

**RENEWABLE WIND ENERGY
POWER PURCHASE AGREEMENT**

between

DELMARVA POWER & LIGHT COMPANY

(“Buyer”)

and

AES ARMENIA MOUNTAIN WIND, LLC

(“Seller”)

Dated as of June 6, 2008

**RENEWABLE WIND ENERGY
POWER PURCHASE AGREEMENT**

Table of Contents

ARTICLE 1 DEFINITIONS AND INTERPRETATION 1

 1.1 Definitions..... 1

 1.2 Interpretation..... 12

ARTICLE 2 TERM..... 13

 2.1 Term..... 13

 2.2 Special Termination Rights..... 13

ARTICLE 3 CONDITIONS PRECEDENT 14

 3.1 PSC Approval 15

 3.2 Non-Consolidation Opinion..... 15

 3.3 Initial Delivery Date 15

ARTICLE 4 PURCHASE AND SALE OF PRODUCTS 16

 4.1 Purchase and Sale Obligation 16

 4.2 Quantity..... 17

 4.3 Limitations on Seller’s Obligation to Sell 17

 4.4 Limitations on Buyer’s Obligation to Purchase..... 17

 4.5 Origination of RECs 17

ARTICLE 5 SCHEDULING AND DELIVERY OF PRODUCTS 18

 5.1 Delivery of Energy..... 18

 5.2 Delivery of Environmental Attributes 18

 5.3 Title and Risk of Loss..... 18

 5.4 PJM E-Accounts 19

ARTICLE 6 SELLER COVENANTS..... 19

 6.1 Progress Reports for New Construction 19

 6.2 Compliance With Law and Utility Requirements..... 19

 6.3 Permits 19

 6.4 Maintenance of Facility 20

 6.5 Interconnection Agreement..... 20

 6.6 Planned Outages..... 20

6.7 PJM Membership	20
6.8 Market-Based Rate Authority	20
6.9 Forecasts	20
6.10 Eligible Energy Resource	20
6.11 Compliance Reporting	21
6.12 Initial Delivery Date	21
6.13 Mechanical Availability Percentage	21
ARTICLE 7 METERING	21
7.1 Metering	21
7.2 Measurements	21
7.3 Testing and Calibration	22
7.4 Audit of Facility Meter	22
7.5 Notice of Malfunction	22
7.6 Telemetry	22
ARTICLE 8 BILLING AND PAYMENT	22
8.1 Price for Energy	22
8.2 Price for Environmental Attributes	22
8.3 Billing	23
8.4 Payment	23
8.5 Interest	23
8.6 Set-Off	23
8.7 Billing Disputes	23
8.8 PJM Accounting Procedures	24
ARTICLE 9 TAXES	24
9.1 Cooperation	24
9.2 Regulatory Charges	24
ARTICLE 10 INDEMNIFICATION	24
10.1 Seller’s Indemnification	24
10.2 Buyer’s Indemnification	25
10.3 Defense of Indemnified Claims	25
ARTICLE 11 FORCE MAJEURE EVENTS	26
11.1 Excused Performance	26

11.2 Notification	26
11.3 No Extension of Term.....	26
11.4 Right to Terminate	27
ARTICLE 12 EVENTS OF DEFAULT; REMEDIES	27
12.1 Events of Default	27
12.2 Additional Seller Events of Default.....	28
12.3 General Remedies	28
12.4 Delay Damages	28
12.5 Damages on Termination.....	29
12.6 Cumulative Remedies	30
12.7 Facility Lender’s Right to Cure	30
12.8 Exclusion of Consequential Damages	30
ARTICLE 13 DISPUTE RESOLUTION	30
13.1 Informal Dispute Resolution.....	30
13.2 Formal Dispute Resolution	30
ARTICLE 14 SECURITY	31
14.1 Letters of Credit	31
14.2 Seller Credit	32
14.3 Guaranty.....	32
14.4 Supporting Information.....	32
14.5 Release of Security	32
14.6 No Limit of Liability.....	33
ARTICLE 15 REPRESENTATIONS AND WARRANTIES.....	33
15.1 Representations and Warranties.....	33
15.2 Disclaimer of Implied Warranties.....	34
ARTICLE 16 CONFIDENTIALITY	34
16.1 Non-Disclosure of Confidential Information.....	34
16.2 Designation of Confidential Information.....	34
16.3 Disclosure to Delaware PSC	35
16.4 Other Permitted Disclosures	35
16.5 Audits.....	35
16.6 Equitable Relief	35

16.7 Survival	35
ARTICLE 17 MISCELLANEOUS	36
17.1 Notices	36
17.2 Joint Preparation	36
17.3 No Third Party Beneficiaries	36
17.4 Severability	36
17.5 Headings	36
17.6 Records	36
17.7 Audit	36
17.8 Successors	37
17.9 No Dedication	37
17.10 Assignment	37
17.11 Governing Law	37
17.12 Jurisdiction and Venue	38
17.13 Amendments and Future Treatment	38
17.14 Modification of PJM Agreements	38
17.15 Bankruptcy Considerations	38
17.16 Delay and Waiver	39
17.17 Entire Agreement	39
17.18 Counterparts	39
17.19 Obligation of Good Faith	39

SCHEDULES AND EXHIBITS

Exhibit A	Facility Description
Exhibit B	Delivery Point
Schedule 6.13	Mechanical Availability Percentage
Schedule 8.1	Energy Payment Rate
Schedule 8.2	REC Payment Rate
Schedule 14.1	Form of Letter of Credit
Schedule 14.2	Unsecured Credit Amount
Schedule 14.3	Form of Guaranty
Schedule 15.1	Seller Delayed Permits
Schedule 17.1	Notice Information

**RENEWABLE WIND ENERGY
POWER PURCHASE AGREEMENT**

THIS RENEWABLE WIND ENERGY POWER PURCHASE AGREEMENT (“Agreement”), is made and entered into as of June 6, 2008 (“Effective Date”), by and between AES Armenia Mountain Wind, LLC, a Delaware limited liability company, hereinafter referred to as “Seller” and Delmarva Power & Light Company, a Delaware corporation, hereinafter referred to as “Buyer” (each hereinafter referred to individually as “Party” and collectively as “Parties”).

WITNESSETH:

WHEREAS, Seller plans to own and operate a wind-powered electric generating Facility with an aggregate total nameplate capacity rating of 100.5 MW (the “Facility Nameplate Rating”), located in Tioga and Bradford Counties, Pennsylvania, *provided* that Seller may increase the Facility Nameplate Rating up to 139.5 MW if the Parties agree upon the Expansion Option; and

WHEREAS, Seller desires to sell and deliver to Buyer, and Buyer desires to purchase and receive, certain Energy and Environmental Attributes (collectively, the “Products”); and

WHEREAS, Buyer intends to use the Products purchased under this Agreement to serve a portion of its energy requirements and to satisfy a portion of the requirements under the State of Delaware’s Renewable Energy Portfolio Standards Act (26 Del. C. §§ 351-363) (the “RPS Act”).

NOW, THEREFORE, and in consideration of the foregoing, and of the mutual promises, covenants, and conditions set forth herein, and other good and valuable consideration, the Parties hereto, intending to be legally bound by the terms and conditions set forth in this Agreement, hereby agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions. The following capitalized terms, when used in this Agreement, shall have the meanings set forth below:

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

“After-Tax Basis” means, with respect to any payment received or deemed to have been received by a Party, the amount of such payment (the “Base Payment”) supplemented by a further payment (the “Additional Payment”) to such Party so that the sum of the Base Payment plus the Additional Payment shall, after deduction of the amount of all taxes (including any federal, state or local income taxes) required to be paid by such Party in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the Base Payment and the Additional Payment), be equal to the amount required to be received. Such calculations shall be made on the assumption that the recipient is subject to federal income taxation at the highest applicable statutory rate applicable to corporations for the relevant period or periods, and state and local taxes at the highest rates applicable to corporations with respect to such Base Payment and Additional Payment, and shall take into account the deductibility (for federal income tax purposes) of state and local income taxes.

“Agreement” has the meaning set forth in the preamble hereto.

“Auditor Opinion” means an opinion from Buyer’s Auditors, in form and substance reasonably acceptable to Buyer, stating that, in connection with this Agreement and the Parties’ performance hereunder during the term hereof: (i) Seller is not a “variable interest entity” as defined by FIN 46; or (ii) if Seller is a “variable interest entity” as defined by FIN 46, Buyer is not required to consolidate Seller in Buyer’s financial statements.

“Bankrupt” means, with respect to any entity, such entity: (a) voluntarily files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, or has any such petition filed or commenced against it by its creditors and such petition is not dismissed within ninety (90) days of the filing or commencement; (b) makes an assignment or any general arrangement for the benefit of creditors; (c) otherwise becomes insolvent, however evidenced; (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (e) is generally unable to pay its debts as they fall due.

“Buyer” has the meaning set forth in the preamble hereto.

“Business Day” means any day except a Saturday, Sunday or a day that PJM declares to be a holiday, as posted on the PJM website. A Business Day shall begin at 8:00 am and end at 5:00 pm EPT.

“Buyer’s Percentage” means fifty percent (50 %); *provided however*, that if, after the Effective Date, the Facility Nameplate Rating is increased (including by a modification of the rated output of any Unit(s) or a change in the number of Units in the Facility), Buyer’s Percentage shall be adjusted so that, as a percentage of the increased Facility Nameplate Rating, it represents the same quantity of MWs as Buyer’s Percentage

of the original Facility Nameplate Rating; *provided further*, that if the Facility Nameplate Rating is increased pursuant to Section 4.6 [Expansion Option], Buyer's Percentage shall be adjusted so that, as a percentage of the increased Facility Nameplate Rating, it represents the total quantity of MWs to which Buyer is entitled in accordance with Section 4.6 [Expansion Option].

"Buyer's Auditors" means an independent accounting firm designated by Buyer.

"Buyer's Indemnitees" has the meaning set forth in Section 10.1 [Seller's Indemnification].

"Confidential Information" means any information in any form designated by a Party as Confidential pursuant to Section 16.2 [Designation of Confidential Information], whether such information was disclosed prior to or after the Effective Date; *provided however*, that Confidential Information shall not include Unrestricted Information.

"Contract Term" has the meaning set forth in Section 2.1 [Term].

"Credit Rating" means, with respect to any Person, the rating then assigned to such Person's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by a Rating Agency or, if such Person does not have a rating for its senior unsecured long-term debt, then the "Issuer Credit Rating" for such Person established by S&P.

"Defaulting Party" has the meaning set forth in Section 12.1 [Events of Default].

"Delaware PSC" means the Delaware Public Service Commission.

"Delay Damages" has the meaning set forth in Section 12.4 [Delay Damages].

"Delivery Point" means the single point on the PJM Transmission System with a Pnode Identification in the PJM Bus Model, as identified in Exhibit B.

"Disclosing Party" has the meaning set forth in Section 16.1 [Non-Disclosure of Confidential Information].

"Eastern Prevailing Time" or "EPT" means Eastern Standard Time or Eastern Daylight Savings Time, whichever is in effect on any particular date.

"Effective Date" has the meaning set forth in the preamble hereto.

"Electrical Interconnection Facilities" means the equipment and facilities required to safely and reliably interconnect the Facility to the PJM Transmission System or the transmission system of another Transmitting Utility in whose territory the Facility is located, as applicable, including the collection system between each Unit, transformers

and all switching, metering, communications, control and safety equipment, including the facilities described in Exhibit A under the heading “Electrical Interconnection Facilities.”

“Eligible Energy Resource” shall have the meaning ascribed to it in the RPS Act.

“Emergency” means: (a) an abnormal system condition requiring manual or automatic action to maintain system frequency or voltage or to prevent loss of firm load, equipment damage or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; (b) system recovery from an abnormal condition that resulted in loss of firm load or equipment damage; or (c) a condition that requires implementation of “emergency procedures” (as defined by PJM or any Transmitting Utility).

“Energy” means three-phase, 60-cycle alternating current electric energy.

“Energy Payment Rate” means the price per MWh of Energy delivered by Seller to the Delivery Point for Buyer’s account, as set out on Schedule 8.1.

“Environmental Attributes” means Renewable Energy Credits and any and all other federal, regional, state and other credits, certificates, benefits, emission reductions, offsets and allowances that are attributable, now or in the future, to the Facility or the Energy produced by the Facility, including: (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Facility’s displacement of fossil-fuel derived or other conventional energy generation; (b) any environmental certificates issued by PJM under the GATS in connection with Energy delivered to Buyer; and (c) any voluntary emission reduction credits obtained or obtainable by Seller in connection with the generation of Energy delivered to Buyer from the Facility; *provided however*, that Environmental Attributes shall not include: (i) PTCs or any state production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Facility; or (iii) any state, federal or private cash payments or grants relating in any way to the construction or ownership of the Facility, the output thereof or PTCs.

“Event of Default” has the meaning set forth in Sections 12.1 [Events of Default] and 12.2 [Additional Seller Events of Default].

“Existing PTC Law” means Section 45 of the Internal Revenue Code of 1986, as amended, as in effect on the Effective Date.

“Expansion Option” has the meaning set forth in Section 4.6 [Expansion Option].

“Facility” means the wind-powered electric generating facility, consisting of 67 Units each with a nameplate rating of 1.5 MW (or up to 93 Units upon exercise of the Expansion Option), the Electrical Interconnection Facilities and any other ancillary facilities and equipment, as more particularly described in Exhibit A.

“Facility Commercial Operation” means the condition of the Facility once it has achieved the following:

- (a) ninety percent (90%) of the Units comprising the Facility shall have been fully commissioned and shall be operational;
- (b) all performance testing of the Electrical Interconnection Facilities shall have been successfully completed in accordance with PJM Manuals (or any other applicable RTO rules);
- (c) the Facility shall be operating and able to produce and deliver Energy to the Interconnection Point: (i) pursuant to the terms of this Agreement and the Interconnection Agreement, if any; and (ii) in accordance with Good Utility Practice; and
- (d) the computer monitoring system (CMS) for the Facility shall have been installed and tested and shall be fully operational.

“Facility Commercial Operation Date” means the first date as of which: (a) Facility Commercial Operation has occurred; and (b) Seller shall have delivered to Buyer written certification of an authorized officer of Seller certifying that the Facility has achieved Facility Commercial Operation.

“Facility Lender” means any Person(s), other than Affiliates of Seller, that provide construction, working capital or term debt financing for the Facility (including any agent(s) thereof).

