursuant to the terms of this Agreement), Seller shall be entitled to seek damages equal to (i) the amounts Seller would otherwise have been paid under this Agreement for such Energy and Capacity if it had been purchased or accepted for delivery by NSP or (ii) in the event Seller sells such Energy and Capacity to a third party for less than the amount Seller would have been paid by NSP under this Agreement, the difference between the amounts Seller would otherwise have been paid under this Agreement and the price Seller received for such Energy and Capacity sold to a third party. In no event shall one Party's liability to the other exceed any limit of liability established for either Party under any Requirements of Law.
- (c) Except as otherwise provided in this Section 7.4, Seller's aggregate financial liability to NSP for Replacement Energy Costs, Renewable Energy Credits, and other damages shall not exceed \$10,000.00. The limitations on damages set forth in this Section 7.4 shall not apply to damages arising out of any of the following events:
  - (i) Actual fraud or other material intentional misrepresentation or material misconduct sanctioned by, or at the direction of, Seller in connection with this Agreement or the operation of the Facility;
  - (ii) The sale by Seller to a third party, or unauthorized diversion by Seller, of Energy committed to NSP under this Agreement, except during an Event of Default by NSP;

- (iii) Seller's failure to apply any property insurance proceeds to reconstruction of the Facility following a casualty to the extent required by this Agreement;
  - (iv) Damages incurred by NSP pursuant to Section 7.5;
  - (v) Any Environmental Contamination caused by Seller in connection with this Agreement; or
  - (vi) The filing of an involuntary bankruptcy petition against Seller (other than by NSP), which petition is not dismissed within sixty (60) Days of its filing, or the filing of a voluntary petition in bankruptcy by Seller.
- (d) If Seller fails to meet the Commercial Operation Date within sixty (60) Days following the latest authorized Commercial Operation Date for reasons other than Force Majeure, Seller shall pay damages to NSP on account of such delay ("Delay Damages") in the amount of \$100 multiplied by the MW of the Committed Nameplate Capacity for each Day of such delay. All Delay Damages shall begin to accrue on the Day after the missed Commercial Operation Date and shall continue to accrue until the Commercial Operation Date is achieved or this Agreement is terminated. For so long as Seller pays Delay Damages to NSP in full as they accrue, NSP agrees to forego its right to terminate this Agreement due to Seller's failure to meet the Commercial Operation Date for up to one hundred eighty (180) Days, provided that Seller is not otherwise in default under this Agreement. All Delay Damages shall be cumulative. Limitations described under 7.4 (c) shall apply.

## **7.5 Indemnification.**

- (a) Seller and NSP agree to defend, indemnify and hold each other, and their respective officers, directors, employees and agents, harmless from and against all claims, demands, losses, liabilities and expenses (including reasonable attorneys' fees) (collectively "Damages") for personal injury or death to Persons and damage to each other's physical property or facilities or the property of any other Person to the extent arising out of, resulting from or caused by the negligent or intentional acts, errors or omissions of the indemnifying Party. Furthermore, each Party shall defend, indemnify and hold the other harmless from and against all damages that are or were incurred or suffered by the indemnified Party and that relate to the indemnifying Party's breach or failure to perform any of the covenants, agreements, obligations, representations or warranties contained in this Agreement. Nothing in this Section 7.5(a) shall relieve Seller or NSP of any liability to the other for any breach of this Agreement. This indemnification obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the indemnitees but the indemnifying Party's liability to pay Damages to the indemnified Party shall be reduced in proportion to the percentage by which the indemnitees' negligent or intentional acts, errors or omissions caused the

Damages. Neither Party shall be indemnified for its Damages resulting from its sole negligence or intentional misconduct. 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.

- (b) The following representation shall be made only as of the Commercial Operation Date and not as of the date hereof: Seller represents and warrants that, to the best of its knowledge based solely on the Phase I environmental assessment performed on the Site, no portion of the Site or the improvements thereon has been used by previous or current owners or operators or Seller to generate, manufacture, refine, transport, treat, store, handle or dispose of toxic material, hazardous substances, solid waste or hazardous wastes, as such terms are defined in any applicable Environmental Law, and Seller does not intend to use any of the Site for such purposes, and Seller is not aware of any spills, leaks or discharges of any such hazardous or toxic materials on the Site. To the best of Seller's knowledge, based solely on the Phase I environmental assessment performed on the Site, the Site does not contain, through the action or inaction of previous owners or operators or Seller, asbestos, urea formaldehyde foam insulation, PCBs, other toxic materials, hazardous substances or any other chemical, material or substance, exposure to which may or could pose a health hazard, whether or not the substance is prohibited, limited or regulated by any Governmental Authority, whether used in the Facility or stored on the Site.
- (c) The following representation shall be made only as of the Commercial Operation Date and not as of the date hereof: Seller represents and warrants that Seller has not received a written summons, citation, directive, letter or other written communication from any Governmental Authority concerning the existence of any condition on or affecting the Site that currently violates or that, with the passage of time, will violate any applicable Environmental Law or that otherwise indicates that Seller may be subject to any potential Environmental Contamination with respect to the Site or the Facility. To the best of Seller's knowledge, Seller, the Facility and the Site are not subject to any existing or pending investigation or inquiry by any Governmental Authority or to any remedial obligations under any applicable Environmental Law. These representations and warranties would continue to be true and correct following disclosure to the applicable Governmental Authority of all relevant facts, conditions and circumstances pertaining to Seller, the Facility and the Site.
- (d) From and after the Commercial Operation Date, Seller agrees to defend, indemnify and hold NSP and its officers, directors, employees, agents and representatives, and their respective permitted successors and assigns, harmless from and against all claims, actions, demands, losses, liabilities, damages, judgments, penalties, injuries and expenses arising under any Environmental Law concerning Seller, the Facility or the Site, including but not limited to (a) any claim for personal injury or property damage by any

Person arising out of, resulting from or caused by any violation of any applicable Environmental Law by Seller or concerning the Facility or the Site; (b) any assessment, fine, penalty, lien or other imposition by any Governmental Authority; and (c) any liability, losses or remedial costs suffered because a Governmental Authority finds NSP to be a responsible party, owner or operator of the Facility or Site, except in each case to the extent that the claim, assessment, fine penalty, lien, imposition, liability, loss or remedial costs are due to NSP's negligence, fraud or intentional misconduct.

#### **ARTICLE VIII - DISPUTE RESOLUTION.**

- (a) In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) business days following notice issued by either Party pursuant (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within thirty (30) Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within ten (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 ten (10) business days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute thereafter, either Party may seek available legal remedies.
- (b) If no Dispute notice has been issued within twenty-four (24) months following the occurrence of events or circumstances giving rise to the Dispute (regardless of the knowledge or potential knowledge of either Party of such events and circumstances), the Dispute and all claims related thereto shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.
- (c) **SELLER AND NSP 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 AGREEMENT 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 ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT BE ADJUDICATED BY A JUDGE OF THE COURT HAVING JURISDICTION WITHOUT A JURY.**

## ARTICLE IX - MISCELLANEOUS

### 9.1 No Assignment.

- (a) Except as provided in Sections 4.4 and 5.2, the rights and obligations of this Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned. Seller's consent shall not be required for NSP to assign this Agreement to an affiliate of NSP, provided that NSP provides assurances and executes documents reasonably required by Seller and the Financier regarding NSP's continued liability for all of NSP's obligations under this Agreement in the event of any nonperformance on the part of such assignee. Such assignments are subject to approval by the MPUC. In the event that the permitted assignee has or obtains an investment grade unsecured bond rating equivalent to or better than the unsecured bond rating of NSP (but in no event worse than the equivalent of BBB-), then Seller agrees to relieve NSP from its obligations under this Agreement if NSP requests to be so relieved in a written notice provided to Seller. Any purported assignment of this Agreement in the absence of the required consent as required by this Section 9.1 shall be void.