“Facility Meter” means the revenue quality electricity generation meter to be located at the Metering Point (the proposed location of which is identified in Exhibit A), which Facility Meter shall register all Energy produced by the Facility and delivered to the Interconnection Point.

“Facility Nameplate Rating” has the meaning set forth in the Recitals hereto.

“FERC” means the Federal Energy Regulatory Commission.

“FIN 46” means Interpretation No. 46R issued by the Financial Accounting Standard Board (“Consolidation of Variable Interest Entities”).

“Financing Assignment” shall mean the consent to collateral assignment between Buyer, Seller and Facility Lender, in a form reasonably satisfactory to Buyer, Seller and Facility Lender.

“Fitch” means Fitch Investor Service, Inc.

“Force Majeure Event” means an event or circumstance that: (a) prevents a Party from performing its obligations under this Agreement; (b) was not foreseeable by such

Party; (c) was not within the reasonable control of, or the result of the negligence of such Party; and (d) such Party is unable to mitigate or avoid or cause to be avoided with the exercise of due diligence. Notwithstanding the foregoing, under no circumstance shall a Force Majeure Event be based on: (i) Seller's ability to sell a Product at a price greater than that received under the terms of this Agreement; or (ii) Buyer's ability to purchase a Product at a price lower than paid under the terms of this Agreement.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time.

"GATS Operating Rules" means the operating rules for the GATS, as published by PJM Environmental Information Services, Inc. and posted on the PJM Internet site (www.pjm-eis.com/documents/downloads/gats-operating-rules.pdf).

"Generator Attribute Tracking System" or "GATS" means the system operated by PJM Environmental Information Services, Inc. in accordance with the GATS Operating Rules to provide environmental and emissions attributes reporting and tracking services to its subscribers.

"Good Utility Practice" means the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry (in the case of Buyer) or the wind power industry (in the case of Seller) during the relevant time period, and any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the region.

"Governmental Authority" means any federal, state, local, municipal or other governmental or quasi-governmental authority, agency, department, board, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive, together or individually, exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over a Party, the Facility, the Products to be delivered hereunder or this Agreement.

"Guaranteed Initial Delivery Date" means April 30, 2010; *provided however*, that the Guaranteed Initial Delivery Date shall be extended on a day-for-day basis for up to twelve (12) months to the extent that the Initial Delivery Date is delayed as a result of Force Majeure Event.

"Guarantor" means any Person that: (a) guarantees Seller's financial obligations under this Agreement pursuant to a Guaranty; (b) is an Affiliate of Seller; (c) has a Credit Rating from at least two (2) of the Rating Agencies; (d) has no Credit Rating from any Rating Agency less than the Minimum Acceptable Credit Rating; and (e) is incorporated

or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

“Guaranty” means a Guaranty Agreement: (a) in favor of Buyer; (b) executed and delivered by a Guarantor to Buyer; and (c) in the form of Schedule 14.3.

“Indemnified Person” has the meaning set forth in Section 10.3(a) [Defense of Indemnified Claims].

“Indemnifying Party” has the meaning set forth in Section 10.3(a) [Defense of Indemnified Claims].

“Initial Delivery Date” means the date, which shall be no earlier than November 1, 2009, on which the conditions set forth in Section 3.3 [Initial Delivery Date] have been satisfied or waived in writing by Buyer.

“Instructed Operation” means a mandatory direction by a Transmitting Utility to meet an Emergency or a transmission system reliability need, including voltage support.

“Interconnection Point” means the physical point of interconnection between the Electrical Interconnection Facilities and the electrical transmission system of the Transmitting Utility.

“Interconnection Agreement” means an agreement between Seller and the Transmitting Utility (which may be Buyer or an Affiliate of Buyer) in whose territory the Facility is located regarding interconnection of the Facility to the transmission system of the Transmitting Utility.

“Interest Rate” means, as of any date, the lesser of: (a) the per annum rate of interest equal to the prime lending rate published in *The Wall Street Journal* under “Money Rates” on such day (or, if such rate is not published on such date, the rate published on the most recent preceding date on which such rate is published), plus two percent (2%); and (b) the maximum rate permitted by applicable Law.

“Invoice” has the meaning set forth in Section 8.3 [Billing].

“kW” means kilowatt.

“Law” means any statute, law, treaty, convention, rule, regulation, ordinance, code, Permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction issued, adopted, administered or implemented by a court or Governmental Authority, including any of the foregoing that are enacted, amended or issued after the Effective Date, and any binding interpretations of any of the foregoing.

“Letter of Credit” means an irrevocable, standby letter of credit in favor of Buyer issued by a Qualified Institution, in the form of Schedule 14.1 or such other form as may be acceptable to Buyer.

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever, including any sale-leaseback arrangement, conditional sale or other title retention agreement and any financing lease having substantially the same effect as any of the foregoing.

“Load Serving Entity” or “LSE” shall have the meaning ascribed to it in the PJM Agreements.

“Locational Marginal Price” means, as of any point in time, the cost of serving the next increment of load at the Delivery Point as determined and posted by PJM in accordance with the PJM Agreements.

“Market Participant” has the meaning set forth in the PJM Operating Agreement.

“Maximum Delay Damages” has the meaning set forth in Section 12.4 [Delay Damages].

“Mechanical Availability Percentage” means the mechanical availability of the Facility, expressed as a percentage, calculated on a twenty four (24) month, rolling average basis in accordance with Schedule 6.13.

“Metering Point” means the physical location at the Facility where the Facility Meter is situated, as shown in Exhibit A.

“Minimum Acceptable Credit Rating” means a Credit Rating equal to or better than: (a) “BBB-” by S&P; (b) “BBB-” by Moody’s; and (c) “Baa3” by Fitch.

“Monthly Settlement Date” has the meaning set forth in Section 8.3 [Billing].

“Moody’s” means Moody’s Investor Services, Inc.

“MW” means megawatt.

“MWh” means megawatt-hour.

“NERC” means the North American Electric Reliability Council or any other Person designated by FERC to perform its functions.

“Non-Defaulting Party” has the meaning set forth in Section 12.3 [General Remedies].

“Party” or “Parties” has the meaning set forth in the preamble hereto.

“Permit” means any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Authority required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association, unincorporated organization or Governmental Authority.

“PJM” means PJM Interconnection, LLC.

“PJM Agreements” means the PJM Tariff, the PJM Operating Agreement, the PJM RAA, the PJM Manuals and any other applicable PJM bylaws, procedures, manuals or documents.

“PJM Control Area” shall have the meaning ascribed to it in the PJM Agreements.

“PJM E-Account” means an account obtainable through PJM which provides access to web-based PJM settlement, accounting, marketing and other informational and economic systems.

“PJM Interchange Energy Market” has the meaning set forth in the PJM Tariff.

“PJM Manual” or “PJM Manuals” means the instructions, rules, procedures and guidelines established by PJM for the operation, planning and accounting requirements of the PJM Control Area and PJM Interchange Energy Market.

“PJM Member” means any entity satisfying the requirements of PJM to conduct business with PJM, including Market Participants, transmission owners, generating entities and Load Serving Entities.

“PJM Operating Agreement” means the Operating Agreement of PJM.

“PJM RAA” means the PJM Reliability Assurance Agreement.

“PJM Tariff” means the Open Access Transmission Tariff of PJM.

“PJM Transmission System” means the system of transmission lines and associated facilities that have been placed under PJM’s operational control.

“Products” has the meaning set forth in the Recitals hereto.

“Production Tax Credit” or “PTC” means the tax credit provided by Section 45 of the Internal Revenue Code of 1986, as amended, for electricity produced from certain qualified energy resources, including wind.

“PSC Approval” means an order issued by the Delaware PSC approving the terms of this Agreement without modification and authorizing Buyer to recover all of its costs incurred hereunder, which order shall be in form and substance reasonably acceptable to Buyer.

“PSC Approval Deadline” means the date that is six (6) months after the date on which Buyer files this Agreement with the Delaware PSC seeking PSC Approval.

“PTC Compensation Amounts” has the meaning set forth in Section 2.2(b) [Special Termination Rights].

“Qualified Institution” means a U.S. commercial bank (or a foreign bank with a U.S. branch) having total assets of at least \$10 billion and a Credit Rating equal to or better than “A-” by S&P and an equivalent Credit Rating by Moody’s or Fitch.

“Qualified Seller” means a Seller that, as of a specified date, has a Credit Rating equal to or better than the Minimum Acceptable Credit Rating.

“Rating Agency” or “Rating Agencies” shall mean, individually or collectively, S&P, Moody’s and Fitch.

“REC Payment Rate” means the price per REC delivered by Seller for Buyer’s account, as set out on Schedule 8.2.

“Receiving Party” has the meaning set forth in Section 16.1 [Non-Disclosure of Confidential Information].

“Regional Reliability Entity” means the organization designated by NERC responsible for establishing and implementing reliability criteria and protocols for the Facility.

“Regional Transmission Organization” or “RTO” means any Person certified by FERC to provide open access transmission service over the transmission facilities of its members under a tariff filed with FERC.

“Regulatory Charges” has the meaning set forth in Section 9.2 [Regulatory Charges].

“Renewable Energy Credit” or “REC” shall have the meaning set forth in the RPS Rules and RPS Act.

“Renewable Energy Portfolio Standard” shall have the meaning set forth in the RPS Act.

“RPS Act” has the meaning set forth in the Recitals hereto.

“RPS Rules” means the Delaware PSC’s Rules and Procedures to Implement the Renewable Energy Portfolio Standard.

“S&P” means Standard & Poor’s Ratings Group, a division of McGraw Hill, Inc.

“Seller” has the meaning set forth in the preamble hereto.

“Seller’s Indemnitees” has the meaning set forth in Section 10.2 [Buyer’s Indemnification].

“Services Term” means the period of time commencing on the Initial Delivery Date and ending fifteen (15) years thereafter.

“Services Term Letter of Credit” shall have the meaning set forth in Section 14.1(c) [Letters of Credit].

“Tangible Net Worth” means, with respect to Seller or a Guarantor as of a specified date, the positive difference, if any, between: (a) the value of such Person’s total assets (exclusive of intangible assets); and (b) such Person’s total liabilities, each as determined in accordance with GAAP.

“Test Output” means any and all Products produced by the Facility prior to the Initial Delivery Date.

“TNW Percentage” means, with respect to Seller or a Guarantor as of a specified date, the applicable percentage determined pursuant to Schedule 14.2.

“Transmitting Utility” means any utility (including its control area operators) or RTO (including PJM) that transmits Energy from the Interconnection Point to the Delivery Point.

“Unit” means each wind turbine generation unit forming a part of the Facility, as described in Exhibit A.

“Unrestricted Information” means any information disclosed by one Party to the other Party that: (a) is or becomes part of the public domain without fault of the receiving Party; (b) was received by the receiving Party from a Person under no obligation to the disclosing Party with respect to maintaining the confidentiality thereof; or (c) was already in the receiving Party’s possession and not subject to confidentiality restrictions at the time the information was made available by the disclosing Party.

“Unsecured Credit Amount” means, with respect to Seller or a Guarantor as of a specified date, the lesser of: (a) the product of the TNW Percentage for such Person multiplied by the Tangible Net Worth of such Person; and (b) the Unsecured Credit Cap for such Person.

“Unsecured Credit Cap” means, with respect to Seller or a Guarantor as of a specified date, the lesser of: (a) the amount designated as such in accordance with Schedule 14.2; or (b) \$59.40 per kW of Buyer’s Percentage of the Facility Nameplate Rating.

1.2 Interpretation. Unless otherwise required by the context in which any term appears:

- (a) the singular shall include the plural and vice versa;
- (b) references to Articles, Sections, Schedules or Exhibits shall be to Articles, Sections, Schedules or Exhibits of this Agreement, unless otherwise specified;
- (c) all references to a particular Person in any capacity shall be deemed to refer also to such Person’s successors and permitted assigns in such capacity;
- (d) the words “herein,” “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection thereof;
- (e) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation” and shall not be construed to mean that the examples given are an exclusive list of the topics covered;
- (f) all accounting terms not specifically defined herein shall be construed in accordance with GAAP;
- (g) references to this Agreement shall include a reference to all schedules and exhibits hereto, each of which shall be incorporated by reference into this Agreement;
- (h) references to any agreement, document or instrument, including the PJM Agreements, shall be construed to refer to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;
- (i) the masculine shall include the feminine and neuter and vice versa;

- (j) references to a Law shall be construed to refer to such Law as the same may be amended, modified, supplemented or restated from time to time;
- (k) the term “month” shall mean a calendar month unless otherwise indicated, and a “day” shall be a 24-hour period beginning at 12:00:01 am and ending at 12:00:00 midnight; *provided however*, that a “day” may be 23 or 25 hours on those days on which daylight savings time begins or ends;
- (l) unless expressly provided otherwise in this Agreement, where this Agreement requires the consent, approval or similar action by a Party, such consent, approval, or action shall be made or given in such Party’s sole discretion;
- (m) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Good Utility Practice or the PJM Agreements, shall have such meaning in this Agreement, or (ii) do not have well known and generally accepted meaning in Good Utility Practice or the PJM Agreements but have well known technical or trade meanings shall have such recognized meanings; and
- (n) all references to dollars are to U.S. dollars.

ARTICLE 2

TERM

2.1 Term. The term of this Agreement (the “Contract Term”) will commence upon the Effective Date and, unless earlier terminated pursuant to the express provisions of this Agreement, will continue until the end of the Services Term; *provided however*, that all provisions of this Agreement which must, in order to give full force and effect to the rights and obligations of the Parties, survive termination or expiration of this Agreement, shall so survive, including Articles 10 [Indemnification], 12 [Events of Default; Remedies], 13 [Dispute Resolution] and 16 [Confidentiality].

2.2 Special Termination Rights.

- (a) Either Party may terminate this Agreement without liability on thirty (30) days advance written notice if PSC Approval does not occur on or before the PSC Approval Deadline, provided that such terminating Party must deliver a notice of termination no later than ten (10) days after the PSC Approval Deadline. In addition, if the PSC Approval is appealed, either Party may terminate this Agreement without liability: (1) within thirty (30) days of a final, non-appealable ruling on appeal, if such final ruling results in a modification of the terms of the PSC Approval and such modification materially adversely affects such Party; or (2) if a

final, non-appealable ruling on appeal is not reached with respect to the PSC Approval by March 31, 2009. Buyer shall notify Seller whether any order issued by the Delaware PSC approving the terms of this Agreement is in form and substance acceptable to Buyer no later than five (5) Business Days after issuance of such order.