### 9.2 Change of Control of Seller

- (a) Any direct or indirect change of control of Seller, whether voluntary or by operation of law (a "Change of Control"), shall require the prior written consent of NSP, which shall not be unreasonably withheld, delayed or conditioned; provided that, notwithstanding any other remedy, in no circumstance does NSP have the obligation to consent to any Change of Control prior to the issuance and expiration of the PFT Notice.
- (b) Pending Facility Transaction:
  - (i) For purposes of this Agreement, a "Pending Facility Transaction" means (1) any Change of Control of Seller, (2) the issuance by Seller or any of its affiliates of a request for proposals or the response by Seller or any of its affiliates to a request for proposal or similar process (e.g., auction) for the purchase or sale of the Facility or any group of assets or equity interests that includes the Facility, (3) the commencement by Seller or any of its affiliates of substantive negotiations with any third party with respect to the sale of the Facility or any group of assets or equity interests that includes the Facility, or (4) the execution by Seller or any of its affiliates of any letter of intent, memorandum of understanding or similar document, whether or not legally binding, that contemplates the sale of the Facility or any group of assets or equity interests that includes the Facility.

- (ii) Seller shall give to NSP at least ninety (90) Days prior notice of any Pending Facility Transaction (a "PFT Notice"). Any PFT Notice shall include a fair summary of Seller's plans with respect to the Facility in connection with the proposed Pending Facility Transaction, to the extent then known by Seller. Seller shall have no obligation to sell, nor shall NSP have any obligation to purchase, the Facility following any PFT Notice. Upon expiration of the PFT Notice, Seller and its affiliates shall be free for a period of nine (9) months thereafter to proceed with the transaction that was subject to the PFT Notice. If Seller and its affiliates have not closed the proposed Pending Facility Transaction within such nine (9) month period, this Section 9.2(b)ii shall again apply to any proposed Pending Facility Transaction.
- (iii) NSP shall not be obligated to provide Seller with any consent or other document in connection with this Agreement until Seller has provided the PFT Notice required by this Section 9.2(b).

**9.3** Notices. Any notice, demand, request or communication required or authorized by this Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

Thomas A. Imbler  
Vice President  
Xcel Energy Services Inc.  
1800 Larimer Street, Suite 1000  
Denver, CO 80202  
Phone: (303) 571-7414  
Fax: (303) 571-7021

With copies to:

Tim Kawakami  
Director, Purchased Power  
Xcel Energy Services Inc.  
1800 Larimer Street  
Suite 1000  
Denver, CO 80202  
Fax: (303) 571-7021

And

Jessica Collins  
Manager, Renewable Power Purchases  
Xcel Energy Services Inc.  
1800 Larimer Street  
Suite 1000

Denver, CO 80202  
Fax: (303) 571-7021

on behalf of NSP, and to:

Dwight Jelle  
President  
Best Power Int'l, LLC  
N4145 County Road D  
Arkansaw, WI, 54721

on behalf of Seller.

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request or communication shall be deemed delivered on receipt if delivered by hand or facsimile, on the next business day if delivered by overnight courier and on the fifth (5<sup>th</sup>) business day after deposit by the sending party if delivered by U.S. mail.

- 9.4 Captions.** All titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive or definitive or to affect the meaning of the contents or scope of this Agreement.
- 9.5 No Third-Party Beneficiary.** No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under this Agreement, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any Person not a Party hereto.
- 9.6 No Dedication.** No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of NSP as an independent public utility corporation or Seller as an independent individual or entity and not a public utility.
- 9.7 Integration; Amendment.** This Agreement, together with all Appendices attached hereto, constitutes the entire agreement between the Parties relating to the transaction described herein and supersedes any and all prior oral or written understandings. No amendment, addition to or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
- 9.8 Governing Law.** This Agreement is made in the State of Minnesota and shall be interpreted and governed by the laws of the State of Minnesota and/or the laws of the United States, as applicable.



**9.9 Relationship of Parties.**

- (a) The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Seller and NSP or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. Seller and NSP shall not have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- (b) The relationship between NSP and Seller shall be that of contracting party to independent contractor. Accordingly, subject to the specific terms of this Agreement, NSP shall have no general right to prescribe the means by which Seller shall meet its obligations under this Agreement.
- (c) Seller shall be solely liable for the payment of all wages, taxes and other costs related to the employment of persons to perform Seller's obligations under this Agreement, 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 NSP for any purpose, nor shall Seller represent to any Person that it is or shall become an NSP employee or agent.