- (b) If, as of the earlier of the Initial Delivery Date or the Guaranteed Initial Delivery Date, the Existing PTC Law: (i) is not extended to apply to electricity produced from wind by generating facilities placed in service before the Guaranteed Initial Delivery Date; or (ii) is extended to apply to electricity produced from wind by generating facilities placed in service before the Guaranteed Initial Delivery Date but the amount of PTCs available under the new Law is materially less than the amount of PTCs available under the Existing PTC Law, Seller may terminate this Agreement; *provided however*, that: (a) in order to exercise its right to terminate this Agreement pursuant to this Section 2.2(b), Seller must deliver written notice of termination no later than sixty (60) days after expiration or amendment of the Existing PTC Law and such notice of termination must designate a termination date no earlier than thirty (30) days after the date thereof; and (b) Seller shall have no right to terminate this Agreement pursuant to this Section 2.2(b) if, within twenty (20) days of receipt of Seller's notice of termination pursuant to this Section 2.2(b), Buyer delivers to Seller a written statement agreeing to compensate Seller for the difference, calculated on an After-Tax Basis, between the amount of the Production Tax Credits Seller is entitled to receive in connection with the generation and sale of Buyer's Percentage of Energy produced by the Facility and the amount of Production Tax Credits Seller would be entitled to receive in connection with the generation and sale of Buyer's Percentage of Energy produced by the Facility if the Existing PTC Law continued to be in force (such monthly differences, the "PTC Compensation Amounts"). Any PTC Compensation Amounts shall be reasonably documented by Seller and shall be invoiced by Seller and paid by Buyer in accordance with Article 9 [Billing and Payment] based on the times when Seller receives (or would have received) the Production Tax Credits.
- (c) Seller shall have the option to terminate this Agreement without recourse if Seller has not executed power purchase agreements for the Facility Nameplate Rating of the Facility by June 30, 2008.

ARTICLE 3
CONDITIONS PRECEDENT

3.1 PSC Approval. Seller shall have no obligation to deliver or sell Products and Buyer shall have no obligation to accept or purchase Products prior to receipt of PSC Approval. Buyer shall file this Agreement before the Delaware PSC and seek PSC Approval promptly following the Effective Date.

3.2 Non-Consolidation Opinion. Seller shall have no obligation to deliver or sell Products and Buyer shall have no obligation to accept or purchase Products prior to receipt by Buyer of an Auditor Opinion. Upon the request of Buyer or Buyer's Auditors, Seller shall provide to Buyer's Auditors any information requested by Buyer's Auditors regarding Seller, its Affiliates, this Agreement, the Facility or any material agreements of Seller or its Affiliates pertaining to the Facility as determined by Buyer's Auditors to be reasonably necessary to render the Auditor Opinion; *provided however*, that if any such information is considered by Seller to be confidential or proprietary and is not otherwise required to be provided to Buyer hereunder, Seller may, at its option, provide such information directly to Buyer's Auditors under a mutually agreeable confidentiality agreement. In the event Buyer's Auditors determine that, as a result of this Agreement, Buyer would be required to consolidate Seller in Buyer's financial statements: (A) Buyer shall promptly notify Seller of such determination; (B) Buyer and Seller shall use commercially reasonable efforts to amend this Agreement such that Buyer would not be required to consolidate Seller in Buyer's financial statements (provided that neither Party shall be obligated to agree to any amendment that would adversely affect such Party); and (C) in the event the Parties are unable, within sixty (60) days of the notice required by clause (A) of this Section 3.2, to agree to an amendment of this Agreement such that Buyer would not be required to consolidate Seller in Buyer's financial statements, Buyer may terminate this Agreement without liability on thirty (30) days advance written notice. Promptly after the Effective Date (and in no event later than thirty (30) days thereafter), Buyer shall request the Auditor Opinion.

3.3 Initial Delivery Date. The Initial Delivery Date shall occur upon the satisfaction or waiver in writing by Buyer of the following conditions precedent:

- (a) the Facility Commercial Operation Date shall have occurred or will occur simultaneously with the Initial Delivery Date;
- (b) Seller shall have obtained (and demonstrated possession of) all Permits required for the lawful operation of the Facility and for Seller to perform its obligations under this Agreement, including Permits related to environmental matters;
- (c) no Seller default or Event of Default shall be occurring;
- (d) Seller shall be a PJM Member and shall have entered into all required PJM Agreements required for the performance of Seller's obligations in connection with the Facility and this Agreement, which agreements shall be in full force and effect or Seller shall have entered into an agreement with a Market Participant that will

perform all of Seller's PJM-related obligations in connection with the Facility and this Agreement;

- (e) the Facility shall have been qualified and certified by the Delaware PSC as an Eligible Energy Resource pursuant to the RPS Act;
- (f) Seller shall have made all filings and applications required for accreditation of the Facility in GATS and for the registration, origination and transfer of Environmental Attributes from the Facility that are eligible for origination, registration and transfer under GATS;
- (g) Seller shall have entered into all agreements and made all filings and other arrangements necessary for the transmission and delivery of the Energy associated with Buyer's Percentage of the Facility from the Facility to the Delivery Point;
- (h) Seller shall have obtained all necessary authorizations from FERC to sell Energy at market-based rates as contemplated by this Agreement and shall be in compliance with such authorization;
- (i) Seller shall have delivered a Letter of Credit and, if applicable, a Guaranty as required pursuant to Article 14 [Security];
- (j) Seller shall have provided Buyer a revised version of Exhibit B which includes the Pnode Identification Number assigned by PJM for the Delivery Point;
- (k) PSC Approval shall have occurred and shall have become final and non-appealable; and
- (l) Seller shall have provided Buyer with written evidence that all of the preceding conditions have been satisfied.

ARTICLE 4 PURCHASE AND SALE OF PRODUCTS

4.1 Purchase and Sale Obligation. Subject to Seller's rights pursuant to Section 4.3 [Limitations on Seller's Obligation to Sell], during the Services Term Seller shall: (a) deliver and sell Buyer's Percentage of all Products produced by, or associated with, the Facility to Buyer; and (b) not offer, deliver, sell or make available to any Person other than Buyer, Buyer's Percentage of all Products produced by, or associated with, the Facility. Subject to the rights of the Parties pursuant to Section 4.3 [Limitations on Seller's Obligation to Sell] and 4.4 [Limitations on Buyer's Obligation to Purchase], during the Services Term Buyer shall: (i) have the exclusive right to purchase and receive Buyer's Percentage of all Products produced by, or associated with, the Facility; and (ii) accept and purchase Buyer's Percentage of all Products produced by, or

associated with, the Facility and delivered to Buyer in accordance with the terms and conditions of this Agreement.

4.2 Quantity. The quantity of Energy required to be delivered by Seller to Buyer at the Delivery Point shall be equal to Buyer's Percentage of the Energy produced by the Facility and metered at the Metering Point (adjusted for any transmission line and transformer losses, as determined in accordance with applicable tariffs and Good Utility Practice, to the Interconnection Point). The quantity of RECs required to be delivered by Seller to Buyer shall be equal to Buyer's Percentage of the Energy produced by the Facility.

4.3 Limitations on Seller's Obligation to Sell. Notwithstanding anything to the contrary set forth herein: (a) Seller may curtail output from the Facility or sell any or all Products produced by the Facility to Persons other than Buyer during any period(s) when the Locational Marginal Price at the Delivery Point is negative (*i.e.*, a value less than zero); and (b) Seller may sell any or all Energy produced by the Facility to Persons other than Buyer to the extent it is unable to deliver Buyer's Percentage of such Energy to the Delivery Point due to a Force Majeure Event or an Instructed Operation; *provided however*, that during any such period, Seller shall remain obligated to deliver and sell Buyer's Percentage of Environmental Attributes produced by or associated with the Facility to Buyer.

4.4 Limitations on Buyer's Obligation to Purchase. Notwithstanding anything to the contrary set forth in this Agreement: (a) Buyer shall not be obligated to accept delivery of any Energy from Seller under this Agreement to the extent it is unable to do so due to a Force Majeure Event or an Instructed Operation; (b) Buyer shall be obligated to accept delivery of and purchase Test Output at a price of eighty five percent (85%) of the Energy Payment Rate and REC Payment Rate; and (c) Buyer's obligation to make purchases of Energy pursuant to this Agreement is expressly conditioned on the delivery and sale by Seller, in accordance with the terms of this Agreement, of RECs in an amount equal to Buyer's Percentage of the Energy produced by the Facility.

4.5 Origination of RECs. RECs provided by Seller to Buyer hereunder shall not be required to originate from Energy produced by the Facility so long as all RECs delivered to Buyer under this Agreement: (a) are sourced from an Eligible Energy Resource; (b) qualify as RECs pursuant to the RPS Act, the RPS Rules and GATS; and (c) may be counted toward Buyer's then-current compliance requirement under the RPS Act.

4.6 Expansion Option. On or before July 31, 2008, either Party shall provide the other Party written notice (and any relevant information) that it desires to increase the size of the Facility and the Facility Nameplate Rating such that Buyer's Percentage of the Facility Nameplate Rating is increased by 20 MW (the "Expansion Option"). The Parties shall negotiate in good faith to determine whether to mutually agree to increase the Facility and Facility Nameplate Rating through the Expansion Option; provided that any such decision shall be made in each Party's sole discretion. Upon request, either Party shall provide the other Party any additional information reasonably required to determine

whether to mutually agree to the Expansion Option. No later than August 31, 2008, the Parties shall either (1) mutually agree to increase the Facility and Facility Nameplate Rating through the Expansion Option, with such additional Products to be sold pursuant to the terms of this Agreement; or (2) if no agreement is reached by August 31, 2008 (which may be extended by consent of both Parties), proceed with the Facility as originally contemplated.

ARTICLE 5 SCHEDULING AND DELIVERY OF PRODUCTS

5.1 Delivery of Energy. Seller shall be solely responsible for arranging, scheduling with PJM and other Transmitting Utilities, and delivering Energy to be delivered hereunder to the Delivery Point. As between the Parties, Seller shall be solely responsible for any and all costs and charges incurred in connection therewith, whether imposed pursuant to standards or provisions established by FERC, any other Governmental Authority or any Transmitting Utility, including transmission costs, scheduling costs, imbalance costs, congestion costs, operating reserve charges (day-ahead and balancing) and the cost of firm transmission rights. Buyer shall arrange, schedule with PJM and be responsible for transmission of Energy from the Delivery Point and shall, as between the Parties, be solely responsible for any and all costs and charges incurred in connection therewith, whether imposed pursuant to standards or provisions established by FERC, any other Governmental Authority or PJM, including transmission costs, scheduling costs, imbalance costs, congestion costs and the cost of firm transmission rights.

5.2 Delivery of Environmental Attributes. Seller shall: (a) take all actions necessary to register, certify and transfer Environmental Attributes from Seller to Buyer in accordance with GATS and applicable Law; and (b) bear all costs associated therewith, including program fees and registration fees. Seller shall comply with the RPS Act and RPS Rules in connection with Seller's transfer of RECs to Buyer hereunder.

5.3 Title and Risk of Loss.

- (a) Title to, and risk of loss (including risks and costs associated with any transmission outages or curtailment up to and at the Delivery Point) related to, Energy sold by Seller to Buyer pursuant to this Agreement shall pass and transfer from Seller to Buyer upon delivery thereof for Buyer's account at the Delivery Point. Seller covenants that it shall have good and marketable title to all Energy delivered to Buyer at the Delivery Point and that it has the right to, and will, sell and deliver such Energy to Buyer free and clear of all Liens. Ownership of Energy will be transferred from Seller to Buyer using the PJM eSchedule application.
- (b) Title to, and risk of loss related to, Environmental Attributes sold by Seller to Buyer pursuant to this Agreement shall pass and transfer from Seller to Buyer upon the completion of the

recording of transfer and physical or electronic delivery of such Environmental Attributes to Buyer in definitive form in accordance with GATS Operating Rules or other applicable Law. Seller shall transfer certificates into Buyer's GATS account(s) as necessary to transfer Environmental Attributes to Buyer under GATS. Seller covenants that it shall have good and marketable title to all Environmental Attributes delivered to Buyer and that it has the right to, and will, sell and deliver such Environmental Attributes to Buyer free and clear of all Liens.

5.4 PJM E-Accounts. Each of Buyer and Seller shall establish and maintain for the duration of the Services Term, separate PJM E-Accounts for Seller to provide and Buyer to receive Products.

ARTICLE 6 SELLER COVENANTS

6.1 Progress Reports for New Construction. Seller shall prepare and submit to Buyer written progress reports, in a form reasonably satisfactory to Buyer, describing the status of development and construction of the Facility, including the status of each of the conditions precedent to the Initial Delivery Date set forth in Section 3.3 [Initial Delivery Date]. Such progress reports shall be submitted: (a) on a quarterly basis commencing no later than two (2) years prior to Seller's anticipated Initial Delivery Date; and (b) on a weekly basis commencing forty-five (45) days prior to Seller's anticipated Initial Delivery Date. In addition to such progress reports, Seller shall promptly provide to Buyer any written reports regarding the status of development of the Facility that are delivered to Facility Lenders or their representatives.

6.2 Compliance With Law and Utility Requirements. Seller shall comply with, and cause the Facility to comply with: (a) Good Utility Practice; (b) all applicable requirements of Law; and (c) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by the Delaware PSC, any other Governmental Authority, any Transmitting Utility, NERC and/or any Regional Reliability Entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under this Agreement (including obligations related to the generation, scheduling and transmission of Energy), whether such requirements were imposed prior to or after the Effective Date. Seller shall be solely responsible for registering as the "Generator Operator" of the Facility with NERC and any applicable Regional Reliability Entities.

6.3 Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under this Agreement, including all Permits necessary to operate and maintain the Facility.

6.4 Maintenance of Facility. To the extent required to achieve the Initial Delivery Date, and at all times during the Services Term, Seller shall maintain the Facility in accordance with Good Utility Practice.

6.5 Interconnection Agreement. Seller shall comply with the terms and conditions of the Interconnection Agreement.

6.6 Planned Outages. Seller shall not schedule a planned outage of the Facility or any portion thereof between June 15 and September 15 during any year of the Services Term. No later than thirty (30) days prior to Seller's anticipated Initial Delivery Date, Seller shall deliver to Buyer a schedule of planned maintenance for the Facility for the following twelve (12) month period, which schedule shall: (a) be updated by Seller by each March 31 and September 30 to cover the twelve (12) month period following such update; (b) be consistent with the requirements of Good Utility Practice and the Interconnection Agreement; (c) indicate the planned commencement and completion dates for each planned maintenance during the period covered thereby, as well as the affected portion(s) of the Facility; and (d) be in form and substance reasonably acceptable to Buyer. To the extent Seller is required by any Transmitting Utility to provide information regarding maintenance, outages or availability of the Facility, Seller shall, simultaneous with the submission thereof to such Transmitting Utility, deliver a copy thereof to Buyer. Notwithstanding the above, Seller shall be entitled to perform preventive maintenance during the period between June 15 and September 15 during any year of the Services Term but only when the wind speed is insufficient to operate the Units.

6.7 PJM Membership. Seller shall, at all times during the Services Term, either: (a) be a member in good standing of PJM and be qualified as a PJM "Market Seller" pursuant to the PJM Agreements; or (b) have entered into an agreement with a Market Participant that will perform all of Seller's PJM-related obligations in connection with the Facility and this Agreement.

6.8 Market-Based Rate Authority. Seller shall, at all times during the Services Term, maintain all necessary authorization from FERC to sell Energy at market-based rates as contemplated by this Agreement.

6.9 Forecasts. Commencing thirty (30) days prior to the anticipated Initial Delivery Date, and throughout the Services Term, Seller shall prepare and deliver to Buyer on a monthly basis and in a form reasonably acceptable to Buyer, twelve (12) month rolling forecasts of Energy production by the Facility, which forecasts shall be prepared in good faith and in accordance with Good Utility Practice based on historical performance, maintenance schedules, Seller's generation projections and other relevant data and considerations.

6.10 Eligible Energy Resource. Seller shall be solely responsible for certifying the Facility and each of the Units as an Eligible Energy Resource under the RPS Act and maintaining such certification during the Services Term.

6.11 Compliance Reporting. To the extent Buyer is subject to any certification or compliance reporting requirement with respect to the Products produced by Seller and delivered to Buyer hereunder, Seller shall provide any information in its possession (or, if not in Seller's possession, available to it and not reasonably available to Buyer) reasonably necessary to permit Buyer to comply with any such reporting requirement.

6.12 Initial Delivery Date. Seller shall achieve the Initial Delivery Date no later than the Guaranteed Initial Delivery Date, or within 365 days after the Guaranteed Initial Delivery Date if Delay Damages are paid in accordance with Section 12.4. Seller shall provide Buyer with notice of: (i) the expected occurrence of the Initial Delivery Date no later than thirty (30) days prior thereto; and (ii) the actual Initial Delivery Date no later than five (5) Business Days prior thereto.

6.13 Mechanical Availability Percentage. During the Services Term, Seller shall maintain a Mechanical Availability Percentage of no less than ninety percent (90%); *provided however*, that the first determination of the Mechanical Availability Percentage of the Facility shall be calculated twenty four (24) months after the Initial Delivery Date for the preceding twenty four (24) month period. On or before the fifteenth (15th) day of each calendar month (or the first Business Day thereafter) during the Services Term, Seller shall provide Buyer with the Mechanical Availability Percentage calculated for the preceding Period, consistent with Schedule 6.13, along with any supporting documentation reasonably required for Buyer to independently confirm Seller's Mechanical Availability Percentage calculation.

ARTICLE 7 METERING

7.1 Metering. All electric metering associated with the Facility, including the Facility Meter and any other real-time meters, billing meters and back-up meters, shall be installed, operated, maintained and tested in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Transmitting Utility in whose territory the Interconnection Point is located and any applicable Regional Reliability Entity. The Facility Meter shall be used for the registration, recording and transmission of information regarding the Energy output of the Facility. As between the Parties, Seller shall be responsible for the operation, maintenance and calibration of the Facility Meter and any other real-time meters, billing meters and back-up meters at the Facility in accordance with the Interconnection Agreement, Good Utility Practice and any applicable requirements and standards issued by NERC, the Transmitting Utility in whose territory the Interconnection Point is located and any applicable Regional Reliability Entity. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Facility Meter and any other real-time meters, billing meters and back-up meters at the Facility promptly following receipt thereof by Seller.

7.2 Measurements. Readings of the Facility Meter and any other real-time meters, billing meters and back-up meters at the Facility by the Transmitting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to

the Parties) shall be conclusive as to the amount of Energy generated by the Facility; *provided however*, that Seller, at the direction of Buyer and at Buyer's expense, shall cause the Facility Meter to be tested by the Transmitting Utility in whose territory the Facility is located, and if the Facility Meter is out of service or is determined to be registering inaccurately by more than two percent (2%): (a) measurement of Energy produced by the Facility shall be adjusted in accordance with the filed tariff of such Transmitting Utility; and (b) Seller shall reimburse Buyer for the cost of such test of the Facility Meter.

7.3 Testing and Calibration. Buyer shall have the right to have a representative(s) present during any testing or calibration of the Facility Meter and any other real-time meters, billing meters and back-up meters at the Facility.

7.4 Audit of Facility Meter. Buyer shall have access to the Facility Meter and any other real-time meters, billing meters and back-up meters at the Facility and the right to audit all information and test data related to such meters.

7.5 Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Facility Meter or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility.

7.6 Telemetry. The Facility Meter shall be capable of sending meter telemetry into the PJM eMeter system and Seller shall provide Buyer with access to such eMeter data. Seller shall transmit to Buyer, via a dedicated data line reasonably acceptable to Buyer and paid for by Seller, all telemetry data measured by the Facility Meter, including MW, MVAR, MWh, MVARh, isolation breaker open/closed status, interconnection bus voltage and amp flow. Without limiting the foregoing, all such telemetry equipment shall comply with PJM requirements for PJM transmission owners as set forth in PJM Transmission Owner Standards (<http://www.pjm.com/planning/trans-standard.html>).

ARTICLE 8 BILLING AND PAYMENT

8.1 Price for Energy. Buyer shall pay for all Energy delivered to the Delivery Point for Buyer's account in accordance with Section 5.1 [Delivery of Energy] based on the Energy Payment Rate; *provided however*, that if, for any period when Seller is delivering Energy to Buyer pursuant to this Agreement, the Locational Marginal Price at the Delivery Point is negative (*i.e.*, a value less than zero) and Buyer is obligated to pay or incur such negative Locational Marginal Price, the applicable Energy Payment Rate for Energy purchased from Seller during such period shall be reduced by the absolute value of such negative Locational Marginal Price. Buyer shall not be obligated to make any other payments to Seller for any Energy delivered or required to be delivered by Seller to Buyer pursuant to this Agreement.

8.2 Price for RECs. Buyer shall pay for all RECs transferred to Buyer in accordance with Section 5.2 [Delivery of Environmental Attributes] based on the REC Payment Rate. Buyer shall not be obligated to make any other payments to Seller for any

Environmental Attributes delivered or required to be delivered by Seller to Buyer pursuant to this Agreement.

8.3 Billing. Unless otherwise agreed to by the Parties, on or before the fifteenth (15th) day of each month (or the first Business Day thereafter), Seller shall deliver to Buyer, via electronic transmission or other means agreed to by the Parties, an invoice (“Invoice”) that sets forth: (a) the net amount due from one Party to the other for all Products delivered by Seller to Buyer pursuant to the terms of this Agreement as of the end of the immediately preceding calendar month; and (b) any other credits, charges and liabilities due pursuant to the terms of this Agreement, including any adjustments and outstanding amounts due pursuant to prior Invoices. Buyer shall pay to Seller or Seller shall pay to Buyer, as the case may be, the total amount due pursuant to such Invoice no later than the final Business Day of the month during which such Invoice is issued (such day, the “Monthly Settlement Date”).

8.4 Payment. All payments shall be made by “Electronic Funds Transfer” (EFT) via “Automated Clearing House” (ACH), to a bank designated in writing by the Party to which payment is owed, by 11:59:59 pm EPT on the Monthly Settlement Date. Payment of an Invoice shall not be deemed an admission or waiver with respect to any matter related to such Invoice or the charges reflected therein.

8.5 Interest. Interest on delinquent amounts (including amounts determined to be owed as a result of the resolution of a billing dispute) shall be calculated at the Interest Rate: (a) from the original due date (or, for amounts not properly invoiced, the date that would have been the due date if such amounts were properly invoiced) to the date of payment; or (b) in the case of reimbursement obligations, from the date an overpayment was received until the date of reimbursement.

8.6 Set-Off. Each of Buyer and Seller shall have the right to set-off any undisputed amounts owed by the other Party pursuant to this Agreement against any undisputed amounts that it owes to such Party pursuant to this Agreement.

8.7 Billing Disputes. Either Party may, in good faith, dispute any amount charged or paid pursuant to an Invoice within twelve (12) months of the date of such Invoice by providing a written statement setting forth the basis of such dispute. Each Party shall remain obligated to pay any undisputed amounts pending resolution of a billing dispute. Failure by a Party to deliver notice of a billing dispute within the time period set forth herein shall be deemed a waiver of such Party’s right to dispute such Invoice. The Parties shall continue to perform under this Agreement during the period of any billing dispute but shall not be precluded from exercising any other remedy available under this Agreement. A billing dispute shall be subject to the provisions of Article 13 [Dispute Resolution]. Any amount determined to be owed as a result of the resolution of a billing dispute shall be paid within fifteen (15) days of such resolution, along with accrued interest in accordance with Section 8.5 [Interest].

8.8 PJM Accounting Procedures. Each of Buyer and Seller shall comply with all applicable PJM accounting procedures in connection with invoicing and settlement for amounts due under this Agreement.

ARTICLE 9 TAXES

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

9.2 Regulatory Charges. Seller shall pay or cause to be paid all taxes, fees and other charges imposed by any Governmental Authority ("Regulatory Charges") on or with respect to the Products arising before and at delivery thereof in accordance with this Agreement, including ad valorem taxes, taxes related to the operation or maintenance of the Facility, and other taxes attributable to the Facility or interests in land associated with the Facility. Buyer shall pay or cause to be paid all Regulatory Charges on or with respect to the Products being delivered to Buyer hereunder after delivery thereof in accordance with this Agreement (other than ad valorem, franchise or income taxes related to the sale of the Products, which shall be the responsibility of Seller). In the event a Party is required by Law to pay Regulatory Charges which are the other Party's responsibility hereunder: (a) the Party that is assessed such Regulatory Charges shall notify the Party responsible for payment (which notice shall include supporting documentation) of such assessment; (b) the assessed Party shall timely pay such Regulatory Charges; and (c) the responsible Party shall reimburse the assessed Party in full no later than the next Monthly Settlement Date, with interest at the Interest Rate from and including the date on which the assessed Party paid such Regulatory Charges until (but excluding) the date on which the responsible Party reimburses the assessed Party. Nothing herein shall obligate or cause a Party to pay or be liable to pay any Regulatory Charges from which it is exempt under the Law; *provided however*, that an exempt Party shall bear the responsibility of proving upon request its exemption as necessary to avoid the unjust imposition of Regulatory Charges on the other Party.

ARTICLE 10 INDEMNIFICATION

10.1 Seller's Indemnification. Seller shall indemnify, hold harmless and defend Buyer, its Affiliates and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors, representatives and permitted assigns (collectively, "Buyer's Indemnitees") from and against any and all claims, liabilities, costs, losses, damages and expenses, including reasonable attorney and expert fees and disbursements, actually incurred for: (a) damage to property of unaffiliated third parties or injury to, or death of, any person; and (b) any penalties or fines imposed by Governmental Authorities, in any such case to the extent directly caused by the gross negligence or willful misconduct of Seller and/or its officers, directors, employees, agents, contractors, subcontractors or invitees, and arising out of, or connected with,

Seller's performance under this Agreement, Seller's exercise of rights under this Agreement or Seller's breach of this Agreement.

10.2 Buyer's Indemnification. Buyer shall indemnify, hold harmless and defend Seller, its Affiliates and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors, representatives and permitted assigns (collectively, "Seller's Indemnitees") from and against any and all claims, liabilities, costs, losses, damages and expenses, including reasonable attorney and expert fees and disbursements, actually incurred for: (a) damage to property of unaffiliated third parties or injury to, or death of, any person; and (b) any penalties or fines imposed by Governmental Authorities, in any such case to the extent directly caused by the gross negligence or willful misconduct of Buyer and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Buyer's performance under this Agreement, Buyer's exercise of rights under this Agreement or Buyer's breach of this Agreement.

10.3 Defense of Indemnified Claims.

- (a) Within a reasonable time after receipt by a Person (the "Indemnified Person") of any claim as to which the indemnification provided for in Section 10.1 [Seller's Indemnification] or 10.2 [Buyer's Indemnification] may apply, such Indemnified Person shall notify the indemnifying Party (the "Indemnifying Party") in writing of such fact; *provided however*, that delay in notifying the Indemnifying Party shall not relieve such Indemnifying Party of its indemnification obligations except to the extent that it is materially prejudiced by such delay.
- (b) The Indemnifying Party shall diligently, competently and in good faith control and conduct the defense, with counsel reasonably satisfactory to the Indemnified Person, of any claim as to which the indemnification provided for in Section 10.1 [Seller's Indemnification] or 10.2 [Buyer's Indemnification] applies; *provided however*, that the Indemnifying Party may not settle or compromise any such claim without the Indemnified Person's consent unless the terms of such settlement or compromise unconditionally release the Indemnified Person(s) from any and all liability with respect thereto and do not impose any obligations on any Indemnified Person.
- (c) An Indemnified Person shall have the right, at its option (but not the obligation), to be represented by advisory counsel of its own selection and at its own expense and to monitor the progress and handling of an indemnified claim. An Indemnified Person shall also have the right, at its option (but not the obligation), to assume the defense of any such claim with counsel of its own choosing at its sole cost and expense; *provided however*, that an Indemnified

Person shall have the right to assume the defense of, and to settle or compromise, any such indemnified claim at the Indemnifying Party's expense if: (i) the Indemnifying Party fails to acknowledge, in writing, its responsibility to assume the defense of such claim; (ii) the Indemnifying Party fails to diligently, competently and in good faith control and conduct the defense of such claim with counsel reasonably satisfactory to the Indemnified Person; (iii) there is an apparent conflict of interest between the Indemnifying Party and the Indemnified Person with respect to such claim; or (iv) such Indemnified Person shall have reasonably concluded that there are legal defenses available to it which are different from, additional to, or inconsistent with, those available to the Indemnifying Party.