**9.10 Good Faith and Fair Dealing; Reasonableness.** The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement, (i) whenever this Agreement requires the consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed, and (ii) whenever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

**9.11 Severability.** Should any provision of this Agreement be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and shall continue in force. The Parties will, however, use their reasonable best endeavors to agree on the replacement of the void, illegal or unenforceable provision with legally acceptable clauses that correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

**9.12 Cooperation.** The Parties agree to cooperate reasonably with each other in the implementation and performance of this Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement.

**9.13 Counterparts.** This Agreement may be executed in two (2) or more counterparts and by different parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.


- 9.14 Standard of Review.** This Agreement is contingent upon appropriate authorization from FERC under Section 205 of the Federal Power Act. The terms and conditions and the rates for service specified in this Agreement shall remain in effect for the term of the transaction described in this Agreement. Absent the Parties' written agreement, this Agreement shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act. Absent the agreement of Seller and NSP to a proposed change, the standard of review for changes to the Guaranteed Price under this Agreement proposed by NSP, Seller, a non-party or FERC acting *sua sponte* shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).
- 9.15 Use of NSP's Name.** Seller shall not use NSP's (or any of its affiliates') name, logos or other marks in connection with this Agreement or otherwise without the prior written consent of NSP, which consent shall be within NSP's sole discretion.
- 9.16 Press Releases and Media Contact.** Upon the request of either Party, the Parties shall develop a mutually agreed upon joint press release to be issued as of the Effective Date describing the location, size, type and timing of the Facility, the long-term nature of this Agreement and other relevant factual information about the relationship of the Parties; provided, however, that at Seller's request, the Parties will delay the issuance of the press release until a date mutually agreeable to the Parties. In the event during the Term either Party is contacted by the media concerning this Agreement or the Facility, the contacted Party shall inform the other Party of the existence of the inquiry, any questions asked and the substance of any information provided to the media
- 9.17 Solar Panel Performance and Meteorological Data.** Seller shall provide NSP at Seller's expense, with real time generation performance and meteorological data for the solar Facility for the Term of this Agreement. Seller shall undertake at Seller's expense, to install, operate and maintain a Plant Information System ("PI") at the Facility. Seller shall provide NSP real time access to all data gathered from PI and shall ensure that real time communications capabilities are available and maintained for the transmission of all PI data.
- 9.18 Confidentiality.**
- (a) This Agreement and all appendices, Exhibits and amendments are not confidential.
  - (b) The Parties acknowledge and agree that during the course of the performance of their respective obligations under this Agreement, either Party may need to provide information to the other Party that the disclosing Party deems confidential, proprietary or trade secret.
  - (c) All documentation and data, including but not limited to special techniques, methods, computer programs and software, that the disclosing Party considers proprietary and trade secret and furnishes to the receiving Party and wants the receiving Party to maintain as confidential shall be designated as proprietary,

confidential or trade secret (collectively, "Proprietary Data") and shall be treated by the receiving Party to be proprietary, confidential or trade secret. The disclosing Party hereby grants to the receiving Party authority to use Proprietary Data only for the purposes of this Agreement. The receiving Party agrees to keep such Proprietary Data confidential, to use it only for work necessary to the performance of this Agreement, and not to sell, transfer, sublicense, disclose or otherwise make available any such Proprietary Data to others.