- (d) The Indemnifying Party's obligations to indemnify, defend and hold each Indemnified Person harmless shall not be reduced or limited by reason of any limitation on the amount or type of damages, compensation or benefits payable by or for the Indemnifying Party or any of its subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 11 FORCE MAJEURE EVENTS

11.1 Excused Performance. Notwithstanding anything in this Agreement to the contrary, a Party shall be excused from performing its obligations under this Agreement (other than the obligation to make payments when due) and shall not be liable for damages due to its failure to perform such obligations during any period that such Party is unable to perform due to a Force Majeure Event; *provided however*, that the Party claiming a Force Majeure Event shall: (a) have the burden of proving the existence and consequences of such Force Majeure Event; and (b) act expeditiously to resume performance. The suspension of performance due to a Force Majeure Event shall be of no greater scope and of no longer duration than is required by the Force Majeure Event.

11.2 Notification. A Party unable to perform under this Agreement due to a Force Majeure Event shall: (a) provide prompt written notice of such Force Majeure Event to the other Party (in no event later than ten (10) days after the Party has knowledge, or should have reasonably known, of the occurrence of the Force Majeure Event), which notice shall include a description of the Force Majeure Event and its effect on performance under this Agreement, and an estimate of the expected duration of such Party's inability to perform due to the Force Majeure Event; and (b) provide prompt notice to the other Party when performance resumes.

11.3 No Extension of Term. In no event will any delay or failure of performance caused by any Force Majeure Event extend this Agreement beyond the Services Term.

11.4 Right to Terminate. In the event that any delay or failure of performance caused by one or more Force Majeure Events continues for an uninterrupted period of 365 days, the Party not claiming the Force Majeure Event may, upon not less than thirty (30) days advance written notice, terminate this Agreement without liability.

ARTICLE 12 EVENTS OF DEFAULT; REMEDIES

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

- (a) the failure to make, when due, any undisputed payment required to be made pursuant to this Agreement if such failure is not remedied within five (5) Business Days after written notice thereof is received;
- (b) any representation or warranty made by such Party herein shall be false in any material respect and shall remain uncured for a period of thirty (30) days after written notice thereof is received; *provided* that if such Party cannot cure the default within thirty (30) days in spite of a diligent, good faith effort to do so, then such Party shall have a longer cure period not to exceed ninety (90) days in the aggregate to effect such cure;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure is not remedied within thirty (30) days after written notice thereof is received; *provided* that if such Party cannot cure the default within thirty (30) days in spite of a diligent, good faith effort to do so, then such Party shall have a longer cure period not to exceed one hundred twenty (120) days in the aggregate to effect such cure;
- (d) such Party becomes Bankrupt;
- (e) such Party assigns this Agreement or any rights, interests or obligations hereunder without the prior written consent of the other Party when such consent is required; and
- (f) any Permit necessary for a Party to be able to perform as contemplated by this Agreement is not received, expires or is revoked or suspended and is not renewed or reinstated within a reasonable period of time following the expiration, revocation or suspension thereof, by reason of the action or inaction of such Party and such expiration, revocation or suspension creates a material adverse impact on the other Party.

12.2 Additional Seller Events of Default. Any of the following events shall constitute an Event of Default of Seller:

- (a) the failure by Seller to deliver to Buyer in accordance with this Agreement any Products required to be delivered hereunder or the delivery or sale of any such Products to any Person other than Buyer if not expressly permitted under this Agreement;
- (b) PJM or any other RTO shall have declared such Party to be in default of any provision of such RTO's agreements or procedures if such default is not remedied within thirty (30) days after the declaration is made;
- (c) the failure by Seller to provide a Letter of Credit or Guaranty as required by Article 16 [Security];
- (d) the failure by Seller to comply with Section 6.7 [PJM Membership] or 6.8 [Market-Based Rate Authority] if such failure is not remedied as soon as practicable after Seller becomes aware of such failure;
- (e) except as permitted by Section 17.10 [Assignment], the transfer by Seller of all or substantially all of its assets to another Person without the prior written consent of Buyer; and
- (f) the failure by Seller to satisfy the requirements of Section 6.13 [Mechanical Availability Percentage].

12.3 General Remedies. If an Event of Default has occurred and is continuing with respect to a Defaulting Party, the other Party (the "Non-Defaulting Party") shall have the right to: (a) suspend performance under this Agreement; and/or (b) exercise any remedies available at law or in equity, including termination of this Agreement. Without limiting the generality of the foregoing, upon a Seller Event of Default, Buyer shall have the right to exercise its remedies under any Letter of Credit or the Guaranty.

12.4 Delay Damages. In the event the Initial Delivery Date does not occur on or prior to the Guaranteed Initial Delivery Date, for each day beginning with the day after the Guaranteed Initial Delivery Date through and including the date on which the Initial Delivery Date occurs, Buyer's exclusive remedy shall be payment by Seller of liquidated damages in the amount of \$0.20 per kW of Buyer's Percentage of the Facility Nameplate Rating per day ("Delay Damages"); *provided however*, that Seller's liability for Delay Damages shall not exceed \$66.00 per kW of Buyer's Percentage of Facility Nameplate Rating ("Maximum Delay Damages"). In the event the Initial Delivery Date does not occur within 365 days of the Guaranteed Initial Delivery Date, Buyer shall have the right to terminate this Agreement without liability. The Parties acknowledge and agree that: (a) calculation of actual damages that Buyer would suffer as a result of a delay in the Initial Delivery Date would be difficult or impossible to ascertain; (b) obtaining an adequate remedy may be difficult; and (c) the amount of Delay Damages constitutes a

fair and reasonable approximation of the damages Buyer will incur as a result of delay in the Initial Delivery Date and is not intended as, nor shall it be deemed, a penalty. The rights set forth pursuant to this Section 12.4 shall be Buyer's exclusive remedy for Seller's delay in achieving the Guaranteed Initial Delivery Date.

12.5 Damages on Termination.

- (a) Upon a termination of this Agreement by Buyer based on a Seller Event of Default, Buyer shall be entitled to recover the net present value of: (a) the replacement cost of Energy supplied from a wind energy generating resource less the cost of Energy that Buyer would have incurred at the Energy Payment Rate; plus (b) the replacement cost of Environmental Attributes less the cost of Environmental Attributes that Buyer would have incurred at the REC Payment Rate, in each case assuming the Facility produced Energy at twenty percent (20%) of the Facility Nameplate Rating during all hours of the Services Term (or the remainder thereof); *provided however*, that for any termination of this Agreement prior to the Initial Delivery Date based on a Seller Event of Default after which Seller permanently ceases development or operation of the Facility, Seller's liability shall be limited to the amount of its posted security pursuant to Sections 14.1(a) and (b).
- (b) Upon a termination of this Agreement by Seller based on a Buyer Event of Default, Seller shall be entitled to recover the net present value of: (a) the price of Energy at the Energy Payment Rate less the market price of Energy supplied from a wind energy generating resource; plus (b) the price of Environmental Attributes at the REC Payment Rate less the market price of Environmental Attributes, in each case assuming the Facility produced Energy at twenty percent (20%) of the Facility Nameplate Rating during all hours of the Services Term (or the remainder thereof) under a long-term contract for the Services Term (or the remainder thereof).
- (c) The Parties acknowledge and agree that: (i) Energy supplied from a wind energy generating resource has an inherent value greater than the value of other forms of Energy; (ii) the inherent value of Energy supplied from a wind energy generating resource is a primary reason Buyer is entering into this Agreement; (iii) in the event of termination of this Agreement based on a Seller Event of Default, Buyer will likely be required to replace the Energy that would have been provided hereunder with Energy supplied from another wind energy generating resource; (iv) in the event of termination of this Agreement by Seller based on a Buyer Event of Default, Seller will likely sell the Energy that would have been sold hereunder to a Party seeking Energy supplied from a wind energy generating resource; and (v) the formulations of damages

described in this Section 12.5 are fair and reasonable approximations of the damages each Party would incur upon a termination based on an Event of Default and are not intended to be, nor should they be interpreted to result in, a penalty.

12.6 Cumulative Remedies. The remedies provided for in this Article 12 shall be without prejudice and in addition to any right of set-off, combination of accounts, Lien or other right to which any Party is at any time otherwise entitled (whether by operation of Law, contract or otherwise).

12.7 Facility Lender's Right to Cure. In connection with any financing or refinancing of the Facility by Seller, Buyer shall use good faith efforts to work with Seller and the Facility Lender to agree upon a Financing Assignment of this Agreement, including with respect to: (i) Buyer's notice of any Seller Event of Default to such Facility Lender; and (ii) Buyer's acceptance of a cure of any Seller Event of Default by the Facility Lender, so long as the cure is accomplished within the applicable cure periods set forth in this Agreement or the Financing Assignment.

12.8 Exclusion of Consequential Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE, PROVIDED THAT THE FOREGOING EXCLUSION SHALL NOT PRECLUDE RECOVERY BY A PARTY OF ANY LIQUIDATED DAMAGES EXPRESSLY PROVIDED HEREIN, NOR SHALL IT BE CONSTRUED TO LIMIT RECOVERY BY AN INDEMNIFIED PERSON UNDER ANY INDEMNITY PROVISION IN RESPECT OF A THIRD PARTY CLAIM OR WITH RESPECT TO THE GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT OF A PARTY.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Informal Dispute Resolution. Before initiating legal action pursuant to Section 13.2 [Formal Dispute Resolution], a Party aggrieved by a dispute hereunder shall provide written notice to the other Party setting forth the nature of the dispute, the amount involved, if any, and the remedies sought. The Parties shall use good faith and reasonable commercial efforts to informally resolve such dispute. Such efforts shall last for a period of at least thirty (30) days from the date that the notice of the dispute is first delivered from one Party to the other Party. Any amounts determined to be owed as a result of informal dispute resolution pursuant to this Section 13.1 shall be paid within three (3) Business Days of such resolution.

13.2 Formal Dispute Resolution. After the requirements of Section 13.1 [Informal Dispute Resolution] have been satisfied, either Party may initiate legal action in accordance with Sections 17.11 [Governing Law] and 17.12 [Jurisdiction and Venue].

**ARTICLE 14
SECURITY**

14.1 Letters of Credit.

- (a) No later than three (3) Business Days after the Effective Date, Seller shall deliver to Buyer a Letter of Credit in the amount of \$16.50 per kW of Buyer's Percentage of the Facility Nameplate Rating, which Letter of Credit in such required amount shall remain in full force and effect until: (i) Seller provides to Buyer a Letter of Credit pursuant to Section 14.1(b); or (ii) termination of this Agreement and satisfaction of all of Seller's obligations and liabilities hereunder.
- (b) No later than three (3) Business Days after PSC Approval, Seller shall deliver to Buyer a Letter of Credit in the amount of \$33.00 per kW of Buyer's Percentage of the Facility Nameplate Rating, which Letter of Credit in such required amount shall remain in full force and effect until: (i) Seller provides to Buyer a Letter of Credit pursuant to Section 14.1(c); or (ii) termination of this Agreement and satisfaction of all of Seller's obligations and liabilities hereunder. Simultaneous with the receipt of a Letter of Credit pursuant to this Section 14.1(b), Buyer shall return to Seller the Letter of Credit provided pursuant to Section 14.1(a).
- (c) Prior to the Initial Delivery Date, Seller shall deliver to Buyer a Letter of Credit (the "Services Term Letter of Credit") which, subject to Sections 14.2 [Seller Credit] and 14.3 [Guaranty], shall be, and shall be maintained, in the amount of \$66.00 per kW of Buyer's Percentage of the Facility Nameplate Rating. The Services Term Letter of Credit shall remain in full force and effect for the duration of the Services Term.
- (d) Each Letter of Credit shall be in the form of Schedule 14.1 (or such other form as may be acceptable to Buyer) and shall be free and clear of all Liens, security interests (except security interests in favor of Buyer), claims and encumbrances.
- (e) Seller shall renew or replace each Letter of Credit required pursuant to this Section 14.1: (i) no later than thirty (30) days prior to the stated expiration date of such Letter of Credit; (ii) within five (5) Business Days of the issuer of such Letter of Credit ceasing to be a Qualified Institution; and (iii) within three (3) Business Days of the issuer of such Letter of Credit failing to honor Buyer's request to draw on such Letter of Credit. If Buyer does not receive a replacement Letter of Credit within the time specified in the preceding sentence, it may: (A) draw on the full

available amount of such Letter of Credit; (B) hold the proceeds thereof in an interest bearing account; and (C) apply all or any portion of such proceeds to satisfy any obligation or liability of Seller under this Agreement (whether or not this Agreement has been terminated).

- (f) All costs and expenses of establishing, renewing, substituting, canceling, increasing, reducing or otherwise administering any Letter of Credit shall be borne by Seller.
- (g) Buyer shall be entitled to draw on any Letter of Credit to satisfy any obligation or liability of Seller arising pursuant to this Agreement (whether or not this Agreement has been terminated) that is not paid when due.
- (h) In the event Buyer draws on any Letter of Credit to fulfill any of Seller's obligations under this Agreement, Seller shall promptly, and in any event within three (3) Business Days of such draw, replenish the amount of such Letter of Credit to the level required pursuant to this Section 14.1.

14.2 Seller Credit. Notwithstanding Section 14.1(c) [Letters of Credit], for any period of the Services Term during which Seller is a Qualified Seller, the amount of the Services Term Letter of Credit shall be reduced by Seller's then-current Unsecured Credit Amount.

14.3 Guaranty. Notwithstanding Section 14.1(c) [Letters of Credit] for any period of the Services Term during which Seller provides a Guaranty, the amount of the Services Term Letter of Credit shall be reduced by Guarantor's then-current Unsecured Credit Amount.

14.4 Supporting Information. For any period of the Services Term for which the amount of the Letter of Credit has been reduced pursuant to Section 14.2 [Seller Credit] or 14.3 [Guaranty]: (a) Seller shall notify Buyer of any change to the Credit Rating of Seller or Guarantor, as applicable, no later than two (2) Business Days after the date of such change; (b) Seller shall provide Buyer with written financial information regarding Seller or Guarantor, as applicable, to determine their Tangible Net Worth, including audited annual reports, balance sheets, financial statements and quarterly balance sheets (each prepared in accordance with GAAP) and schedules of long term debt (including maturity dates).

14.5 Release of Security. Buyer shall return all Letters of Credit and Guaranties promptly after the first to occur of the following: (a) the Services Term shall have expired; or (b) this Agreement shall have terminated and all obligations and liabilities of Seller arising pursuant to this Agreement, including payments due at, or as a result of, such termination shall have been paid in full.

14.6 No Limit of Liability. Except to the extent expressly stated in this Agreement, neither the required amounts of any Letters of Credit nor the Unsecured Credit Amount shall be deemed to be a limitation of Seller's liability.

ARTICLE 15
REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties. Each Party hereby represents and warrants to the other Party as of the Effective Date that:

- (a) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and is qualified to transact business in each jurisdiction in which its operations or the ownership of its properties require it to be qualified;
- (b) it has all Permits necessary for it to legally perform its obligations under this Agreement except: (i) in the case of Buyer, PSC Approval; and (ii) in the case of Seller, those Permits identified on Schedule 15.1, each of which Seller anticipates will be obtained by Seller in the ordinary course of its development and construction of the Facility;
- (c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents, any contracts to which it is a party or any Law, rule, regulation or order applicable to it, the violation of which could reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Agreement;
- (d) it has full power and authority to carry on its business as now conducted and to enter into, and carry out its obligations under, this Agreement;
- (e) the execution and delivery of this Agreement and performance or compliance with any provision hereof will not result in the creation or imposition of any Lien upon its properties (except as expressly contemplated in favor of Buyer pursuant to this Agreement), the creation or imposition of which could reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Agreement;
- (f) this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency or other similar laws relating to or affecting the enforcement of creditors' rights generally and

general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity;

- (g) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (h) except as set forth on Schedule 15.1(h), there are no pending, or to its knowledge threatened, actions, suits or proceedings against it or any of its Affiliates before any court or Governmental Authority that could reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement;
- (i) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance will occur as a result of its entering into or performing its obligations under this Agreement; and
- (j) it is not relying upon the advice or recommendations of the other Party in entering into this Agreement, it is capable of understanding, understands and accepts the terms, conditions and risks of this Agreement and its rights and obligations hereunder, and the other Party is not acting as a fiduciary for or advisor to it in respect of this Agreement.

15.2 Disclaimer of Implied Warranties. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, THERE ARE NO WARRANTIES OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

ARTICLE 16 CONFIDENTIALITY

16.1 Non-Disclosure of Confidential Information. Neither Party (a “Receiving Party”) shall disclose any Confidential Information of the other Party (the “Disclosing Party”) obtained pursuant to, or in connection with, the execution or performance of this Agreement to any Person other than an officer, director, employee, agent, lender, equity investor, representative or consultant of the Receiving Party without the express prior written consent of the Disclosing Party.

16.2 Designation of Confidential Information. A Party seeking to classify any material as Confidential Information must specifically designate such material as confidential prior to disclosing it to the Receiving Party. A Disclosing Party may not seek confidential treatment of any material unless such material was designated as confidential at the time of disclosure to the Receiving Party.

16.3 Disclosure to Delaware PSC. The Parties acknowledge and understand that all or portions of this Agreement may be made public by the Delaware PSC in connection with the Delaware PSC's review of this Agreement. The Parties shall use reasonable efforts in cooperation with each other to seek confidential treatment of any portion of this Agreement, consistent with the provisions of this Article 16.

16.4 Other Permitted Disclosures. Notwithstanding Section 16.1 [Non-Disclosure of Confidential Information], either Party may:

- (a) produce Confidential Information in response to a subpoena, discovery request or other compulsory process issued by a Governmental Authority upon reasonable prior notice to the Disclosing Party; *provided however*, that prior to such disclosure, the Receiving Party must use reasonable efforts in cooperation with the Disclosing Party to seek confidential treatment of such Confidential Information;
- (b) disclose whatever information FERC requires it to disclose in connection with the filing of quarterly or annual reports and may make such disclosure without notification to the Disclosing Party; and/or
- (c) disclose Confidential Information to its Affiliates and their officers, directors, employees, agents, lenders, equity investors, representatives and consultants; *provided however*, that such Affiliates, officers, directors, employees, agents, lenders, equity investors, representatives and consultants must be bound by the confidentiality obligations set forth in this Article 16; *and provided further*, that in no event shall a document or information be disclosed in violation of the FERC Code of Conduct or Standards of Conduct requirements.

16.5 Audits. Any independent auditor performing an audit on behalf of a Party pursuant to Section 17.7 [Audit] shall be required to execute a confidentiality agreement with the Party being audited requiring that any Confidential Information disclosed in connection with such audit be treated as confidential pursuant to this Article 16.

16.6 Equitable Relief. The Parties agree that monetary damages may be inadequate to compensate a Disclosing Party for a Receiving Party's breach of its obligations under this Article 16. Each Receiving Party accordingly agrees that a Disclosing Party shall be entitled to equitable relief, by way of injunction or otherwise, if the Receiving Party breaches or threatens to breach its obligations under this Article 16, which equitable relief shall be granted without bond or proof of damages, and the Receiving Party shall not plead in defense that there would be an adequate remedy at law.

16.7 Survival. The confidentiality provisions of this Article 16 shall survive any termination of this Agreement for a period of three (3) years.

**ARTICLE 17
MISCELLANEOUS**

17.1 Notices. Whenever this Agreement requires or permits delivery of a notice or requires a Party to notify the other Party, all notices, requests, statements or payments shall be made to the Parties using the contact information set out in Schedule 17.1, as updated from time to time by each Party by providing written notice to the other Party. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the Business Day during which the notice is sent by facsimile (and confirmed) or hand delivered. Notice by overnight mail or courier shall be deemed to have been received upon delivery as evidenced by the delivery receipt.

17.2 Joint Preparation. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, negotiation or drafting hereof.

17.3 No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any Person not a Party to this Agreement. This Agreement shall not impart any rights enforceable by any Person other than a Party or a permitted successor or assignee thereof.

17.4 Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

17.5 Headings. The headings used in this Agreement are for convenience and reference purposes only and shall have no bearing on the interpretation hereof.

17.6 Records. Each Party shall keep and maintain all books and records as may be necessary or useful in performing or verifying any calculations made pursuant to this Agreement or in verifying such Party's performance hereunder, including operating logs, Facility output data, meter readings and financial records, all in accordance with Good Utility Practice. Each Party shall provide such books and records to the other Party within fifteen (15) days of a written request for such information. All records shall be retained by each Party for at least three (3) years following the year in which such records were created.

17.7 Audit. Each Party shall have the right, on at least three (3) Business Days prior written notice, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement, including records necessary to verify that Buyer has received and is receiving Buyer's Percentage of Products produced by the Facility. If any such examination reveals any inaccuracy in any Invoice, the necessary adjustments in such Invoice and the payments thereof will be made

in accordance with Sections 8.1 [Price for Energy], 8.2 [Price for Environmental Attributes] and 8.7 [Billing Disputes].

17.8 Successors. This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

17.9 No Dedication. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's property or any portion thereof to the other Party or the public, nor affect the status of Buyer as an independent public utility corporation or Seller as an independent Person.

17.10 Assignment.

- (a) Neither Party shall assign this Agreement or delegate its rights or obligations hereunder without the prior written consent of the other Party; *provided however*, that without the consent of the other Party:
 - (i) a Party may transfer, sell, pledge, encumber or assign this Agreement or any accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; and
 - (ii) a Party may transfer or assign this Agreement to any Person whose creditworthiness is equal to or higher than that of the transferring Party; *provided however*, that in the case of an assignment by Seller the assignee must also own the Facility.
- (b) Any consent required by Section 17.10(a) shall not be unreasonably withheld, conditioned or delayed; *provided however*, that neither Party shall be required to consent to any assignment or transfer that would require it to accept any limitation of its rights under this Agreement or expansion of the liability, risks or obligations imposed on it under this Agreement.
- (c) It shall be a condition of any assignment, transfer, delegation or other disposition of this Agreement that: (a) all Letters of Credit and Guaranties required pursuant to Article 14 [Security] shall remain in place in favor of Buyer notwithstanding such assignment, transfer, delegation or disposition; or (b) replacement Letters of Credit and Guaranties in form and substance acceptable to Buyer shall have been provided prior to such assignment, transfer, delegation or disposition.

17.11 Governing Law. This Agreement and the rights and obligations of the Parties shall be governed by and construed, enforced and performed in accordance with

the laws of the State of Delaware, without regard to principles of conflicts of law, or, if and to the extent applicable, federal law.

17.12 Jurisdiction and Venue. Except for matters subject to the exclusive or primary jurisdiction of FERC, the Delaware PSC or the appellate courts having jurisdiction over the Delaware PSC or FERC matters, all disputes hereunder shall be resolved in the federal or state courts of the State of Delaware. Each Party hereby irrevocably submits to the *in personam* jurisdiction of such courts for such purpose. Each Party hereby waives its respective rights to any jury trial with respect to any litigation arising under or in connection with this Agreement.

17.13 Amendments and Future Treatment. Each Party agrees that it will not assert or defend itself on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not be amended, modified, terminated, discharged or supplemented, nor shall any provision hereof be waived, unless mutually agreed, in writing, by the Parties. Furthermore, the Parties expressly agree that no amendment of this Agreement that imposes costs for which Buyer may seek recovery from its ratepayers shall be enforceable absent specific Delaware PSC approval of such amendment and Buyer's right to recover such costs through its rates. The rates, terms and conditions contained in this Agreement are not subject to change under Section 205 or 206 of the Federal Power Act absent the mutual written agreement of the Parties. Absent the agreement of the Parties to the proposed change, the standard of review for any avoidance, breach, rejection, termination or other cessation of performance of, or changes to, any portion of this Agreement over which FERC has jurisdiction, whether proposed by a Party, a non-Party or FERC acting *sua sponte*, shall be the "public interest" standard of review set forth in *United Gas Pipe Line 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), as such standard may be subsequently clarified by the Supreme Court of the United States or inferior courts.

17.14 Modification of PJM Agreements. Notwithstanding Section 1.2(h) [Interpretation]: (a) if the PJM Agreements are amended or modified so that any Schedule or Section reference herein to such agreement is changed, such Schedule or Section reference shall be deemed to automatically (and without any action by the Parties) refer to the new or successive schedule or Section in such PJM Agreement that replaces the provision originally referred to in this Agreement; and (b) if any provision of any of the PJM Agreements referenced herein, or any other PJM rule relating to the implementation of this Agreement, is changed materially from that in effect on the Effective Date, both Parties shall cooperate to make conforming changes to this Agreement to fulfill the purposes of this Agreement; *provided however*, that neither Party shall be obligated to agree to any change that diminishes the benefits of this Agreement to such Party.

17.15 Bankruptcy Considerations. The Parties acknowledge and agree that the standard of review for any proposed avoidance, breach, rejection, termination or other cessation of performance or changes to any portion of this Agreement over which the United States District Court or the United States Bankruptcy Court for the district in

which a proceeding is pending, whether proposed by Seller, Buyer, or a non-Party, shall be the standard of review set forth in *In re Mirant Corp.*, 318 B.R. 100 (N.D. Tex. 2004). Nothing in this Section 17.15 shall adversely affect, in any way, the protections afforded to a non-debtor counterparty under the United States Bankruptcy Code. The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code and that each of Seller and Buyer is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

17.16 Delay and Waiver. Except as otherwise provided in this Agreement, no delay or omission to exercise any right, power or remedy accruing to a Party upon any breach or default by the other Party shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement, and any waiver of any provision or condition of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing.

17.17 Entire Agreement. This Agreement, including the Exhibits and Schedules hereto, embodies the entire agreement and understanding of the Parties in respect of the subject matter hereof. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the matters contemplated by this Agreement.

17.18 Counterparts. This Agreement may be executed in two or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

17.19 Obligation of Good Faith. In carrying out its rights, obligations and duties under this Agreement, each Party shall act reasonably and in accordance with the principles of good faith and fair dealing.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement is executed by the respective Parties on the dates set forth below and shall be effective as of the date first written above.

Seller

Buyer

By: 

By: _____

Name: ROBERT J. WHITE

Name: _____

Title: VICE PRESIDENT

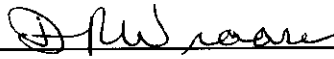
Title: _____

IN WITNESS WHEREOF, this Agreement is executed by the respective Parties on the dates set forth below and shall be effective as of the date first written above.