- (d) Notwithstanding the preceding, this Section 9.18 and the restrictions on the receiving Party shall not apply to any data or documentation:
  - (i) That is in the public domain at the time it was disclosed by the disclosing Party to the receiving Party or at any time thereafter;
  - (ii) That is independently developed by the receiving Party; or
  - (iii) That becomes known to the receiving Party from an ultimate source other than the disclosing Party without breach of this Agreement by the receiving Party.
- (e) NSP shall be entitled to disclose or use Proprietary Data in any proceedings before the MPUC or a similar regulatory commission or agency if it is required or advantageous to do so, in NSP's sole discretion and upon written notice to Seller. In such an event, NSP will take all reasonable actions to limit the scope of any disclosure, shall only disclose Proprietary Data subject to applicable rules and regulations protecting its proprietary nature, and shall use commercially reasonable efforts to resist all efforts by any Person under the Minnesota Data Practices Act to obtain any such Proprietary Data. Seller shall cooperate with NSP to limit the scope of any information for which Seller is requiring designation as proprietary to information that Seller still deems, at the time, to be trade secret.
- (f) Notwithstanding anything to the contrary in this Section 9.18, NSP may disclose Proprietary Data of Seller to any third Person who is subject to a confidentiality agreement that contains provisions at least as restrictive as those set forth herein; provided, however, that NSP agrees to make commercially reasonable efforts to avoid disclosure in response to third Person requests made solely for apparent competitive purposes. NSP agrees to make reasonable efforts to notify Seller of disclosure of Proprietary Data in a timely manner.
- (g) Notwithstanding anything to the contrary in this Section 9.18, NSP may disclose Proprietary Data to Xcel Energy Services Inc. and its employees without the consent of Seller.

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

Dated: May 11, 2015, Best Power Int'l, LLC, a Minnesota limited liability company

By:   
Name: Dwight Jelle  
Its: President

Dated: MAY 11, 2015

NORTHERN STATES POWER  
COMPANY, a Minnesota corporation

By:   
Name: Tim Kawakami  
Title: Director, Purchased Power  
Xcel Energy Services Inc., as agent for Northern  
States Power Company

APPENDIX A

Points of Interconnection and Delivery

Below is a diagram showing the location of the Point of Delivery.



## APPENDIX B

### Acceptance Criteria

Seller and the Facility shall be deemed to have reached Commercial Operation when each of the following has occurred:

1. The Facility and Interconnection Facilities are physically complete as required by this Agreement and the Interconnection Agreement and are capable of transmitting, transforming and delivering the Net Energy and Capacity to the Point of Delivery in accordance with the Interconnection Agreement, and Seller is both obligated under, and in compliance with, the Interconnection Agreement.
2. The metering devices pursuant to Section 3.1 of this Agreement have been installed and identified by NSP, as confirmed by NSP in the confirmation notice and procedure described in Item 4 below.
3. The Facility is capable of producing electricity substantially in accordance with the manufacturer's power curve to the full extent of the Committed Nameplate Capacity, and has produced and delivered such Energy for no less than seventy-two (72) hours during which solar irradiation is available at sufficient intensity to operate the panels.
4. Seller has provided NSP with written notice that the preceding three criteria have been met and a certificate of insurance reflecting compliance with Section 4.1(e) and Appendix D of this Agreement, and NSP has confirmed in writing to Seller that the Facility has reached Commercial Operation. NSP shall confirm or dispute that the Facility has reached Commercial Operation within ten (10) business days of receipt of Seller's notice. NSP's failure to provide confirmation or other response to Seller's notice within ten (10) business days after receipt of Seller's notice shall constitute confirmation of Commercial Operation.

## APPENDIX C

### Legal Description of the Site

#### DESCRIPTION OF PREMISES

Parcel ID R01.09.08.226.001

Sec/Twp/Rng 008/108/26

Description NE4 OF NE4 008 108 26 036.397A

### Description of the Facility

The Facility, as currently envisioned, shall have a PV array rating .718 nameplate at Standard Test Conditions (STC) with an estimated annual capacity factor of 14%. The PV system shall be interconnected to the utility grid. The system shall comply with all applicable codes and NSP interconnect requirements. All system components shall be UL or ETL rated and tested as applicable.

## APPENDIX D

Insurance Requirements

- 1.0 Seller shall procure and maintain throughout the Term, at its own expense, the following policies of insurance:
  - A. If the Seller has employees, a Workers' Compensation and Employer's Liability insurance that complies with the laws of Minnesota to the extent of statutory limits;
  - B. Comprehensive or Commercial General Liability insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence.
  - C. The Seller shall provide proof of Completed Operations Coverage from the General Contractor providing installation or repairs of or to the facility. Such insurance shall include, but not necessarily be limited to, specific coverage for contractual liability encompassing the indemnification provisions in this Agreement, broad form property damage liability, personal injury liability, explosion and collapse hazard coverage and products/completed operations liability coverage;
  - D. In the event that Seller owns or hires vehicles, Comprehensive Automobile Liability Insurance to the extent applicable with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence covering vehicles owned, hired or non-owned; and
  - E. All other insurance required by regulation or law as deemed appropriate by Seller.
- 2.0 The amounts of insurance required above may be satisfied by Seller buying primary coverage in the amounts specified or by buying a separate excess umbrella liability policy together with the lower limit primary underlying coverage. The structure of the coverage is Seller's option, as long as the total amount of insurance meets the requirements of this Agreement.
- 3.0 The policies required of Seller shall be "occurrence" form policies. Seller may not use "claims-made" form coverage to meet its obligations without the prior written consent of each such policy from NSP.
- 4.0 Seller's Comprehensive or Commercial General Liability policies and Umbrella or Excess Liability policies shall include each of the following endorsements, and its Workers' Compensation and automobile liability policies, if required, shall include the last endorsement listed below:
  - a. NSP and its directors, officers, employees and agents shall be additional insureds under all policies;
  - b. The policies are to be primary with respect to the interest of NSP and its directors, officers, employees and agents, and any other insurance maintained by any of them shall be excess and not contributory with Seller's insurance;



- c. Each insurer shall waive all rights of subrogation against NSP and its directors, officers, employees and agents;
  - d. Notwithstanding any other provision of a policy, no policy shall be cancelled, expire or changed in a material way by the insurer without thirty (30) Days prior written notice to NSP.
- 5.0 Seller or its insurers or agents shall provide NSP with certificates of insurance evidencing the policies and endorsements described herein within thirty (30) Days of the Commercial Operation Date. Failure to obtain the insurance coverage required shall in no way relieve or limit Seller's obligations and liabilities under other provisions of this Agreement.

## APPENDIX E

## Guaranteed Price

Guaranteed Price: The Guaranteed Price for Net Energy and Capacity purchased by NSP during the term and delivered to the Point of Delivery during the term shall be as follows and shall reset on the 1st of each calendar year: The first year and the last year of operation (COD) may not be a full twelve months.

| Year | Rate<br>(\$/kWh) |
|------|------------------|
| 1    | 0.07254          |
| 2    | 0.07399          |
| 3    | 0.07547          |
| 4    | 0.07698          |
| 5    | 0.07852          |
| 6    | 0.08009          |
| 7    | 0.08169          |
| 8    | 0.08333          |
| 9    | 0.08499          |
| 10   | 0.08669          |
| 11   | 0.08843          |
| 12   | 0.09019          |
| 13   | 0.09200          |
| 14   | 0.09384          |
| 15   | 0.09571          |
| 16   | 0.09763          |

APPENDIX F

RDF Contract

[Attach copy of RDF Contract]