Seller

Buyer

By: _____

By: 

Name: _____

Name: DENNIS WRAUSE

Title: _____

Title: PRESIDENT & CHIEF EXECUTIVE OFFICER

EXHIBIT A

FACILITY DESCRIPTION

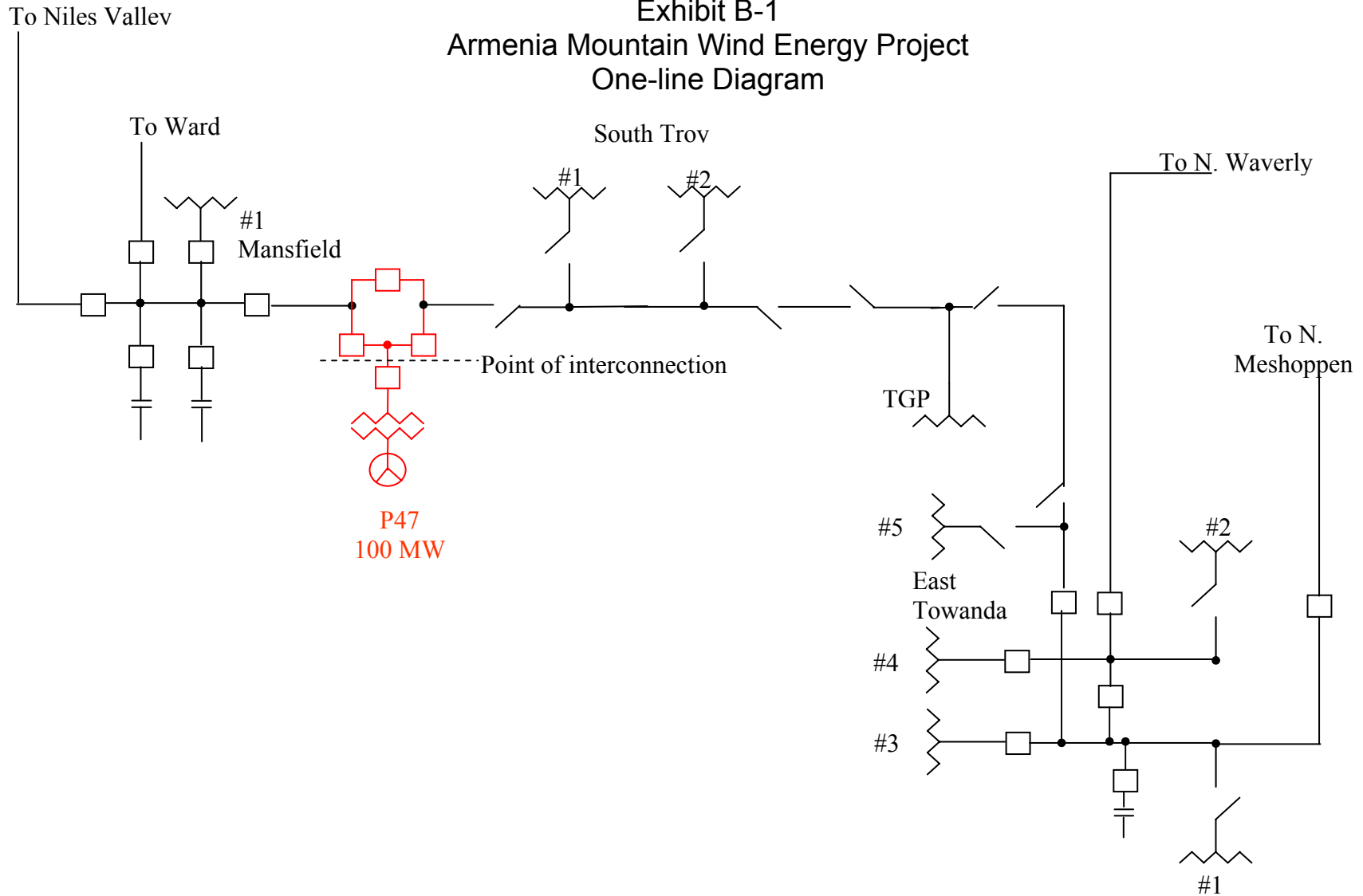
The Facility will be located in north central Pennsylvania in Tioga and Bradford counties (N41° 45.792' W76° 53.267' NAD83). The Facility will consist of 67 GE 1.5sle wind turbines for a nameplate project capacity of 100.5 MW. The project will be interconnecting to the PJM Mansfield – South Troy 115kV transmission line approximately 3 miles from the South Troy substation. The Facility will consist of all necessary components to construct, operate and deliver the Energy to the Delivery Point and to transfer the Environmental Attributes to Seller, including the Units, access roads, collector system, substations, transmission line, O&M building and meteorological towers. The Facility Meter shall be located at the Facility's point of interconnection with PJM's system.

EXHIBIT B

DELIVERY POINT

The Delivery Point will be at the interconnection of the Facility to the PJM Mansfield – South Troy 115kV transmission line which will be approximately 3 miles from the South Troy substation (see one-line diagram on Exhibit B-1). The PJM queue position for this request is P47. Seller shall provide to Buyer the PNODE ID for the Delivery Point when it is assigned by PJM.

Exhibit B-1 Armenia Mountain Wind Energy Project One-line Diagram



SCHEDULE 6.13

MECHANICAL AVAILABILITY PERCENTAGE

The Mechanical Availability Percentage of the Facility shall be calculated as follows:

$$\text{MAP} = 100 * \sum_{\text{(of all Units)}} [(\text{AH} - \text{TOH}) / \text{AH}] * \text{UWP}$$

Where:

- AH = Available Hours
- MAP = Mechanical Availability Percentage
- TOH = Total Outage Hours
- UWP = Unit Weighted Percentage

1. Definitions. For purposes of this Schedule 6.13, the following capitalized terms shall be defined as follows. Capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement.

“Available Hours” means the result of the Total Period Hours less the Force Majeure Event Hours.

“Equivalent Forced Outage Hours” means the total number of equivalent hours in a Period that represents an immediate reduction in output or capacity or removal from service, in whole or in part, of a Unit by reason of an emergency or threatened emergency, unanticipated failure or other cause beyond the control of Seller; *provided however*, that any Force Majeure Event Hours shall not be counted as Equivalent Forced Outage Hours. Neither (a) a reduction in output or removal from service of a Unit or the Facility in response to changes in market conditions nor (b) a reduction by Seller brought about by any Instructed Operation shall constitute Equivalent Forced Outage Hours.

“Equivalent Maintenance Outage Hours” means the total number of equivalent hours in a Period that represents the scheduled removal from service, in whole or in part, of a Unit in order to perform necessary repairs on specific components of the Unit, if removal of the Unit meets PJM’s guidelines.

“Equivalent Planned Outage Hours” means the total number of equivalent hours in a Period that represents the scheduled removal from service, in whole or in part, of a Unit for inspection, maintenance or repair with the approval of PJM’s Office of Interconnection.

“Force Majeure Event Hours” means the total number of hours in a Period during which either Seller or Buyer has declared a Force Majeure Event for one or more Units. Force Majeure Event Hours shall include the hours during which one or more Units is not operating due to a Serial Defect.

“Period” means the immediately preceding period of twenty four (24) consecutive months for which the Mechanical Availability Percentage is being calculated.

“Serial Defect” shall mean a manufacturing, material or design defect of a substantially identical nature that has occurred to fifteen percent (15%) or more of the Units of the Facility.

“Total Period Hours” means the total number of hours in a Period.

“Total Outage Hours” means the sum of Equivalent Forced Outage Hours, Equivalent Maintenance Outage Hours and Equivalent Planned Outage Hours for a Period.

“Unit Weighted Percentage” means, for each Unit, the portion of the Facility Nameplate Rating represented by the nameplate rating of such Unit, expressed as a percentage.

2. Sample Calculations.

SAMPLE CALCULATION A:

Assumptions:

- 1) Facility consists of 60 Units, each with an identical nameplate rating of 1.5 MW
- 2) There are 24 months in the relevant Period (with no leap year)
- 3) There was no Force Majeure Event for the Period
- 4) Each Unit experienced 500 Total Outage Hours during the Period
- 5) Five Units had 1000 additional Total Outage Hours during the Period

For the 55 Units that each experienced 500 Total Outage Hours:

MAP	=	$[(17,520 - 500) / 17,520] * 0.01667$
	=	0.0162 for each Unit
	=	0.891 for all 55 Units

For the five Units that each experienced 1500 Total Outage Hours:

MAP	=	$[(17,520 - 1500) / 17,520] * 0.01667$
	=	0.0152 for each Unit
	=	0.076 for all 5 Units

The Mechanical Availability Percentage equals:

MAP	=	$0.891 + 0.076 \times 100$
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= 96.70 %

SAMPLE CALCULATION B:

Assumptions:

- 1) The Facility consists of 60 Units, 50 of which have nameplate ratings of 1.5 MW and 10 of which have nameplate ratings of 2 MW.
- 2) There are 24 months in the relevant Period (with no leap year).
- 3) There was no Force Majeure Event for the Period.
- 4) Each of the 50 1.5 MW Units experienced 500 hours of Total Outage Hours during the Period.
- 5) Each of the 10 2 MW Units experienced 1,200 Total Outage Hours during the Period.

For the 50 Units that each experienced 500 Total Outage Hours:

MAP = [(17,520 – 500) / 17,520] * 0.016
= 0.0155 for each Unit
= 0.775 for the 50 Units

For the 10 Units that each experienced 1,200 Total Outage Hours:

MAP = [(17,520 – 1,200) / 17,520] * 0.02
= 0.0186 for each Unit
= 0.186 for the 10 Units

The Mechanical Availability Percentage equals:

MAP = 0.775 + 0.186 x 100
= 96.10 %

SCHEDULE 8.1

ENERGY PAYMENT RATE

The Energy Payment Rate shall be \$ 68.00 per MWh of Energy delivered to Buyer at the Delivery Point for the Services Term; *provided* that if the Expansion Option is agreed to by the Parties, the Energy Payment Rate shall be \$ 69.00 per MWh of Energy delivered to Buyer at the Delivery Point during the Services Term. The Energy Payment Rate shall remain fixed for the Services Term.

SCHEDULE 8.2

REC PAYMENT RATE

The REC Payment Rate shall be \$ 24.00 per Renewable Energy Credit transferred to Buyer during the Services Term; *provided* that if the Expansion Option is agreed to by the Parties, the REC Payment Rate shall be \$ 25.00 per Renewable Energy Credit transferred to Buyer during the Services Term. The REC Payment Rate shall remain fixed for the Services Term.

SCHEDULE 14.1

FORM OF LETTER OF CREDIT

Irrevocable Letter of Credit No.: _____

Issue Date: _____

Expiry Date: _____ (the “Expiry Date”)

Beneficiary: Delmarva Power & Light Company (“Beneficiary”)
c/o Pepco Holdings, Inc.
701 Ninth St., N.W.
Washington, D.C. 20068

Amount: US\$ _____

We hereby issue in your favor our Irrevocable Letter of Credit No: _____ (the “Letter of Credit”) for the account of _____ (“Applicant”) for an amount or amounts not to exceed in the aggregate _____ Dollars (US\$ _____) available by your draft(s) at sight on the bank of _____ (“Issuer”) located at _____ [ADDRESS], effective _____ [DATE] and initially expiring at our counters on _____ [DATE] or any automatically extended expiry date, as provided herein (the “Expiry Date”). This Letter of Credit is available in one or more drafts up to the aggregate amount set forth herein.

This Letter of Credit is presentable and payable at our counters and we hereby engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation if accompanied by the required documents pursuant to the terms of this Letter of Credit.

The below mentioned document(s) must be presented on or before the Expiry Date of this Letter of Credit in accordance with the terms and conditions of this Letter of Credit.

- 1. Your signed and dated certification by an authorized officer, reading as follows:

“The amount of this drawing, US\$ [AMOUNT], being made under the bank of _____ [ISSUER NAME] Letter of Credit number _____, represents an amount due and payable to Beneficiary from Applicant or an affiliate of Applicant pursuant to Section _____ of the Renewable Wind Energy Power Purchase Agreement dated as of _____ between Beneficiary and AES Armenia Mountain Wind, LLC.”

- 2. The original of this Letter of Credit, and any amendments.

If presentation of any drawing is made on a Business Day (as herein defined) and such presentation is made on or before 1:00 pm New York time, Issuer shall satisfy such drawing request on the next Business Day. If the drawing is received after 1:00 pm New York time, Issuer will satisfy such drawing request on the second following Business Day.

It is a condition of this Letter of Credit that it will be automatically extended without amendment for one year from the initial expiration date hereof, or any future expiration date occurring thereafter, unless at least ninety (90) days prior to any expiration date we notify you at the above address by registered mail, overnight courier, or hand delivered courier that we elect not to consider this Letter of Credit renewed for any such period.

This Letter of Credit may be terminated upon the earlier of: (a) Issuer's receipt of Beneficiary's written certification that they have received payment in full of all sums owing to Beneficiary under the Renewable Wind Energy Power Purchase Agreement dated _____ between Beneficiary and AES Armenia Mountain Wind, LLC, and that Issuer is subsequently authorized to cancel this Letter of Credit; or (b) Issuer's receipt of a written release from Beneficiary releasing Issuer from its obligations under this Letter of Credit; or (c) the Expiry Date, or any automatically extended expiry date, provided notice has been given as set forth in the immediately preceding paragraph.

The term "Business Day" as used herein means any day other than a Saturday, a Sunday or a day on which banking institutions located in the City of New York are required or authorized by law to be closed.

Applicant's filing of a bankruptcy, receivership or other debtor-relief petition, and/or Applicant's discharge thereunder, shall in no way affect the liability of Issuer under this Letter of Credit and, notwithstanding any such filing by, or on behalf of, Applicant or any resultant discharge thereunder, Issuer shall remain liable to Beneficiary for the full amount of Issuer's obligations herein to Beneficiary, not to exceed the available undrawn amount of this Letter of Credit.

Additional terms and conditions:

1. All commissions and other banking charges will be borne by Applicant.
2. This Letter of Credit may not be transferred or assigned.
3. This Letter of Credit is irrevocable.
4. This Letter of Credit is subject to the International Standby Practices of the International Chamber of Commerce Publication No. 590 ("ISP98") or such later revision(s) of ISP98 as may be hereafter adopted. As to matters not governed by ISP98, this Letter of Credit shall be governed by, and construed in accordance with, the laws of the State of New York, including, to the extent not inconsistent with

ISP98, the Uniform Commercial Code as in effect in the State of New York. This Letter of Credit may not be amended, changed or modified without the express written consent of Beneficiary and Issuer.

5. This Standby Letter of Credit is irrevocable and any rights granted to Beneficiary hereunder cannot be deemed to be waived, modified or revoked prior to its expiration without the prior written consent of Beneficiary.
6. A failure to make any partial drawings at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or our obligation to honor your subsequent demands for payment made in accordance with the terms of this Letter of Credit, as long as the combined amount of all partial drawings does not exceed the aggregate amount of this Letter of Credit.

Authorized Signature:

[NAME AND TITLE]

SCHEDULE 14.2

UNSECURED CREDIT AMOUNT

As of any specified date, the Unsecured Credit Amount for Seller or a Guarantor shall be determined based on the TNW Percentage specified for such Person in the following table. The Credit Rating used to calculate the TNW Percentage and Unsecured Credit Cap for any Person shall be the lowest Credit Rating (S&P, Moody's or Fitch) most recently published for such Person as of a specified date.

Credit Rating			TNW Percentage	Unsecured Credit Cap
S&P	Fitch	Moody's		
AAA to AA-	AAA to AA-	Aaa to Aa3	10%	\$50,000,000
A+ to A-	A+ to A-	A1 to A3	8%	\$40,000,000
BBB+ to BBB	BBB+ to BBB	Baa1 to Baa2	6%	\$30,000,000
BBB-	BBB-	Baa3	4%	\$20,000,000

SCHEDULE 14.3

FORM OF GUARANTY

THIS GUARANTY AGREEMENT (this “Guaranty”) is made and entered into as of this ____ day of _____ 20__, by _____ (the “Guarantor”), with an address at _____, in favor of Delmarva Power & Light Company (“DP&L”) (the “Creditor”), with an address at 701 Ninth Street NW, Washington DC 20068 in consideration of the Renewable Wind Energy Power Purchase Agreement (the “PPA”) between DP&L and AES Armenia Mountain Wind, LLC (the “Supplier”) dated _____. Guarantor is the _____ of Supplier. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the PPA.

Whereas, Supplier and Guarantor are Affiliates, Guarantor will therefore benefit by Supplier entering into the PPA with Creditor and Guarantor desires Creditor to enter into the PPA with Supplier and to extend credit to Supplier thereunder.

1. Guaranty of Obligations.

(a) The Guarantor hereby irrevocably and unconditionally guarantees, with effect from the date hereof, the prompt and complete payment when due of all of Supplier’s payment obligations under the PPA up to a maximum aggregate amount of \$[insert LC amount from section 14] (the “Guaranty Cap”), whether on scheduled payment dates, when due upon demand, upon declaration of termination or otherwise, in accordance with the terms of the PPA and giving effect to any applicable grace period, and all reasonable out-of-pocket costs and expenses incurred by Creditor in the enforcement of the Guarantor’s obligations or collection under this Guaranty, including reasonable attorney’s fees and expenses (collectively, the “Obligations”).

(b) The limitations on liabilities of the Supplier set forth in the PPA shall also apply to the liabilities of the Guarantor hereunder.

2. Nature of Guaranty; Waivers.

(a) This is a guaranty of payment and not of collection and the Creditor shall not be required, as a condition of the Guarantor’s liability, to pursue any rights which may be available to it with respect to any other Person who may be liable for the payment of the Obligations. This is not a performance guaranty and the Guarantor is not obligated to provide power under the PPA or this Guaranty.

(b) This Guaranty is an absolute, unconditional, irrevocable (subject to the provisions of Section 12 of this Guaranty) and continuing guaranty and will remain in full force and effect until all of the Obligations (subject to the Guaranty Cap) have been indefeasibly paid in full, or until the PPA has been terminated, whichever comes later. This Guaranty will not be affected by any surrender, exchange, acceptance, compromise

or release by the Creditor of any other party, or any other guaranty or any security held by it for any of the Obligations, by any failure of the Creditor to take any steps to perfect or maintain its lien or security interest in or to preserve its rights to any security or other collateral for any of the Obligations or any guaranty, or by any irregularity, unenforceability or invalidity of any of the Obligations (other than any irregularity, unenforceability or invalidity of any of the obligations under the PPA resulting from the conduct of the Creditor) or any part thereof.

(c) Except as to any claims, defenses, or rights of set-off of Supplier in respect of its obligations under the PPA, all of which are expressly reserved under this Guaranty, the Guarantor's obligations hereunder shall not be affected, modified or impaired by any counterclaim, set-off, deduction or defense based upon any claim the Guarantor may have against Supplier or the Creditor, including: (i) any change in the corporate existence (including its charter or other governing agreement, Laws, rules, regulations or powers), structure or ownership of Supplier or the Guarantor; (ii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting Supplier or its assets; (iii) the invalidity or unenforceability in whole or in part of the PPA; or (iv) any provision of applicable Law or regulations purporting to prohibit payment by Supplier of amounts to be paid by it under the PPA (other than any Law or regulation that eliminates or nullifies the obligations under the PPA).

(d) Guarantor waives notice of acceptance of this Guaranty, diligence, presentment, notice of dishonor and protest and any requirement that at any time any Person exhaust any right to take any action against Supplier or its assets or any other guarantor or Person, provided, however, that any failure of Creditor to give notice will not discharge, alter or diminish in any way Guarantor's obligations under this Guaranty. The Guarantor waives all defenses based on suretyship or impairment of collateral or any other defenses that would constitute a legal or equitable discharge of Guarantor's obligations, except any claims or defenses of Supplier in respect of its obligations under the PPA.

(e) The Creditor at any time and from time to time, without notice to or the consent of the Guarantor, and without impairing or releasing, discharging or modifying the Guarantor's liabilities hereunder, may (i) to the extent permitted by the PPA, change the manner, place, time or terms of payment or performance of, or other terms relating to, any of the Obligations; (ii) to the extent permitted by the PPA, renew, substitute, modify, amend or alter, or grant consents or waivers relating to any of the Obligations, or any other guaranties for any Obligations; (iii) settle, compromise or deal with any other Person, including Supplier, with respect to any Obligations in such manner as the Creditor deems appropriate in its sole discretion; (iv) substitute, exchange or release any security provided pursuant to the PPA; or (v) take such actions and exercise such remedies hereunder as Creditor deems appropriate.

3. Representations and Warranties. The Guarantor hereby represents and warrants that:

(a) it is a _____, duly organized, validly existing and in good standing under the Laws of the jurisdiction of its [formation, organization, incorporation] and has the power and authority to conduct the business in which it is currently engaged and enter into and perform its obligations under this Guaranty;

(b) it has the power and authority and the legal right to execute and deliver, and to perform its obligations under, this Guaranty, and has taken all necessary actions to authorize its execution, delivery and performance of this Guaranty;

(c) this Guaranty constitutes a legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms, except as affected by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar Laws relating to or affecting the enforcement of creditors' rights generally, general equitable principles and an implied covenant of good faith and fair dealing;

(d) the execution, delivery and performance of this Guaranty will not violate any provision of any requirement of Law or contractual obligation of the Guarantor (except to the extent that any such violation would not reasonably be expected to have a material adverse effect on the Guarantor or this Guaranty);

(e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority and no consent of any other Person (including, without limitation, any stockholder, member, equity holder or creditor of the Guarantor) is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty, other than any which have been obtained or made prior to the date hereof and remain in full force and effect; and

(f) no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Guarantor, threatened by or against the Guarantor that would have a material adverse effect on this Guaranty.

4. Repayments or Recovery from the Creditor. If any demand is made at any time upon the Creditor for the repayment or recovery of any amount received by it in payment or on account of any of the Obligations, including but not limited to upon the bankruptcy, insolvency, dissolution or reorganization of the Supplier, and if the Creditor repays all or any part of such amount by reason of any judgment, decree or order of any court or administrative body or by reason of any settlement or compromise of any such demand, the Guarantor (subject to Sections 2 (c) and (d) of this Guaranty) will be and

remain liable hereunder for the amount so repaid or recovered to the same extent as if such amount had never been received originally by the Creditor. The provisions of this Section will be and remain effective notwithstanding any contrary action which may have been taken by the Guarantor in reliance upon such payment, and any such contrary action so taken will be without prejudice to the Creditor's rights hereunder and will be deemed to have been conditioned upon such payment having become final and irrevocable.

5. Enforceability of Obligations. No modification, limitation or discharge of the Obligations of Supplier arising out of or by virtue of any bankruptcy, reorganization or similar proceeding for relief of debtors under federal or state Law will affect, modify, limit or discharge the Guarantor's liability in any manner whatsoever and this Guaranty will remain and continue in full force and effect and will be enforceable against the Guarantor to the same extent and with the same force and effect as if any such proceeding had not been instituted. The Guarantor waives all rights and benefits which might accrue to it by reason of any such proceeding and will be liable to the full extent hereunder, irrespective of any modification, limitation or discharge of the liability of Supplier that may result from any such proceeding.

6. Subrogation. Guarantor will not exercise any rights which it may acquire by way of subrogation under this Guaranty by any payment made hereunder or otherwise, until all the Obligations guaranteed hereunder have been paid in full or otherwise satisfied. If any amount shall be paid to Guarantor on account of such subrogation rights at any time when all the Obligations guaranteed hereunder shall not have been paid in full or otherwise such amount shall be held in trust for the benefit of the Creditor and shall forthwith be paid to the Creditor to be credited and applied to the Obligations.

7. Notices. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt. Such notices and other communications may be hand-delivered, sent by facsimile transmission with confirmation of delivery and a copy sent by first-class mail, or sent by nationally recognized overnight courier service, to the addresses for the Creditor and the Guarantor set forth below or to such other address as one may give to the other in writing for such purpose:

All communications to Creditor shall be directed to:

Attn:

Phone:

Fax:

With a copy to:

or such other address as the Creditor shall from time to time specify to Guarantor.

All communications to Guarantor shall be directed to:

Attn:

Phone:

Fax:

With a copy to:

or such other address as the Guarantor shall from time to time specify to Creditor.

8. Preservation of Rights. Except as provided by any applicable statute of limitations, no delay or omission on the Creditor's part to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power, nor will the Creditor's action or inaction impair any such right or power.

9. Illegality. In case any one or more of the provisions contained in this Guaranty should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

10. Amendments. No modification, amendment or waiver of any provision of this Guaranty nor consent to any departure by the Guarantor therefrom, will be effective unless made in a writing signed by the Creditor, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Guarantor in any case will entitle the Guarantor to any other or further notice or demand in the same, similar or other circumstance.

11. Entire Agreement. This Guaranty (including the documents and instruments referred to herein) constitutes the entire agreement between the parties hereto and supersedes all other prior agreements and understandings, both written and oral, between the Guarantor and the Creditor with respect to the subject matter hereof.

12. Successors and Assigns. This Guaranty will be binding upon and inure to the benefit of the Guarantor and the Creditor and their respective successors and permitted assigns. Neither party may assign this Guaranty in whole or in part without the other's prior written consent, which consent will not be unreasonably withheld or delayed, except that: (i) Creditor may at any time assign this Guaranty without Guarantor's consent, in the same manner, on the same terms and to the same Persons as Creditor assigns the PPA in accordance with Section 17.10 of the PPA.

13. Interpretation. In this Guaranty, unless the Creditor and the Guarantor otherwise agree in writing, the singular includes the plural and the plural the singular; references to statutes are to be construed as including all statutory provisions

consolidating, amending or replacing the statute referred to; the word “or” shall be deemed to include “and/or”, the words “including”, “includes” and “include” shall be deemed to be followed by the words “without limitation”; and references to sections or exhibits are to those of this Guaranty unless otherwise indicated. Section headings in this Guaranty are included for convenience of reference only and shall not constitute a part of this Guaranty for any other purpose.

14. Governing Law.

(a) This Guaranty has been delivered to and accepted by the Creditor. THIS GUARANTY WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE CREDITOR AND THE GUARANTOR DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, EXCLUDING ITS CONFLICT OF LAWS RULES.

(b) The Guarantor hereby irrevocably consents to the non-exclusive jurisdiction of any federal court in the State of New York, but in the event that the Guarantor and the Creditor determine in good faith that jurisdiction does not lay with such court or that such court refuses to exercise jurisdiction or venue over the Guarantor and the Creditor or any claims made pursuant to this Guaranty, then the Guarantor and the Creditor agree to submit to the non-exclusive jurisdiction of the New York state courts; provided that nothing contained in this Guaranty will prevent the Creditor from bringing any action, enforcing any award or judgment or exercising any rights against the Guarantor individually, against any security or against any property of the Guarantor within any other county, state or other foreign or domestic jurisdiction. The Guarantor and the Creditor acknowledge and agree that the venue provided above is the most convenient forum for both the Creditor and the Guarantor. The Guarantor waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Guaranty.

15. WAIVER OF JURY TRIAL. THE GUARANTOR AND CREDITOR IRREVOCABLY WAIVE ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS GUARANTY, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS GUARANTY OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE GUARANTOR AND CREDITOR ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

16. Term. This Guaranty shall survive termination of the PPA and remain in full force and effect until all amounts due hereunder, including all of the Obligations, have been indefeasibly paid or performed in full.

17. Stay of Acceleration Ineffective with Respect to Guarantor. If acceleration of the time for payment of any amount payable by Supplier under the PPA is stayed upon the insolvency, bankruptcy or reorganization of Supplier, all such amounts otherwise subject to acceleration or required to be paid upon an early termination

pursuant to the terms of the PPA shall nonetheless be payable by the Guarantor hereunder on written demand by Creditor.

The Guarantor acknowledges that it has read and understood all the provisions of this Guaranty, and has been advised by counsel as necessary or appropriate.

[Guarantor]

By: _____
Name:
Title:

SCHEDULE 15.1
SELLER DELAYED PERMITS

Permit	Issuing Agency	Status
Tioga County Local Approval	Tioga County	Conditional Approval; Final Approval expected by September, 2008
Bradford County Local Approval	Bradford County	Conditional Approval; Final Approval expected by September, 2008
NPDES Permit	Tioga and Bradford County Conservation Districts	Application submitted, approval expected by July, 2008
Wetlands Permit	PADEP	Application submitted, approval expected by July, 2008
Historic Architecture Study	PA Historic and Museum Commission	Application submitted, approval expected by June, 2008

SCHEDULE 15.1(h)

DISCLOSURE OF PENDING CLAIMS

- 1) Tioga Preservation Group, Dr. Stephen Ollock, Patricia Ollock v. Tioga County Planning Commission, case no. 40 CU 2008, Court of Common Pleas of Tioga County, Pennsylvania: Land use appeal of the conditional approval of the AES Armenia Mountain Wind, LLC land development application. AES filed a Notice of Intervention which was granted by the court.

SCHEDULE 17.1

NOTICE INFORMATION

Any notices required under this Agreement shall be made as follows (as updated by the Parties from time to time):

<p>Buyer:</p> <p>All Notices:</p> <p>Delmarva Power & Light Company C/O Pepco Holdings, Inc 701 Ninth Street, NW Washington, DC 20068 Attn: Peter E. Schaub, General Manager Energy Supply Facsimile: 202-872-3350 Duns: 427468903 Federal Tax ID Number: 51-0084283</p> <p>Invoices:</p> <p>Attn: Robert J. Reuter, Bulk Power Consultant Phone: 202-331-6511 Facsimile: 202-872-3350</p> <p>With additional Notices of an Event of Default to:</p> <p>Pepco Holdings, Inc. Attn: General Counsel 701 Ninth St., N.W. Washington, D.C. 20068 202-872-2890 (phone) 202-331-6767</p>	<p>Seller:</p> <p>All Notices:</p> <p>AES Armenia Mountain Wind, LLC 4300 Wilson Boulevard Arlington, VA 22203 Attn: Robert White, Vice President Facsimile: 703-528-4510 Duns: 043857812 Federal Tax ID Number: 54-1163725</p> <p>Invoices:</p> <p>Attn: Robert J. White, Vice President Phone: 703-682-6500 Facsimile: 703-528-4510</p> <p>Electronic Funds Transfer:</p> <p>BNK: Fed-ABA: ACH-ABA ACCT Name: ACCT No:</p> <p>With additional Notices of an Event of Default to:</p> <p>Attn: Wayne Hess Phone: 703-682-6374 Facsimile:</p>
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