## CERTIFICATE OF SERVICE

I, Lynnette Sweet, 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

xx electronic filing

**Docket No. E002/M-15-\_\_\_\_**

**XCEL ENERGY'S MISCELLANEOUS ELECTRIC SERVICE LIST**

Dated this 25<sup>th</sup> day of June 2015

/s/

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Lynnette Sweet

| First Name  | Last Name | Email                                   | Company Name                       | Address  | Delivery Method            | View Trade Secret | Service List Name   |
|-------------|-----------|---|------------------------------------|--|----------------------------|-------------------|---|
| Julia       | Anderson  | Julia.Anderson@ag.state.mn.us           | Office of the Attorney General-DOC | 1800 BRM Tower<br>445 Minnesota St<br>St. Paul,<br>MN<br>551012134                                 | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Christopher | Anderson  | canderson@allete.com                    | Minnesota Power                    | 30 W Superior St<br><br>Duluth,<br>MN<br>558022191   | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| James J.    | Bertrand  | james.bertrand@leonard.com              | Leonard Street & Deinard           | 150 South Fifth Street,<br>Suite 2300<br><br>Minneapolis,<br>MN<br>55402                           | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Michael     | Bradley   | mike.bradley@lawmoss.com                | Moss & Barnett                     | 150 S. 5th Street, #1200<br><br>Minneapolis,<br>MN<br>55402  | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Jeffrey A.  | Daugherty | jeffrey.daugherty@centerpointenergy.com | CenterPoint Energy                 | 800 LaSalle Ave<br><br>Minneapolis,<br>MN<br>55402   | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Ian         | Dobson    | ian.dobson@ag.state.mn.us               | Office of the Attorney General-RUD | Antitrust and Utilities Division<br>445 Minnesota Street,<br>BRM Tower<br>St. Paul,<br>MN<br>55101 | Electronic Service<br>1400 | 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 500<br><br>Saint Paul,<br>MN<br>551012198                                       | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Michael     | Hoppe     | il23@mtn.org                            | Local Union 23, I.B.E.W.           | 932 Payne Avenue<br><br>St. Paul,<br>MN<br>55130   | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Alan        | Jenkins   | aj@jenkinsatlaw.com                     | Jenkins at Law                     | 2265 Roswell Road<br>Suite 100<br>Marietta,<br>GA<br>30062   | Electronic Service         | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Richard     | Johnson   | Rick.Johnson@lawmoss.com                | Moss & Barnett                     | 150 S. 5th Street<br>Suite 1200<br>Minneapolis,<br>MN<br>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   |
|------------|-----------|-----------------------------------|------------------------------------|--|--------------------|-------------------|---|
| Mark J.    | Kaufman   | mkaufman@ibewlocal949.org         | IBEW Local Union 949               | 12908 Nicollet Avenue South<br><br>Burnsville, MN 55337      | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Thomas G.  | Koehler   | TGK@IBEW160.org                   | Local Union #160, IBEW             | 2909 Anthony Ln<br><br>St Anthony Village, MN 55418-3238     | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Michael    | Krikava   | mkrikava@briggs.com               | Briggs And Morgan, P.A.            | 2200 IDS Center<br>80 S 8th St<br>Minneapolis, MN 55402      | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Douglas    | Larson    | dlarson@dakotaelectric.com        | Dakota Electric Association        | 4300 220th St W<br><br>Farmington, MN 55024                  | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| John       | Lindell   | agorud.ecf@ag.state.mn.us         | Office of the Attorney General-RUD | 1400 BRM Tower<br>445 Minnesota St<br>St. Paul, MN 551012130 | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Pam        | Marshall  | pam@energycents.org               | Energy CENTS Coalition             | 823 7th St E<br><br>St. Paul, MN 55106                       | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Andrew     | Moratzka  | apmoratzka@stoel.com              | Stoel Rives LLP                    | 33 South Sixth Street<br>Suite 4200<br>Minneapolis, MN 55402 | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| David W.   | Niles     | david.niles@avantenergy.com       | Minnesota Municipal Power Agency   | Suite 300<br>200 South Sixth Street<br>Minneapolis, MN 55402 | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Regulatory | Records   | Regulatory.Records@xcelenergy.com | Xcel Energy                        | 414 Nicollet Mall FL 7<br><br>Minneapolis, MN 554011993      | 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<br><br>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   |
|------------|---------------|------------------------------|-------------------------------|---|--------------------|-------------------|---|
| Ken        | Smith         | ken.smith@districtenergy.com | District Energy St. Paul Inc. | 76 W Kellogg Blvd<br>St. Paul,<br>MN<br>55102                                     | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Ron        | Spangler, Jr. | rlspangler@otpc.com          | Otter Tail Power Company      | 215 So. Cascade St.<br>PO Box 496<br>Fergus Falls,<br>MN<br>565380496             | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Byron E.   | Starns        | byron.starns@leonard.com     | Leonard Street and Deinard    | 150 South 5th Street<br>Suite 2300<br>Minneapolis,<br>MN<br>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   | 470 U.S. Bank Plaza<br>200 South Sixth Street<br>Minneapolis,<br>MN<br>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<br>Capella Tower<br>Minneapolis,<br>MN<br>554024629         | 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<br>15 West Kellogg Blvd.<br>St. Paul,<br>MN<br>55102 | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |
| Daniel P   | Wolf          | dan.wolf@state.mn.us         | Public Utilities Commission   | 121 7th Place East<br>Suite 350<br>St. Paul,<br>MN<br>551012147                   | Electronic Service | No                | GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric |