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**AGENDA**  
**TOWN COUNCIL OF THE TOWN OF TARBORO, NC**  
**REGULAR MEETING HELD AT 7:00 PM, MONDAY, OCTOBER 9, 2023**  
**IN THE COUNCIL ROOM, TOWN HALL, TARBORO, NC**

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**1. MEETING CALLED TO ORDER BY THE MAYOR**

**PLEASE TURN CELL PHONES OFF**

**2. INVOCATION**

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVAL OF AGENDA BY COUNCIL**

**5. PRESENTATION BY COUNCIL**

- (1) Breast Cancer Awareness Month Proclamation
- (2) Domestic Violence Awareness Month Proclamation
- (3) Medical Assistants Recognition Week Proclamation

**6. REQUESTS AND PETITIONS OF CITIZENS**

(Five minute time limit per person)

**7. MATTERS SCHEDULED FOR PUBLIC HEARING**

Development Agreement Moye-Corp, LLC - This public hearing will be held to adopt a Development Agreement between the Town of Tarboro and Moye-Corp, LLC to redevelop the former Quigless Clinic into a residential development. The project location is adjacent to an area proposed for providing ADA access to Riverfront Park property which is necessary for the construction of a parking lot to serve the development and for use by the public providing public spaces for access to Town trails.

**8. TOWN MANAGERS RECOMMENDATIONS**

**Consent Items**

- (1) Approve minutes of the September 11, 2023 regular meeting.
- (2) Tax Collector's Report
- (3) 2019 Tax Levy Adjustment
- (4) 2020 Tax Levy Adjustment
- (5) 2021 Tax Levy Adjustment
- (6) 2022 Tax Levy Adjustment
- (7) 2023 Tax Levy Adjustment

**Action Items**

- (8) NCEMPA - Amended Full Requirement Power Sales Agreement
- (9) FY2023-2024 Budget Amendment - Re-appropriations from FY2023-2024
- (10) Budget Amendment - Motorola Software Upgrade

- (11) 2022 State and Local Cybersecurity Grant
- (12) NCDOT - Christmas Parade
- (13) NCDOT - New Year's Eve Event
- (14) Appointment for October - Downtown Grant Review Committee
- (15) Appointment for October - Edgecombe County Tourism Development Authority
- (16) Appointment for October - Redevelopment Commission

## **9. OTHER REPORTS**

- A. Town Manager
- B. Town Attorney
- C. Council Members

- (1) Councilman Jenkins - Discussion of Speed Cushion Policy

## **10. ADJOURNMENT**



## PROCLAMATION

### BREAST CANCER AWARENESS MONTH

**W**HEREAS, October is Breast Cancer Awareness Month, an annual campaign to increase awareness about the disease, and to educate all citizens about early detection, risk factors, and treatment; and

**W**HEREAS, breast cancer is the second leading cause of cancer death in women, the National Cancer Institute has estimated that more than 297,790 new cases of invasive breast cancer in women will be diagnosed in the United States in 2023, and about 2,800 new cases expected to be diagnosed in men; and

**W**HEREAS, the average risk of a woman in the United States developing breast cancer sometime in her life is about 13%. This means there is a 1 in 8 chance she will develop breast cancer. This also means there is a 7 in 8 chance she will never have this disease.

**W**HEREAS, in its early stages, breast cancer often has few or no noticeable symptoms, making detection through breast self-examinations and regular mammograms key to successfully managing and treating this disease; and

**W**HEREAS, during this month, we as a community reaffirm our commitment to support breast cancer research and honor the lives lost to this disease; and

**W**HEREAS, this October we recognize breast cancer survivors, those battling the disease along with their families who are there for support and encouragement, and show appreciation to the medical professionals and researchers who are working hard to find a cure.

**N**OW, THEREFORE, I, Tate Mayo, Mayor of The Town of Tarboro, do hereby proclaim October as "Breast Cancer Awareness Month."

Witnessed this 9th day of October, 2023

\_\_\_\_\_, Mayor  
Tate Mayo



## PROCLAMATION

### *Domestic Violence Awareness Month*

October 2023

**W**HEREAS, Domestic Violence Awareness Month (DVAM), observed in October, is a time to recognize victims and raise awareness about the devastating impact of domestic violence; and

**W**HEREAS, October was first declared as National Domestic Violence Awareness Month in 1989, and since has been a time to acknowledge domestic violence survivors and be a voice for its victims; and

**W**HEREAS, domestic violence affects all people regardless of age, sexual orientation, social economic status, gender, race, religion, or nationality. Physical violence is often accompanied by emotionally abusive and controlling behavior often resulting in physical injury, psychological trauma, and even death; and

**W**HEREAS, an average of 20 people are physically abused by intimate partners every minute which equates to more than 10 million abuse victims annually. In addition, every year millions of children are exposed to domestic violence; and

**W**HEREAS, raising public awareness and its impact on individuals, families, and communities by increasing access to quality services such as mental health providers, providing education along with support from outreach programs allows the community to become more aware of available resources and promotes a zero tolerance for violence; and

**W**HEREAS, by working together, we can build a culture where domestic violence is not tolerated and all individuals can be safe, feel respected, and live free from abuse.

**N**OW, THEREFORE, I, Tate Mayo, Mayor of The Town of Tarboro, do declare and proclaim the month of October as "*Domestic Violence Awareness Month*" and hereby urge all citizens to express their support and work collectively to prevent domestic violence.

Witnessed this 9<sup>th</sup> day of October, 2023.

\_\_\_\_\_, Mayor  
**Tate Mayo**





## PROCLAMATION

### MEDICAL ASSISTANTS RECOGNITION WEEK

October 16<sup>th</sup> – October 20<sup>th</sup>, 2023

**W**HEREAS, medical assistants are multi-skilled allied health professionals who perform a wide range of administrative and clinical roles with skill, dedication, and loyalty; and

**W**HEREAS, medical assistants are the central figures in promoting and maintaining cooperative and successful relationships between patients and physicians; and

**W**HEREAS, medical assistants are vital members of the healthcare delivery system; and

**W**HEREAS, medical assistants make a substantial contribution to the quality of health care in the United States.

**N**OW, THEREFORE, I, Tate Mayo, Mayor of the Town of Tarboro, North Carolina do hereby proclaim the week of October 16 - 20, 2023, and every third full week of October as “**Medical Assistants Recognition Week.**”

Witnessed this 9<sup>th</sup> day of October, 2023.

\_\_\_\_\_, Mayor  
Tate Mayo



## **A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT AND THE SALE OF THE TOWN-OWNED PROPERTY TO MOYE-CORP, LLC**

WHEREAS, the Town of Tarboro (the “Town”) owns property at the corner of North Main Street and St Andrew within the town, which lot is a portion of Parcel Identification Number 4738-54-5110; and

WHEREAS, the Town seeks to promote economic growth and development within its jurisdiction; and

WHEREAS, Moye-Corp, LLC has purchased the former Quigless Clinic and intends to redevelop the property for Downtown residential units; and

WHEREAS, the town-owned property immediately adjacent to the building is ideal for parking for the project, including additional public spaces to provide better public access to Riverfront Park via an ongoing Town construction project to build access from St Andrew Street to Riverfront Park; and

WHEREAS, the Town is authorized by N.C.G.S. 158-7.1(b)(4) and N.C.G.S. 160D-1001 to enter into a development agreement for economic development purposes, and by N.C.G.S. 160A-267 to dispose of property by private sale;

NOW, THEREFORE, THE TARBORO TOWN COUNCIL RESOLVES:

Section 1. The manager is authorized to execute on behalf of the Town a deed conveying the Property to Moye-Corp, LLC, subject to the terms of the adopted Development Agreement.

Section 2. Pursuant to N.C.G.S. 160A-267, a copy of this resolution, or a notice summarizing its contents, shall be published once after its adoption, and the sale authorized herein shall not be consummated until at least 10 days after such publication.

Section 3. This resolution shall become effective upon adoption.

## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** is entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_, 2023, (the “Effective Date”), by and between the TOWN OF TARBORO, a municipal corporation organized under the laws of the State of North Carolina, P.O. Box 220, Tarboro, NC 27886 (the “Town”), and MOYE-CORP, LLC, a North Carolina limited liability company, 310 S. Evans Street, Greenville, NC 27834 (the “Developer”) (collectively the “Parties”);

**WITNESSETH:**

**WHEREAS**, the Town adopted a Downtown Area Wide Plan at its regular town council meeting on August 21, 2023, wherein the Town seeks to promote economic growth and development within its jurisdiction, specifically its Central Business District, and promote the social and economic improvement of its citizens; and

**WHEREAS**, the Developer is in the business of acquiring, constructing, managing, marketing, leasing and selling commercial and residential properties; and

**WHEREAS**, the Town owns and maintains River Front Park, a part of the original Town Common lying along the bank of the Tar River and immediately adjacent to the Central Business District, and this park is a critical infrastructure piece to the newly adopted Downtown Area Wide Plan and as such the Town desires to spur further economic growth and development in and around this park, including improved access for its citizens; and

**WHEREAS**, the local economy is expected to grow with the ongoing construction of the multiple new commercial, restaurant and retail businesses within the Town, the new Corning distribution center and the CSX Carolina Connector rail hub all underway in Edgecombe County, near the Town, and the Town is already receiving inquiries for more available residential, commercial and industrial building space; and

**WHEREAS**, the Developer has acquired certain real estate within the Central Business District known as the Quigless Center, formerly the offices of Dr. Milton Quigless, a noted historic site in downtown Tarboro overlooking River Front Park, and Developer intends to privately finance the remodel and renovation of this building and make it available for residential lease but requires additional land for parking and pedestrian access to make the project viable (the “Project”); and

**WHEREAS**, the Town is willing to grant fee title to the curtilage area of the Quigless building and a new parking area (to be surveyed) to Developer, but desires to retain perpetual pedestrian, utility and parking easements (to be surveyed, "Easements") over and through said lands, and Developer is willing to grant those certain pedestrian, parking and utility easements to Town which will all be mutually beneficial; and

**WHEREAS**, the Town, in order to increase its tax base, further develop its Central Business District in accordance with its Downtown Area Wide Plan, to attract new residents, businesses and industries to Town which will offer employment to its citizens, and to further increase the business prospects of the Town, pursuant to N.C.G.S. 158-7.1(b)(4) and N.C.G.S. 160D-1001, et seq., and other authority, the Town has agreed to enter into this Agreement with Developer for the purpose of the Project.

**NOW THEREFORE**, in consideration of the foregoing, the Parties hereto hereby agree as follows:

**1. Survey Required.** Within ninety (90) days after the Effective Date, Developer, at its primary expense, shall cause a survey to be completed by a Registered Land Surveyor of the following:

a. Approximately 14,287 square feet more or less/.33 acre including land in the Tarboro River Front Park just east of the intersection of the southeastern corner of Main Street and St. Andrew Street, lying immediately and adjoining the Quigless Center to the north, east and south for development of the Project; and land lying along the southern right of way line of St. Andrew Street for a proposed asphalt parking lot, which parking lot shall include at least four (4) parking spaces reserved for public use to be maintained by the Developer in perpetuity for public benefit; and

b. Easement - The location of the Town's existing sidewalk and planned pedestrian access and walkway from St. Andrew Street to River Front Park, which Easement may encroach upon the above, including the design and layout of an A.D.A. compliant, graded slope and concrete path, all subject to review and approval by the Manager of the Town of Tarboro as further set forth herein below, which Easement shall be maintained by the Town in perpetuity for public benefit; and

c. Easement – The location of the Town's planned pedestrian staircase on the west side of the Quigless Center adjacent to N. Main Street and connecting to River Front Park, subject to review and approval by the Manager of the Town of Tarboro as further set forth herein below, which Easement shall be maintained by the Town in perpetuity for public benefit; and

d. The location, at least approximated, of all existing utility permits and easements, including above and below ground electrical service and transmission lines, storm water outflow, water and sewer lines and related facilities, natural gas lines, and other similar and related utilities located in the surveyed areas.

Initially, the Town agrees only to pay for the portion of the survey necessary to design, develop and/or incorporate its planned Easements from St. Andrew Street to River Front Park (part c.) and its proportionate share of the cost of design for the four (4) public parking spaces in Lot 2 (part b.).

Upon completion, the Town shall have up to fifteen (15) business days (Monday-Friday) to review and provide comment on the survey plat. If the Town objects to the survey as drawn, Developer and Town agree to share equally the costs of modifying the survey plat, or if necessary, resurveying the land to reach a mutually agreeable description of the Property. Any redrawing or re-surveying shall be completed within thirty (30) days of the Town's objection to the first plat. Any subsequent objection shall follow the same review and plan modification process.

**2. Deed and Land Value.** Within fourteen (14) days of the execution of this Agreement, the parties agree to record a Memorandum of Agreement referencing the Property and Complete Construction deadline date with the Edgecombe County Register of Deeds, along with any other details otherwise required by N.C. General Statute.

Within fourteen (14) days of receipt of a satisfactory survey, the Town shall convey by General Warranty Deed, subject to the terms of this Agreement, the Property to Developer for the purpose of the Project. The value of the Property conveyed shall be determined by multiplying the surveyed acres by \$10,000.00 per acre, or Three Thousand Three Hundred and No/100 Dollars (\$3,300.00), whichever is greater ("Town's Equity"). Town and Developer agree the land is to be conveyed because ownership of the land will be a condition of Developer obtaining sufficient private financing for the Project, and is a condition of Developer's ability to physically access and renovate the building, make it attractive for future tenants, and complete the proposed Project.

Furthermore, if not already reserved by deed conveyances, then within twenty-eight (28) days of receipt of a satisfactory survey, the Town and Developer shall deliver and convey those cross-easements and agreements necessary to convey their respective interests in all new pedestrian walkways, motor vehicle parking lots and utility easements, and confirm existing utility permits and easements as shown on the Survey and as agreed upon for the successful completion of the Project and the Town's Downtown Area Wide Plan.

**3. Construction Plans.** Developer shall present architectural plans or renderings to the Town at its first regularly scheduled Town Council meeting following the availability of plans from the architect and/or engineer. Town Council and Town staff may offer suggestions and comments to improve the plans, which Developer may take into consideration. At minimum, the "Project" shall more specifically consist of the renovation of the Quigless Center into four one-bedroom and one two-bedroom flats or apartments for residential use, and incorporate the existing museum honoring Dr. Milton Quigless with a proposal for making the museum display accessible to the citizens of Tarboro.

**4. Groundbreaking.** Within six (6) months of the deed recordation, Developer shall begin construction of the Project on the Property. "Construction" may include initial site work on the Property.

Town and Developer agree to work together on and share updates on construction timelines for the parking lot and pedestrian walkways and Easements around or through the Project area, which the Town will make its best effort to complete simultaneously with Developer's Project timeline.

Furthermore, Town and Developer agree to work together on and to conduct promotional activities such as a groundbreaking ceremony and other marketing tools or techniques to maximize Project exposure before, during and after construction.

**5. Complete Construction.** Within five (5) years of deed recordation, Developer shall cause construction of the Project to be complete.

**6. Economic Development Incentives.** Developer and Town agree to cooperate in applying for and obtaining any available incentives or grants from Edgecombe County and/or the State of North Carolina and/or the United States government or its agencies to further fund the total project.

**7. Ad valorem Real Property Taxes.** Developer agrees to assume responsibility for all town and county annual ad valorem taxes assessed against the Property, when due and payable, for all property Developer owns or obtains fee simple title, and if acquired then pro-rated from the date of the Deed Transfer to Developer for that tax year.

**8. Remedies.** Upon any breach by Developer under this Agreement, Town may at any time, without waiving or limiting any other right or remedy available to Town, take any or all of the following actions:

(a) perform in Developer's stead any obligation that Developer has failed to perform, and Developer shall reimburse Town promptly for any cost incurred by Town with interest from the date of such expenditure until paid in full at the Default Rate;

(b) if no construction of the Project has begun, then after first providing 30 days written notice and opportunity to cure, terminate Developer's rights and interests under this Agreement by providing written notice of termination to Developer and petition a court of competent jurisdiction for the return of the Property to the Town;

(c) re-enter and take possession of the Premises by any lawful means (with or without terminating this Agreement);

(d) pursue any other legal or equitable remedy including, without limitation, specific performance or declaratory or injunctive relief.

Upon any default by Town under this Agreement, Developer may at any time, pursue any legal or equitable remedy, including without limitation specific performance or declaratory or injunctive relief, but subject only to the Town's right to governmental immunity.

**9. Force Majeure.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, unavailability of materials, failure of power, restrictive change in governmental laws or regulations, riots, insurrections, war, hurricanes, floods or any other cause or contingency beyond the control of the party delayed in performing work or doing acts required under the terms of this Agreement (each an event of "**Force Majeure**"), then performance of such act shall be extended for a period equivalent to the period of such delay.

**10. Mutual Indemnification and Hold Harmless.** Developer agrees to indemnify Town and its officers, staff, employees, independent contractors and agents and hold them harmless from and against all claims, liabilities, damages, losses, costs and expenses, together with all costs and expenses incurred by them in defending any suit or action which may be brought against any of them, including reasonable attorney's fees and expenses, incurred or suffered by any of them and arising, in whole or in part, out of any actual or alleged act or omission of Developer in connection with the Project and/or its use of the Property as set forth in this Agreement and any breach of any agreement or covenant of Developer, or any inaccurate or erroneous warranty or representation of Developer contained herein. In addition, Developer agrees to assume all legal fees and expenses incurred in the defense against such claims and in enforcing this Agreement and to reimburse Town for such fees and expenses incurred by Town.

In the alternative, without waiving any defense of governmental immunity, Town agrees to indemnify Developer and its officers, staff, employees, independent contractors and agents and hold them harmless from and against all claims, liabilities, damages, losses,

costs and expenses, together with all costs and expenses incurred by them in defending any suit or action which may be brought against any of them, including reasonable attorney's fees and expenses, incurred or suffered by any of them and arising, in whole or in part, out of any actual or alleged act or omission of Town in connection with the Project and/or its use of the Property as set forth in this Agreement and any breach of any agreement or covenant of Town, or any inaccurate or erroneous warranty or representation of Town contained herein to the extent permitted by law. In addition, Town agrees to assume all legal fees and expenses incurred in the defense against such claims and in enforcing this Agreement and to reimburse Developer for such fees and expenses incurred by Developer.

**11. No Joint Venture.** It is expressly understood and agreed that Town is not a partner, joint venturer, or associate of Developer in the conduct of either party's business and that the relationship between the parties hereby is and shall remain at all times that of Town, a municipal corporation and local government entity, and Developer, a privately owned limited liability company. No provision of this Agreement shall be construed to impose upon the parties hereto any obligation or restriction not expressly set forth herein.

**12. Modification.** No changes, modifications or amendments of any term shall be valid unless agreed upon by the Parties in writing, unless otherwise stated hereinabove. Any agreement between the Parties purporting to amend a term or condition of this Agreement shall, to be effective, specifically identify that term or condition's Paragraph number, and shall include the Parties' specific intent to amend that term or condition.

**13. Reformation and Severability.** If any provision of this Agreement shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect, impair or invalidate the remainder of this Agreement but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which the decision was rendered. The invalid or unenforceable provision shall be reformed so that each Party shall have the obligation to perform reasonably in the alternative to give the other Party the benefit of its bargain. In the event the invalid or unenforceable provision cannot be reformed, the remaining provisions of this Agreement shall be given full effect, and the invalid or unenforceable provision shall be deemed stricken.

**14. Choice of Words.** The language used in this Agreement shall be deemed to be the language chosen by the Parties to this Agreement to express their mutual intent. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, or neuter, singular or plural as the identity of the person or persons may require.

**15. No Strict Construction.** Neither Party will assert that it did not draft the words used in the Agreement so that any ambiguities are resolved against the Party that drafted the Agreement so that the rule of strict construction will not be applied against either Party to this Agreement.

**16. Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.



**17. Notice.** All notices, demands and requests which may be given or which are required to be given by either Party to the other should be directed to the following personnel:

**Town of Tarboro**

Mr. Troy Lewis, Town Manager  
P.O. Box 220  
Tarboro, NC 27886  
(252) 641-4250

**Moye-Corp, LLC**

Mrs. Staci Streeter-Moye, or  
Mr. Morris J. Moye, Jr., Managers  
PO Box 1704  
Greenville, NC 27835  
(252) 215-1232

**18. Choice of Law and Venue.** This Agreement shall be construed in accordance with the laws of North Carolina without giving effect to the North Carolina conflict of law provisions. The Parties further agree that the location and jurisdiction for any dispute arising under this Agreement shall be proper only in any federal or state court located or having jurisdiction in Edgecombe County, North Carolina.

**19. Signature.** Upon adoption and/or ratification by the Tarboro Town Council, it is agreed and understood that **Troy Lewis**, Town Manager of the Town of Tarboro is authorized to execute this Agreement and all future documents necessary for the Project on behalf of the Town; and, **Staci Streeter-Moye** or **Morris J. Moye, Jr.**, Managers, are authorized to execute this Agreement and all future documents on behalf of Moye-Corp, LLC, the Developer.

**20. Voluntary Signature.** The Parties represent that each has carefully read this Agreement, that they know and understand the contents and consequences thereof, and that they have signed this Agreement voluntarily and with informed consent.

**21. Entire Agreement.** This Agreement, together with its Exhibits, if any, constitutes the entire agreement between the Town and Developer relating to the subject matter hereof. The Parties shall not be bound by or liable for any statement, writing, representation, promise, inducement or understanding not set forth herein or in an Exhibit hereto.

**22. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

*[Signature page follows.]*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in duplicate originals under seal on the date set forth herein below, the last date in time to be the Effective Date hereof.

**TOWN:**

TOWN OF TARBORO

\_\_\_\_\_  
By: Troy Lewis, Town Manager

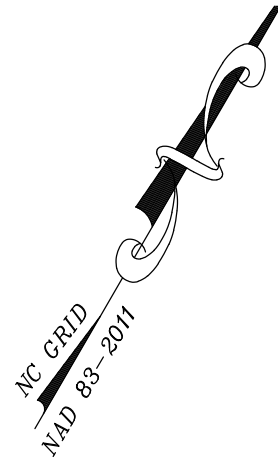
\_\_\_\_\_  
Date

**DEVELOPER:**

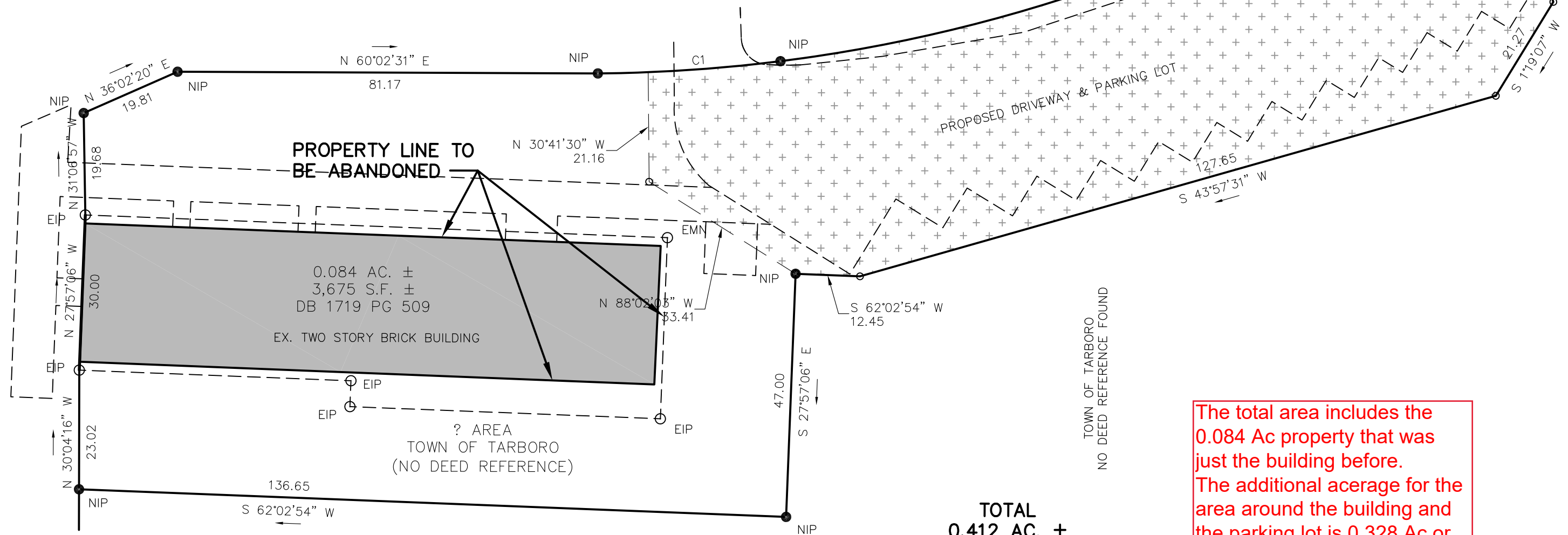
MOYE-CORP, LLC

\_\_\_\_\_  
By: Staci Streeter-Moye, Manager  
OR  
Morris J. Moye, Jr., Manager

\_\_\_\_\_  
Date



ST. ANDREW ST  
PUBLIC RIGHT-OF-WAY VARIES



The total area includes the 0.084 Ac property that was just the building before. The additional acreage for the area around the building and the parking lot is 0.328 Ac or 14,287 sf.

**MINUTES OF A REGULAR MEETING OF THE TOWN COUNCIL OF THE  
TOWN OF TARBORO, HELD AT 7:00 PM ON MONDAY, SEPTEMBER 11, 2023  
IN THE COUNCIL ROOM, TOWN HALL, TARBORO, NORTH CAROLINA**

**MEMBERS PRESENT**

Mayor Mayo  
Councilman Woodard  
Councilman Taylor  
Councilman Burnette  
Councilman Brown  
Councilman Jenkins  
Councilmember Jordan  
Councilmember Bynum  
Councilman Braxton

**MEMBERS ABSENT**

**ALSO PRESENT**

Troy Lewis, Town Manager  
Leslie Lunsford, Town Clerk  
Chad Hinton, Town Attorney

**1. MEETING CALLED TO ORDER BY THE MAYOR**

**2. INVOCATION**

Councilman Taylor.

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVAL OF AGENDA BY COUNCIL**

Action Item 6, Memo 23-56 , DEHC Housing Rehabilitation Contract for Services and the Mayor's Discussion of Committee for Downtown Plan Implementation/Vacant Property Ordinance were both removed from the agenda. The amended agenda was approved. Othar Woodard made a motion, which was seconded by Alfred Braxton and Passed, Motion.

**5. PRESENTATION BY COUNCIL**

**(1) Proclamation to Memorialize 9/11**

The Mayor proclaimed September 11th as PATRIOT DAY and a National Day of Service and Remembrance.

**6. REQUESTS AND PETITIONS OF CITIZENS**

No one spoke.

**7. TOWN MANAGERS RECOMMENDATIONS**

## **Consent Items**

Consent Items approved as presented.

John Jenkins made a motion, which was seconded by Deborah Jordan and Passed, Motion.

- (1) Approve minutes of the August 21, 2023 regular meeting.
- (2) Tax Collector's Report
- (3) 2023 Tax Levy Adjustment

## **Action Items**

### **(4) Property Acquisition - 201 & 211 Water Street**

Council adopted a resolution authorizing the Town Manager to execute the necessary documents to complete the purchase of the properties as well as the budget resolution appropriating funds to pay for the same.

Othar Woodard made a motion, which was seconded by John Jenkins and Passed, Motion.

### **(5) Economic Development - Development Agreement Moye-Corp, LLC**

Council called for and will hold a public hearing on October 9, 2023 to adopt a development agreement between the Town of Tarboro and Moye-Corp, LLC to support economic development within the Town of Tarboro.

Deborah Jordan made a motion, which was seconded by Sabrina Bynum and Passed, Motion.

### **(6) DEHC Housing Rehabilitation Contract for Services**

Removed from the agenda during 4. Approval of Agenda.

### **(7) Special Event - American Heart Association Twin Counties Heart Walk**

Council adopted Ordinance 23-08 requesting approval to close Main Street from Pitt Street to Saint James Street and agree to co-sponsor the Twin Counties Heart Walk on September 30, 2023.

#### **ORDINANCE 23-08**

#### **AN ORDINANCE DECLARING A ROAD CLOSURE FOR A TWIN COUNTIES HEART WALK**

Leo Taylor made a motion, which was seconded by Deborah Jordan and Passed, Motion.

### **(8) NCDOT - Tarboro "Hometown Homecoming" Parade Ordinance**

Council adopted Ordinance 23-09 declaring the closure of N Main Street from Granville Street to Johnston Street for the purpose of holding the 2023 "Hometown Homecoming" parade.

#### **ORDINANCE 23-09**

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A "HOMETOWN  
HOMECOMING" PARADE

John Jenkins made a motion, which was seconded by Deborah Jordan and Passed,  
Motion.

**(9) Appointment for October - Redevelopment Commission**

No action taken at this time.

**(10) Appointment for October - Edgecombe County Tourism Development Authority**

No action taken at this time.

**(11) Appointment for October - Downtown Grant Review Committee**

No action taken at this time.

**8. OTHER REPORTS**

A. Town Manager

No report.

B. Town Attorney

No report.

C. Council Members

Councilman Woodard - none.

Councilman Taylor - asked if speed controls had been considered around Municipal Stadium after a citizens request at a previous meeting. Councilman Taylor also asked for an update on the usage of the new dog park.

Councilman Burnette - none.

Councilman Brown - asked when the billboard on Highway 64 will be updated, Tina Parker stated that it was in progress and would be advertising the new Dog Park.

Councilman Jenkins - asked Council to review the portable speed bump information he distributed as he plans to discuss at the October meeting.

Councilmember Jordan - asked for a update on the splash pad at M.A. Ray Center, should be completed within a month. Councilmember Jordan also asked about the need for additional lighting at the Futsal court at Braswell Park.

Councilmember Bynum - thanked Chief Mann for quick responses.

Councilman Braxton - thanked Town staff for help at the recent Tarboro Food Festival on Sunday, September 10, 2023, including cleaning the vandalized restrooms and shelter at Braswell Park.

**(1) Mayor's Discussion of Committee for Downtown Plan Implementation/Vacant**

## Property Ordinance

Removed from the agenda during 4. Approval of Agenda.

### **9. ADJOURNMENT**

Meeting adjourned.

Alfred Braxton made a motion, which was seconded by Othar Woodard and Passed, Motion.



**Town of Tarboro, North Carolina**  
**General Fund**  
**Schedule of Ad Valorem Taxes Receivable**  
**September 30, 2023**

<b>Fiscal Year</b>	<b>Uncollected Balance August 31, 2023</b>	<b>Additions</b>	<b>Collections and Credits</b>	<b>Uncollected Balance September 30, 2023</b>
2023	\$ 3,630,711	\$ -	\$ 211,176	\$ 3,419,535
2022	90,652		1,694	88,958
2021	38,555		819	37,736
2020	27,027		587	26,440
2019	19,237		1,409	17,828
2018	13,985		-	13,985
2017	9,993		-	9,993
2016	10,340		124	10,216
2015	8,301		-	8,301
2014	6,010		-	6,010
Prior years	26,543		55	26,488
	<u>\$ 3,881,354</u>	<u>\$ -</u>	<u>\$ 215,864</u>	<u>\$ 3,665,490</u>
Less: Allowance for Uncollectible Accounts:				
General Fund				
Ad valorem taxes receivable - net				<u>\$ 3,665,490</u>
Reconciliation with Revenues:				
Ad valorem taxes - General Fund				
Reconciling Items:				
Prior years taxes written off				-
Prior year releases				-
Interest				1,107
Fees				335
Total reconciling items				<u>1,441</u>
Total collections and credits				<u>\$ 216,971</u>



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2019 Tax Levy Adjustment

**Date:** 10/9/2023

**Memo Number:** 23-62

---

The Schedule of 2019 Tax Levy Adjusted as of October 9, 2023, attached hereto, lists the valuation and tax amount of one (1) release. The release has been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Approve 2019 Tax Levy release number 36 in the amount of \$3.06, and
2. Approve the Schedule of 2019 Tax Levy Adjusted as of October 9, 2023, in the amount of \$3,434,349.78.

**ATTACHMENTS:**

Description	Upload Date	Type
2019 Tax Levy Adjustment	10/2/2023	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA  
SCHEDULE OF 2019 TAX LEVY  
Adjusted as of October 9, 2023

**VALUATIONS**

	<u>Real</u>	<u>Personal</u>	<u>Public Service Companies</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance May 8, 2023	583,400,014	210,694,957	39,077,788	0	6,184,072	839,356,831
After list:	0	0	0	0	0	0
Less Releases: 36	0	(678)	0	0	0	(678)
	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Balance as of October 9, 2023	<u><u>583,400,014</u></u>	<u><u>210,694,279</u></u>	<u><u>39,077,788</u></u>	<u><u>0</u></u>	<u><u>6,184,072</u></u>	<u><u>839,356,153</u></u>

**TAX CALCULATIONS**

	<u>Real, Personal, &amp; Pub. Ser. Co.</u>	<u>Late Listing Penalty</u>	<u>Auto Tax</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance May 8, 2023	3,416,007.69	9,091.29	0.00	828.00	8,425.86	3,434,352.84
After list:	0.00	0.00	0.00	0.00	0.00	0.00
Less Releases: 36	(2.78)	(0.28)	0.00	0.00	0.00	(3.06)
	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Balance as of October 9, 2023	<u><u>3,416,004.91</u></u>	<u><u>9,091.01</u></u>	<u><u>0.00</u></u>	<u><u>828.00</u></u>	<u><u>8,425.86</u></u>	<u><u>3,434,349.78</u></u>

**ITEMIZED RELEASES**

Rel. No.	<u>Name/Description</u>	<u>Acct. No.</u>	<u>Real, Personal &amp; Pub. Ser. Co.</u>	<u>Late Listing Penalty</u>	<u>Auto Tax</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
36	Putnam Agency, Inc business sold	3890	2.78	0.28	0.00	0.00	0.00	3.06
			<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
Total Releases			<u><u>2.78</u></u>	<u><u>0.28</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>3.06</u></u>



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2020 Tax Levy Adjustment

**Date:** 10/9/2023

**Memo Number:** 23-63

---

The Schedule of 2020 Tax Levy Adjusted as of October 9, 2023, attached hereto, lists the valuation and tax amount of one (1) release. The release has been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Approve 2019 Tax Levy release number 23 in the amount of \$3.06, and
2. Approve the Schedule of the 2020 Tax Levy Adjusted as of October 9, 2023, in the amount of \$3,504,596.80.

**ATTACHMENTS:**

Description	Upload Date	Type
2020 Tax Levy Adjustment	10/2/2023	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA  
SCHEDULE OF 2020 TAX LEVY  
October 9, 2023

**VALUATIONS**

	Real	Personal	Public Service Companies	Dog Tax	Total
Balance May 8, 2023	584,297,419	227,812,098	39,174,128	0	851,283,645
After list:	0	0	0	0	0
Less Releases: 23	0	(678)	0	0	(678)
	<u>584,297,419</u>	<u>227,811,420</u>	<u>39,174,128</u>	<u>0</u>	<u>851,282,967</u>
Balance as of October 9, 2023	<u>584,297,419</u>	<u>227,811,420</u>	<u>39,174,128</u>	<u>0</u>	<u>851,282,967</u>

**TAX CALCULATIONS**

	Real, Personal, & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Dog Tax	Total
Balance May 8, 2023	3,490,263.70	13,571.16	0.00	765.00	3,504,599.86
After list:	0.00	0.00	0.00	0.00	0.00
Less Releases: 23	(2.78)	(0.28)	0.00	0.00	(3.06)
	<u>3,490,260.92</u>	<u>13,570.88</u>	<u>0.00</u>	<u>765.00</u>	<u>3,504,596.80</u>
Balance as of October 9, 2023	<u>3,490,260.92</u>	<u>13,570.88</u>	<u>0.00</u>	<u>765.00</u>	<u>3,504,596.80</u>

**ITEMIZED RELEASES**

Rel. No.	Name/Description	Acct. No.	Real, Personal & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Dog Tax	Total
23	Putnam Agency, Inc business closed	3890	2.78	0.28	0.00	0.00	3.06
Total Releases			<u>2.78</u>	<u>0.28</u>	<u>0.00</u>	<u>0.00</u>	<u>3.06</u>



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2021 Tax Levy Adjustment

**Date:** 10/9/2023

**Memo Number:** 23-64

---

The Schedule of 2021 Tax Levy Adjusted as of October 9, 2023, attached hereto, lists the valuation and tax amount of one (1) release. The release has been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Approve 2021 Tax Levy release number 14 in the amount of \$3.06, and
2. Approve the Schedule of the 2021 Tax Levy Adjusted as of October 9, 2023, in the amount of \$3,493,403.00.

**ATTACHMENTS:**

Description	Upload Date	Type
2021 Tax Levy Adjustment	10/2/2023	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA  
SCHEDULE OF 2021 TAX LEVY  
October 9, 2023

**VALUATIONS**

	Real	Personal	Public Service Companies	Dog Tax	Total
Balance May 8, 2023	589,171,598	222,278,145	39,242,952	0	850,692,695
After list:	0	0	0	0	0
Less Releases: 14	0	(678)	0	0	(678)
Balance as of October 9, 2023	<u>589,171,598</u>	<u>222,277,467</u>	<u>39,242,952</u>	<u>0</u>	<u>850,692,017</u>

**TAX CALCULATIONS**

	Real, Personal, & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Dog Tax	Total
Balance May 8, 2023	3,487,840.75	5,565.31	0.00	0.00	3,493,406.06
After list:	0.00	0.00	0.00	0.00	0.00
Less Releases: 14	(2.78)	(0.28)	0.00	0.00	(3.06)
Balance as of October 9, 2023	<u>3,487,837.97</u>	<u>5,565.03</u>	<u>0.00</u>	<u>0.00</u>	<u>3,493,403.00</u>

**ITEMIZED RELEASES**

Rel. No.	Name/Description	Acct. No.	Real, Personal & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Dog Tax	Total
14	Putnam Agency, Inc business sold	3890	2.78	0.28	0.00	0.00	3.06
Total Releases			<u>2.78</u>	<u>0.28</u>	<u>0.00</u>	<u>0.00</u>	<u>3.06</u>





## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2022 Tax Levy Adjustment

**Date:** 10/9/2023

**Memo Number:** 23-65

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The Schedule of 2022 Tax Levy Adjusted as of October 9, 2023, attached hereto, lists the valuation and tax amount of two (2) releases. The releases have been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Approve 2022 Tax Levy release numbers 15 & 16 in the amount of \$254.14, and
2. Approve the Schedule of the 2022 Tax Levy Adjusted as of October 9, 2023, in the amount of \$3,605,492.10.

**ATTACHMENTS:**

Description	Upload Date	Type
2022 Tax Levy Adjustment	10/2/2023	Cover Memo

**TOWN OF TARBORO, NORTH CAROLINA**  
**SCHEDULE OF 2022 TAX LEVY**  
October 9, 2023

**VALUATIONS**

	Real	Personal	Public Service Companies	Total
Billing May 8, 2023	601,801,648	232,061,500	42,451,847	876,314,995
After list:	0	0	0	0
Less Release: 15 - 16	(61,239)	(678)	0	(61,917)
	<u>601,740,409</u>	<u>232,060,822</u>	<u>42,451,847</u>	<u>876,253,078</u>
Balance as of October 9, 2023				

**TAX CALCULATIONS**

	Real, Personal, & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Total
Billing May 8, 2023	3,592,892.40	12,853.84	0.00	3,605,746.24
After list:	0.00	0.00	0.00	0.00
Less Release: 15 - 16	(253.86)	(0.28)	0.00	(254.14)
	<u>3,592,638.54</u>	<u>12,853.56</u>	<u>0.00</u>	<u>3,605,492.10</u>
Balance as of October 9, 2023				

**ITEMIZED RELEASES**

Rel. No.	Name/Description	Acct. No.	Real, Personal & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Total
15	Putnam Agency, Inc business sold	3890	2.78	0.28	0.00	3.06
16	Four Seasons Contractors, LLC double listed	13228	251.08	0.00	0.00	251.08
Total Releases			<u>253.86</u>	<u>0.28</u>	<u>0.00</u>	<u>254.14</u>



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2023 Tax Levy Adjustment

**Date:** 10/9/2023

**Memo Number:** 23-66

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The Schedule of 2023 Tax Levy Adjusted as of October 9, 2023, attached hereto, lists the valuation and tax amount of twenty-two (22) afterlists and nine (9) releases. The releases have been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Order the Tax Collector be charged with afterlists 3 through 24 in the amount of \$204,850.64,
2. Approve 2023 Tax Levy release numbers 4 through 12 in the amount of \$4,946.57, and
3. Approve the Schedule of the 2023 Tax Levy Adjusted as of October 9, 2023, in the amount of \$4,083,972.32.

**ATTACHMENTS:**

Description	Upload Date	Type
2023 Tax Levy Adjustment	10/2/2023	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA  
SCHEDULE OF 2023 TAX LEVY  
October 9, 2023

**VALUATIONS**

	Real	Personal	Public Service Companies	Total
Initial Billing September 11,, 2023	622,371,665	220,755,553	0	843,127,218
After list: 3 - 24	0	3,997	44,527,564	44,531,561
Less Releases: 4 - 12	(702,909)	(30,957)	0	(733,866)
Balance as of October 9, 2023	<u>621,668,756</u>	<u>220,728,593</u>	<u>44,527,564</u>	<u>886,924,913</u>

**TAX CALCULATIONS**

	Real, Personal, & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Total
Initial Billing September 11,, 2023	3,878,385.91	5,682.34	0.00	3,884,068.25
After list: 3 - 24	204,843.29	7.35	0.00	204,850.64
Less Releases: 4 - 12	(3,375.78)	(1,570.79)	0.00	(4,946.57)
Balance as of October 9, 2023	<u>4,079,853.42</u>	<u>4,118.90</u>	<u>0.00</u>	<u>4,083,972.32</u>

**ITEMIZED RELEASES**

Rel. No.	Name/Description	Acct. No.	Real, Personal & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Total
4	Jason Hornberger located in Macclesfield	2081	1.38	0.14	0.00	1.52
5	Doris Chapman Allen sold in 2022, listed to new owner	10510	1.38	0.14	0.00	1.52
6	Putnam Agency, Inc sold in 2018	3890	3.12	0.31	0.00	3.43
7	Daniel Leggett Sr trailer sold per DMV	6421	5.78	0.58	0.00	6.36
8	Cardinal Health 200, Inc no assets in county	81	7.44	0.00	0.00	7.44
9	PGP George sold in 2021	224	123.30	0.00	0.00	123.30
10	Madem-Moorecraft Reels USA release penalty, listed on time	3460	0.00	1,569.62	0.00	1,569.62
11	Four Seasons Contractors, LLC double listed	889	281.70	0.00	0.00	281.70
12	Cambridge Commons Townhomes listed on individual properties	12153	2,951.68	0.00	0.00	2,951.68
Total Releases			<u>3,375.78</u>	<u>1,570.79</u>	<u>0.00</u>	<u>4,946.57</u>

**ITEMIZED AFTERLISTS**

Afl. No.	Name/Description	Acct. No.	Real, Personal & Pub. Ser. Co.	Late Listing Penalty	Auto Tax	Total
3	Om Niv, LLC Personal Property		16.50	7.35	0.00	23.85
	Public Service Companies		204,826.79	0.00	0.00	204,826.79
Total Afterlists			<u>204,843.29</u>	<u>7.35</u>	<u>0.00</u>	<u>204,850.64</u>



## ***Town of Tarboro, North Carolina*** ***Mayor and Council Communication***

**Subject:** NCEMPA - Amended Full Requirement Power Sales Agreement

**Date:** 10/9/2023

**Memo Number:** 23-67

---

At the May 25, 2023 meeting of the ElectriCities Board of Directors, upon the recommendation of the North Carolina Eastern Municipal Power Agency and Rate Committee, the Board approved a new Full Requirements Power Purchase Agreement (FRPPA) with Duke Energy Progress for the wholesale purchase of electricity. In order to incorporate the terms of the new agreement and update definitions, it is necessary for each municipality within the North Carolina Eastern Municipal Power Agency to adopt an amended and restated Full Requirement Power Sales Agreement (FRPSA). Staff, having been heavily involved in the process to update the FRPPA, feels that adoption of the amended and restated FRPSA is in the Town's best interest.

It is therefore recommended that Council adopt the attached ordinance approving the amended and restated Full Requirement Power Sales Agreement between the Town of Tarboro and the North Carolina Eastern Municipal Power Agency and authorize appropriate staff and the Town Attorney to execute documentation necessary to implement the same.

### **ATTACHMENTS:**

Description	Upload Date	Type
Ordinance and Documentation	10/4/2023	Cover Memo
Amended FRPSA	10/4/2023	Cover Memo
Amended FRPPA	10/4/2023	Cover Memo

**NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**

**BOARD OF DIRECTORS**

**RESOLUTION BDR-10-23**

**A RESOLUTION AUTHORIZING  
THE EXECUTION AND DELIVERY OF THE  
AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES  
AGREEMENT AND RELATING TO OTHER MATTERS IN CONNECTION  
WITH THE FOREGOING**

**WHEREAS**, by motion properly made and approved at its meeting on May 25, 2023, the Board of Directors of North Carolina Eastern Municipal Power Agency ("Power Agency") approved and authorized the execution of the Tenth Amended and Restated Full Requirements Power Purchase Agreement (the "FRPPA") between Power Agency and Duke Energy Progress, LLC ("DEP"), contingent, however, upon a recommendation by the Rate Committee and approval by the Board of Commissioners of Power Agency; and

**WHEREAS**, by motion properly made and approved at its meeting on June 7, 2023, the Rate Committee recommended that staff execute the FRPPA in the name and on behalf of the Power Agency; and

**WHEREAS**, by motion properly made and approved at its meeting on June 8, 2023, the Board of Commissioners of Power Agency approved and authorized staff to execute the FRPPA in the name and on behalf of the Power Agency; and

**WHEREAS**, Power Agency and DEP executed the FRPPA as of June 27, 2023, with an effective date of January 1, 2023; and

**WHEREAS**, Power Agency and each of its Members has executed a Full Requirements Power Sales Agreement, dated as of April 24, 2015 (the "FRPSA"), pursuant to which Power Agency sells and each Member purchases its Full Requirements Bulk Power Supply requirements (as that term is defined in the FRPSA); and

**WHEREAS**, the FRPPA has amended the definition of certain of the defined terms set forth therein, many of which terms are also defined and/or used in the FRPSA; and

**WHEREAS**, as a result of the foregoing, it is necessary and desirable to amend certain definitions in the FRPSA so that their meanings and use conform to the meanings and use set forth in the FRPPA, as well as to make certain other necessary and desirable amendments thereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF POWER AGENCY:**

1. It is hereby found and determined that it is in the best interests of Power Agency to ratify the approval and execution of the FRPPA between the Power Agency and DEP. The Board

therefore ratifies the approval and execution of the FRPPA by the Chief Executive Officer in the name and on behalf of Power Agency and thereupon directs the Assistant Secretary to cause such executed FRPPA to be delivered to Power Agency's Members.

2. It is hereby found and determined that it is in the best interests of Power Agency to enter into the Amended and Restated Full Requirements Power Sales Agreement (the "Amended and Restated FRPSA"), substantially in the form presented to this meeting and designated as "Draft, September 15, 2023" (the "Draft"). The Board therefore authorizes and directs the Chief Executive Officer and an Assistant Secretary to execute for and on behalf of Power Agency the Amended and Restated FRPSA substantially in the form and substance of the Draft, with such additions, changes, deletions, or modifications thereto as, after consultation with counsel and upon approval of the Chairman and Chief Executive Officer, may be necessary, advisable or convenient, in the name and on behalf of Power Agency and thereupon to cause such executed Amended and Restated FRPSA to be delivered to Power Agency's Members with the recommendation of this Board of Directors that it be approved and executed by the Members.

3. The execution of the Amended and Restated FRPSA by the Chief Executive Officer and an Assistant Secretary shall constitute conclusive evidence of such consultation with counsel and final approval by both the Chairman and Chief Executive Officer of any and all changes or revisions therein from the Draft.

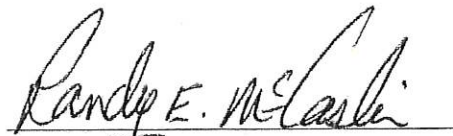
4. This Board hereby authorizes and directs its proper officers, counsel, employees and agents to execute such other documents and take such action as upon the advice of counsel shall be necessary, advisable or convenient to (i) obtain the unanimous consent of Power Agency's Members to, and approval of (a) the Amended and Restated FRPSA, and (b) such other documents or agreements as may be necessary to effect or implement (a), and (ii) carry out the other transactions contemplated by this Resolution.

5. In connection with the directive set forth in Section 4(i) of this Resolution, this Board hereby directs the Chief Executive Officer to cause to be furnished to each member of Power Agency a copy of each of the following: (i) this Resolution, (ii) the FRPPA, and (iii) execution and work copies of the Amended and Restated FRPSA.


6. This Board hereby directs its Secretary to file with the minutes of this meeting each of the documents referenced in paragraph 5 hereof as presented and available at this meeting.

7. This Resolution shall take effect upon its adoption.

**ADOPTED** this 22<sup>nd</sup> day of September, 2023.

  
Chairman

ATTEST:

  
Constantine (Costi) Kutteh (Sep 25, 2023 10:48 EDT)  
Secretary



**AN ORDINANCE OF THE TOWN COUNCIL OF THE  
TOWN OF TARBORO, NORTH CAROLINA,  
DETERMINING THAT IT IS IN THE BEST INTERESTS OF  
THE TOWN OF TARBORO TO APPROVE AND  
AUTHORIZE THE EXECUTION AND DELIVERY OF THE  
AMENDED AND RESTATED FULL REQUIREMENTS  
POWER SALES AGREEMENT BETWEEN THE TOWN OF  
TARBORO AND NORTH CAROLINA EASTERN  
MUNICIPAL POWER AGENCY**

WHEREAS, the Town of Tarboro (the “Municipality”) and North Carolina Eastern Municipal Power Agency (“Power Agency”) entered into a Full Requirements Power Sales Agreement (the “FRPSA”), dated as of the twenty-fourth day of September, 2015, pursuant to which Power Agency sells and each Member purchases its Full Requirements Bulk Power Supply requirements (as that term is defined in the FRPSA); and

WHEREAS, the Board of Directors of Power Agency, by motion properly made and approved at its meeting on May 25, 2023, approved and authorized the execution and delivery of Tenth Amended and Restated Full Requirements Power Purchase Agreement (the “FRPPA”) between the Power Agency and Duke Energy Progress, LLC (including successors and permitted assigns, “DEP”), pursuant to which Power Agency has agreed to purchase from DEP and DEP has agreed to sell to Power Agency Power Agency’s full requirements capacity and energy to serve the load of the electric power customers of Power Agency’s members, the electric needs of which the members have undertaken the obligation to meet, and contingent upon a recommendation by the Rate Committee and approval by the Board of Commissioners of Power Agency; and

WHEREAS, by motions properly made and approved at meetings on June 7, 2023 and June 8, 2023, the Rate Committee and the Board of Commissioners, respectively, recommended that staff execute and approve the FRPPA in the name and on behalf of the Power Agency; and

---

WHEREAS, on September 22, 2023, the Board of Directors of Power Agency adopted Resolution BRR-10-23, which, among other things, (i) ratified the approval and execution of the FRPPA by the Chief Executive Officer in the name and on behalf of Power Agency and (ii) authorized Power Agency to execute and deliver to each Member an Amended and Restated Full Requirements Power Sales Agreement (the “Amended and Restated FRPSA”) to give effect to the transactions contemplated by the FRPPA; and

WHEREAS, Power Agency has caused to be furnished to the Municipality each of the following: (i) the FRPPA, (ii) Resolution BDR-10-23, and (iii) an executed Amended and Restated FRPSA, dated as of September 22, 2023; and

WHEREAS, the Town Council of the Municipality (the “Governing Body”) has taken into consideration the benefits which might be achieved by approving, executing and delivering the Amended and Restated FRPSA.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Tarboro:

1. After due consideration to the contents of each of the preambles set forth above and to each of the documents referred to in such preambles, the Governing Body hereby finds and determines that it is in the best interests of the Municipality to enter into the Amended and Restated FRPSA.

2. The Governing Body hereby authorizes and directs that the Amended and Restated FRPSA be executed for and on behalf of the Municipality by the Mayor and Clerk, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of the Amended and Restated FRPSA presented at this meeting.

3. The Governing Body hereby directs the Clerk to furnish or cause to be furnished to Power Agency a certified copy of this ordinance together with the executed Amended and Restated FRPSA.

4. The Governing Body hereby directs the Clerk to file with the minutes of this meeting (i) the FRPPA, (ii) Resolution BDR-10-23, and (iii) the proposed Amended and Restated FRPSA as presented and available at this meeting.

5. This Ordinance shall become effective upon its adoption.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

(SEAL)

## CLERK'S CERTIFICATE

I, Leslie Lunsford, Clerk of the Town of Tarboro, North Carolina, (the "Municipality"),  
DO HEREBY CERTIFY as follows:

1. To the date of this Certificate, the Town Council of the Municipality ("the Governing Body") has adopted no ordinance, resolution or rule regulating the procedure to be followed or observed by the Governing Body in the adoption of ordinances or resolutions which is not included in the Municipality's Charter, as amended to date.

2. As of the date of this Certificate and the date of introduction and adoption of the Ordinance hereinafter described, the Governing Body of the Municipality consisted of 8 members and the Mayor, all of whom have been duly elected and qualified.

3. Tate Mayo was the duly elected and qualified Mayor of the Municipality at the time of the introduction and adoption of the Ordinance hereinafter described and at the time of the execution of the documents hereinafter described by the Municipality.

4. The undersigned Clerk has been duly appointed by the Town Manager as Clerk of the Municipality to hold office at the pleasure of the Governing Body, and the appointment as Clerk predated the introduction and adoption of the Ordinance hereinafter described and remains in full force and effect.

5. The seal, an impression of which appears below, is the corporate seal adopted by the Municipality.

6. The undersigned, as Clerk, is charged with the duty of keeping custody of the minutes and official records of the proceedings of the Governing Body.

7. At a regular meeting of the Governing Body conducted on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the ordinance entitled "AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TARBORO, NORTH CAROLINA, DETERMINING THAT IT

IS IN THE BEST INTERESTS OF THE TOWN OF TARBORO TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES AGREEMENT BETWEEN THE TOWN OF TARBORO AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY,” a full, true and complete copy of which is attached hereto and made a part of this Certificate (the “Ordinance”), was introduced and, after consideration by the Governing Body, was duly adopted by the Governing Body by a vote of \_\_\_\_\_ yeas and \_\_\_\_\_ nays. The Ordinance was thereafter duly recorded in the ordinance book of the Municipality and the municipal journal, if any. A copy of the minutes of said meeting is attached hereto.

8. The meeting referred to in this Certificate was a duly called and held regular meeting of the Governing Body, open to the public, and a quorum of the Governing Body was present and acting throughout; the copy of the minutes attached hereto has been compared by the undersigned with the original thereof that is on file and of record in the office of the undersigned and it is a full, true and complete copy of said original; the copy of the Ordinance attached hereto has been compared by the undersigned with the original thereof that is on file in the ordinance book (and municipal journal, if any) and it is a full, true and complete copy of said original. The Ordinance has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

9. The Amended and Restated Full Requirements Power Sales Agreement Amendment (the “Amended and Restated FRPSA”) referred to in the Ordinance has been filed in the Clerk’s office with the minutes of the proceedings at which the Ordinance was adopted.

10. Each execution copy of the Amended and Restated FRPSA furnished to North Carolina Eastern Municipal Power Agency by the undersigned has been duly executed by the

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Mayor of the Municipality and attested by the undersigned as Clerk of the Municipality, all pursuant to authority granted by the Ordinance.

11. Since June 8, 2015, the Governing Body of the Municipality has not amended, revised or altered the Charter of the Municipality pursuant to legislative action, Section §160A-101 et seq. of the North Carolina General Statutes, or in any other manner whatsoever, except as such may have been amended, revised or altered by the document(s), if any, attached hereto; a copy of such document(s) was compared by me with the original(s) thereof on file and of record in the offices of the undersigned and it is a full, true and complete copy of said original(s); and such document(s) has not been amended, modified, superseded or repealed (except as reflected in the documents attached hereto) and is/are in full force and effect as of the date of this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Town of Tarboro,  
this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Clerk

(Impress Seal Here)

Attachments:

Ordinance

Minutes

Charter Amendments, if any

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION  
RATIFIED BILL

CHAPTER 73  
HOUSE BILL 214

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF  
TARBORO.

Section 1. The Charter of the Town of Tarboro is revised and consolidated to read:

"THE CHARTER OF THE TOWN OF TARBORO.

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Tarboro, North Carolina in Edgecombe County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'Town of Tarboro', hereinafter at times referred to as the 'Town'.

"Sec. 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Tarboro specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Sec. 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries and the boundaries of the wards therein, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits or wards pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Edgecombe County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Town Governing Body; Composition.** The Mayor and the Town Council, hereinafter referred to as the 'Council', shall be the governing body of the Town.

"Sec. 2.2. **Town Council; Composition; Terms of Office.** The Council shall be composed of eight members, one to be elected by and from the qualified voters of each ward, for staggered terms of four years or until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and preside at meetings of the Council, shall have the right to vote only when there is an equal division

on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"Sec. 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Sec. 2.5. **Meetings; Quorum.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 apply.

"Sec. 2.6. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Council members shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

"Sec. 2.7. **Voting; Ordinances and Resolutions.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The yeas and nays shall be taken upon all bond, budget, and franchise ordinances and entered upon the minutes of the Council, and shall likewise be taken and entered on other matters if called for by the Mayor or any two members of the Town Council.

### "ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Sec. 3.2. **Ward Boundaries.** The Town shall be divided into eight wards. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with general law. Notwithstanding the contrary provision of G.S. 160A-59, in the event any member of the Town Council shall be domiciled in a different ward as a result of the adjustment, alteration, or revision of ward boundaries, he shall continue as a member from the ward he was elected to represent until the expiration of the term for which he was elected.

"Sec. 3.3. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 1997 and each four years thereafter.

"Sec. 3.4. **Election of Council Members.** In the regular municipal election in 1995, a Council member shall be elected by and from each of the Second, Fourth, Sixth, and Eighth Wards. In the regular municipal election in 1997, a Council member shall be elected by and from each of the First, Third, Fifth, and Seventh Wards. Four Council members shall be elected in each regular municipal election thereafter, as the respective terms expire.



"Sec. 3.5. **Special Elections and Referendums.** Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. TOWN MANAGER.

"Sec. 4.1. **Form of Government.** The Town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Manager; Appointment; Powers and Duties.** The Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Sec. 4.3. **Residency.** At the time of his appointment, the Town Manager need not be a resident of the Town, but shall reside therein during his tenure of office.

"Sec. 4.4. **Eligibility of Elected Officials.** No person elected as Mayor or as a member of the Town Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected.

"Sec. 4.5. **Absence or Disability.** In case of the absence or disability of the Town Manager, the Council may designate a qualified administrative officer of the Town to perform the duties of the Town Manager during such absence or disability.

"Sec. 4.6. **Settlement of Claims by Town Manager.** The Council may authorize the Town Manager to settle claims against the Town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained. Settlement of a claim by the Town Manager pursuant to this section shall constitute a complete release of the Town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the Town Attorney.

"ARTICLE V. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 5.1. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Council may direct. The Council may appoint one or more Assistant Town Attorneys to assist the Town Attorney and serve in his absence or incapacity and who shall have the same qualifications and duties as the Town Attorney.

"Sec. 5.2. **Town Clerk.** The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain official records and documents, to

give notice of meetings, and to perform such other duties required by law or as the Town Manager may direct. The Town Manager may appoint an Assistant Town Clerk.

"Sec. 5.3. **Tax Collector.** The Town shall have a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Town Manager. Notwithstanding the contrary provisions of G.S. 105-349, the Town Manager is authorized to appoint and remove the Tax Collector and one or more Deputy Tax Collectors.

"Sec. 5.4. **Finance Director.** The Town Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Town Manager.

"Sec. 5.5. **Treasurer.** The Town Manager may appoint a Town Treasurer who shall be the custodian of all moneys of the Town and shall keep and preserve the same in such place or places as shall be determined by the Town Council. He shall countersign all vouchers issued by the Finance Director and shall pay out money only on such vouchers. In addition, he shall perform all other duties as may be prescribed by law or assigned by the Town Manager. The Town Manager may appoint an Assistant Treasurer.

"Sec. 5.6. **Consolidation of Functions.** The Town Manager may, with the approval of the Town Council, consolidate any two or more of the positions of Town Clerk, Finance Director, Treasurer, and Tax Collector, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Town Manager may also, with the approval of the Town Council, appoint a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same. However, the positions of Finance Director and Treasurer may not be held by the same person.

"Sec. 5.7. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the Town Manager, and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Sec. 5.8. **Manager's Authority; Role of Elected Officials.** As chief administrator, the Town Manager shall have the power to appoint and remove all officers, department heads and employees of the Town, except the Town Attorney and any Assistant Town Attorneys, who shall be appointed as provided in Section 5.1 of this Charter. Neither the Mayor nor the Town Council nor any of its committees or members shall direct or request the Town Manager to appoint any person to office or remove any person from office, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the Town. Except for the purpose of inquiry, and except in the event of emergency, the Mayor and the Town Council and its members shall deal with officers and employees in the administrative service only through the Town Manager, and neither the Mayor nor the Council nor any of its members shall give orders or directions to any subordinate of the Town Manager, either publicly or privately.

"ARTICLE VI. STREET IMPROVEMENTS.

"Sec. 6.1. **Assessments for Street Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the Council may, without the necessity of a petition, order street improvements and assess the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, upon the following findings of fact:

- (a) The street improvement project does not exceed 3,000 linear feet; and
- (b)
  - (1) The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement; or
  - (2) It is in the public interest to connect two streets, or portions of a street already improved; or
  - (3) It is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof.

"Sec. 6.2. **Street Improvement Defined.** For the purposes of this Article, the term 'street improvement' shall include excavation, grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters, and street drainage facilities; including legal and engineering fees, charges, and costs.

"Sec. 6.3. **Procedure; Effect of Assessment.** In ordering street improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

#### "ARTICLE VII. SIDEWALKS.

"Sec. 7.1. **Assessments for Sidewalk Improvements; Petition Unnecessary.** In addition to any authority granted by general law, the council may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the Town, and assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street. In ordering sidewalk improvements or repairs without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof.

The effect of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 7.2. **Property Owner's Responsibility.** It shall be the duty of every property owner in the Town to maintain in good repair and to keep clean and free of debris, trash, and other obstacles or impediments the sidewalks abutting his property.

"Sec. 7.3. **Town Cleaning or Repair; Costs Become Lien.** The Town Council may by ordinance establish a procedure whereby Town forces may repair or clean any sidewalk or remove therefrom any debris or trash after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such repair or cleaning or removal shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the Town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes. The authority and procedure of this section shall be supplementary to the authority and procedure of Section 8.1 of this Charter. The Town Council may, in its discretion, proceed under either section in causing sidewalks to be repaired.

"ARTICLE VIII. POLICE.

"Sec. 8.1. **Police Jurisdiction.** The Town police force shall have extraterritorial jurisdiction as provided by G.S. 160A-286; however, such jurisdiction shall not include any area located within the corporate limits of the Town of Princeville.

"ARTICLE IX. FIREFIGHTERS.

"Sec. 9.1. **Firemen's Supplemental Retirement Fund.** The Tarboro Firemen's Supplemental Retirement Fund shall continue as authorized by Chapter 261, Session Laws of 1973, as amended by Chapter 157, Session Laws of 1985, and Chapter 609, Session Laws of 1987, and any subsequent acts.

"ARTICLE X. PROPERTY DISPOSITION.

"Sec. 10.1. **Town Commons.** No sale of any part of the Town Commons lying North of Wilson Street (formerly Saint Joshua Street) shall be valid unless made in pursuance of special powers given hereafter by the General Assembly. No use or occupation of any portion of said Town Commons, by way of easement or otherwise, shall ever give any right by prescription.

"Sec. 10.2. **Disposal of Surplus Personal Property.** The Town may dispose of surplus personal property valued at less than two thousand dollars (\$2,000) for any one item or group of items using the procedures authorized in G.S. 160A-266(c)."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Tarboro and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Sec. 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 937, Session Laws of 1959

Chapter 547, Session Laws of 1965

Chapter 531, Session Laws of 1967, except for Section 4

Chapter 845, Session Laws of 1967

Chapter 1164, Session Laws of 1981 (Regular Session 1982)

Chapter 905, Session Laws of 1985 (Regular Session 1986)

Chapter 963, Session Laws of 1985 (Regular Session 1986)

Chapter 730, Session Laws of 1987, Section 2

Chapter 305, Session Laws of 1991.

Sec. 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions, and other provisions of the Town of Tarboro not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 8. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended general statute, or to the general statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of May, 1995.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker

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Speaker of the House of Representatives

## Subpart A - CHARTER

## GENERAL ASSEMBLY OF NORTH CAROLINA

1995 SESSION

RATIFIED BILL

CHAPTER 73

HOUSE BILL 214

Current Charter of the Town of  
Tarboro on Municode

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF TARBORO.

*The General Assembly of North Carolina enacts:*Sec. 1. The Charter of the Town of Tarboro is revised and consolidated to read:**THE CHARTER OF THE TOWN OF TARBORO***Footnotes:**--- (1) ---*

**Editor's note—** Chapter 73 of the Session Laws of 1995, ratified May 9, 1995, revised and consolidated the Charter in its entirety to read as set out herein as enacted by the General Assembly of North Carolina. Formerly, the town's charter derived from Chapter 531 of the Session Laws of 1967, ratified May 19, 1967; Chapter 1164 of the Session Laws of 1982; Ord. No 84-17, adopted June 11, 1984; and Ord. No. 84-19, adopted July 9, 1984. A uniform capitalization style consistent with the Code of Ordinances has been used. Obvious misspellings have been corrected without notation and material in brackets [ ] has been added for clarity. Amendments are indicated by notes following the affected sections.

**ARTICLE I. - INCORPORATION, CORPORATE POWERS AND BOUNDARIES****Sec. 1.1. - Incorporation.**

The Town of Tarboro, North Carolina in Edgecombe County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Tarboro," hereinafter at times referred to as the "town."

**Sec. 1.2. - Powers.**

The town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Tarboro specifically by this Charter, or upon municipal corporations by general law. The term "general law" is employed herein as defined in G.S. 160A-1.

**Sec. 1.3. - Corporate limits.**

The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the town and as they may be altered from time to time in accordance with law. An official map of the town, showing the current municipal boundaries and the boundaries of the wards therein, shall be maintained permanently in the office of the town clerk and shall be available for public inspection. Upon alteration of the corporate limits or wards pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the secretary of state, the Edgecombe County Register of Deeds and the appropriate board of elections.

## ARTICLE II. - GOVERNING BODY

### Sec. 2.1. - Town governing body; composition.

The mayor and the town council, hereinafter referred to as the "council," shall be the governing body of the town.

### Sec. 2.2. - Town council; composition; terms of office.

The council shall be composed of eight members, one to be elected by and from the qualified voters of each ward, for staggered terms of four years or until their successors are elected and qualified.

### Sec. 2.3. - Mayor; term of office; duties.

The mayor shall be elected by all the qualified voters of the town for a term of four years or until his successor is elected and qualified. The mayor shall be the official head of the town government and [shall] preside at meetings of the council, shall have the right to vote only when there is an equal division on any question or matter before the council, and shall exercise the powers and duties conferred by law or as directed by the council.

### Sec. 2.4. - Mayor pro tempore.

The council shall elect one of its members as mayor pro tempore to perform the duties of the mayor during his absence or disability, in accordance with general law. The mayor pro tempore shall serve in such capacity at the pleasure of the council.

### Sec. 2.5. - Meeting; quorum.

In accordance with general law, the council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions



of G.S. 160A-74 apply.

**Sec. 2.6. - Compensation; qualifications for office; vacancies.**

The compensation and qualifications of the mayor and council members shall be in accordance with general law. Vacancies that occur in any elective office of the town shall be filled by majority vote of the remaining members of the council and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

**Sec. 2.7. - Voting; ordinances and resolutions.**

Official actions of the council and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The yeas and nays shall be taken upon all bond, budget and franchise ordinances and entered upon the minutes of the council, and shall likewise be taken and entered on other matters if called for by the mayor or any two members of the town council.

**Sec. 2.8. - Contracts with council members.**

G.S. 14-234 shall not apply to any member of the town council if all of the following conditions are met:

- (1) The undertaking or contract is for the purchase of apparatus, supplies, materials, or equipment which requires an expenditure during any single fiscal year of an amount that is less than the amounts stated in G.S. 143-129.
- (2) The town seeks informal bids from at least two other suppliers, in addition to the supplier in which the member of the council has a financial interest.
- (3) The other suppliers are either unwilling or unable to sell to the town the needed apparatus, supplies, materials, or equipment, or the supplier in which the member of the council has a financial interest is the lowest responsible bidder.
- (4) The undertaking or contract between the town and the member of the council is approved by specific resolution of the council adopted in an open meeting and is recorded in its minutes.
- (5) The member of the council does not vote on any matters related to the undertaking or contract and does not participate in the consideration of or action upon the authorizing resolution.

(Session Laws, 1997, Ch. 96, § 1)

**ARTICLE III. - ELECTIONS**

**Sec. 3.1. - Regular municipal elections.**

Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

**Sec. 3.2. - Ward boundaries.**

The town shall be divided into eight wards. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the town and as they may be altered from time to time in accordance with general law. Notwithstanding the contrary provision of G.S. 160A-59, in the event any member of the town council shall be domiciled in a different ward as a result of the adjustment, alteration, or revision of ward boundaries, he shall continue as a member from the ward he was elected to represent until the expiration of the term for which he was elected.

**Sec. 3.3. - Election of mayor.**

A mayor shall be elected in the regular municipal election in 1997 and each four years thereafter.

**Sec. 3.4. - Election of council members.**

In the regular municipal election in 1995, a council member shall be elected by and from each of the second, fourth, sixth and eighth wards. In the regular municipal election in 1997, a council member shall be elected by and from each of the first, third, fifth and seventh wards. Four council members shall be elected in each regular municipal election thereafter, as the respective terms expire.

**Sec. 3.5. - Special elections and referendums.**

Special elections and referendums may be held only as provided by general law or applicable local acts of the general assembly.

**ARTICLE IV. - TOWN MANAGER**

**Sec. 4.1. - Form of government.**

The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

**Sec. 4.2. - Town manager; appointment; powers and duties.**

The council shall appoint a town manager who shall be responsible for the administration of all departments of the town government. The town manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the council, so far as authorized by general law.

**Sec. 4.3. - Residency.**

At the time of his appointment, the town manager need not be a resident of the town, but shall reside therein during his tenure of office.

**Sec. 4.4. - Eligibility of elected officials.**

No person elected as mayor or as a member of the town council shall be eligible for appointment as town manager until one year shall have elapsed following the expiration of the term for which he was elected.

**Sec. 4.5. - Absence or disability.**

In case of the absence or disability of the town manager, the council may designate a qualified administrative officer of the town to perform the duties of the town manager during such absence or disability.

**Sec. 4.6. - Settlement of claims by town manager.**

The council may authorize the town manager to settle claims against the town for (i) personal injuries or damages to property when the amount involved does not exceed the sum of two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed two thousand five hundred dollars (\$2,500) and does not exceed the actual loss sustained. Settlement of a claim by the town manager pursuant to this section shall constitute a complete release of the town from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All such settlements and all such releases shall be approved in advance by the town attorney.

**ARTICLE V. - ADMINISTRATIVE OFFICERS AND EMPLOYEES**

**Sec. 5.1. - Town attorney.**

The town council shall appoint a town attorney licensed to practice law in North Carolina. It shall be the duty of the town attorney to represent the town, advise town officials, and perform other duties required by law or as the council may direct. The council may appoint one or more assistant town attorneys to assist the town attorney and serve in his absence or incapacity and who shall have the same qualifications and duties as the town attorney.

**Sec. 5.2. - Town clerk.**

The town manager shall appoint a town clerk to keep a journal of the proceedings of the council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the town manager may direct. The town manager may appoint an assistant town clerk.

**Sec. 5.3. - Tax collector.**

The town shall have a tax collector to collect all taxes owed by the town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the town manager. Notwithstanding the contrary provisions of G.S. 105-349, the town manager is authorized to appoint and remove the tax collector and one or more deputy tax collectors.

**Sec. 5.4. - Finance director.**

The town manager shall appoint a finance director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the town manager.

**Sec. 5.5. - Treasurer.**

The town manager may appoint a town treasurer who shall be the custodian of all moneys of the town and shall keep and preserve the same in such place or places as shall be determined by the town council. He shall countersign all vouchers issued by the finance director and shall pay out money only on such vouchers. In addition, he shall perform all other duties as may be prescribed by law or assigned by the town manager. The town manager may appoint an assistant treasurer.

**Sec. 5.6. - Consolidation of functions.**

The town manager may, with the approval of the town council, consolidate any two or more of the positions of town clerk, finance director, treasurer, and tax collector, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The town manager may

also, with the approval of the town council, appoint a single employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same. However, the positions of finance director and treasurer may not be held by the same person.

**Sec. 5.7. - Other administrative officers and employees.**

The council may authorize other positions to be filled by appointment by the town manager, and may organize the town government as deemed appropriate, subject to the requirements of general law.

**Sec. 5.8. - Manager's authority; role of elected officials.**

As chief administrator, the town manager shall have the power to appoint and remove all officers, department heads and employees of the town, except the town attorney and any assistant town attorneys, who shall be appointed as provided in Section 5.1 of this Charter. Neither the mayor nor the town council nor any of its committees or members shall direct or request the town manager to appoint any person to office or remove any person from office, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. Except for the purpose of inquiry, and except in the event of emergency, the mayor and the town council and its members shall deal with officers and employees in the administrative service only through the town manager, and neither the mayor nor the council nor any of its members shall give orders or directions to any subordinate of the town manager, either publicly or privately.

**ARTICLE VI. - STREET IMPROVEMENTS**

**Sec. 6.1. - Assessments for street improvements; petition unnecessary.**

In addition to any authority granted by general law, the council may, without the necessity of a petition, order street improvements and assess the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, upon the following findings of fact:

(a) That the street improvement project does not exceed 3,000 linear feet; and

(b) (1)

The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement; or

(2) It is in the public interest to connect two streets, or portion of a street already improved;  
or

(3)

It is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof.

#### Sec. 6.2. - Street improvement defined.

For the purposes of this article, the term "street improvement" shall include excavation, grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right[s]-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities; including legal and engineering fees, charges, and costs.

#### Sec. 6.3. - Procedure; effect of assessment.

In ordering street improvements without a petition and assessing the costs thereof under authority of this article, the council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

### ARTICLE VII. - SIDEWALKS

#### Sec. 7.1. - Assessments for sidewalk improvements; petition unnecessary.

In addition to any authority granted by general law, the council may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the town, and assess the total cost thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes; provided, however, that regardless of the assessment basis or bases employed, the council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street. In ordering sidewalk improvements or repairs without a petition and assessing the costs thereof under authority of this article, the council shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of levying assessments under authority of this article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

#### Sec. 7.2. - Property owner's responsibility.

It shall be the duty of every property owner in the town to maintain in good repair and to keep clean and free of debris, trash, and other obstacles or impediments the sidewalks abutting his property.

**Sec. 7.3. - Town cleaning or repair; costs become lien.**

The town council may by ordinance establish a procedure whereby town forces may repair or clean any sidewalk or remove therefrom any debris or trash after failure of the abutting property owner after 10 days' notice to do so. In such event, the cost of such repair or cleaning or removal shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real estate for ad valorem taxes. The authority and procedure of this section shall be supplementary to the authority and procedure of Section 8.1 of this Charter. The town council may, in its discretion, proceed under either section in causing sidewalks to be repaired.

**ARTICLE VIII. - POLICE**

**Sec. 8.1. - Police jurisdiction.**

The town police force shall have extraterritorial jurisdiction, as provided by G.S. 160A-286; however, such jurisdiction shall not include any area located within the corporate limits of the Town of Princeville.

**ARTICLE IX. - FIREFIGHTERS**

**Sec. 9.1. - Firemen's supplemental retirement fund.**

The Tarboro Firemen's Supplemental Retirement Fund shall continue as authorized by Chapter 261, Session Laws of 1973, as amended by Chapter 157, Session Laws of 1985, and Chapter 609, Session Laws of 1987, and any subsequent acts.

**ARTICLE X. - PROPERTY DISPOSITION**

**Sec. 10.1. - Town commons.**

No sale of any part of the town commons lying north of Wilson Street (formerly Saint Joshua Street) shall be valid unless made in pursuance of special powers given hereafter by the general assembly. No use or occupation of any portion of said town commons, by way of easement or otherwise, shall ever give any right

by prescription.

**Sec. 10.2. - Disposal of surplus personal property.**

The town may dispose of surplus personal property valued at less than two thousand dollars (\$2,000) for any one item or group of items using the procedures authorized in G.S. 160A-266(c).

Sec. 2. The purpose of this act is to revise the Charter of the Town of Tarboro and to consolidate certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

Sec. 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 937, Session Laws of 1959

Chapter 547, Session Laws of 1965

Chapter 531, Session Laws of 1967, except for Section 4

Chapter 845, Session Laws of 1967

Chapter 1164, Session Laws of 1981 (Regular Session 1982)

Chapter 905, Session Laws of 1985 (Regular Session 1986)

Chapter 963, Session Laws of 1985 (Regular Session 1986)

Chapter 730, Session Laws of 1987, Section 2

Chapter 305, Session Laws of 1991

Sec. 5. The mayor and council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter, those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Sec. 6. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 7. All existing ordinances, resolutions, and other provisions of the Town of Tarboro not inconsistent with the provisions of this act shall continue in effect until repealed or amended.



**Sec. 8.** No action or proceeding pending on the effective date of this act by or against the town or any of its departments or agencies shall be abated or otherwise affected by this act.

**Sec. 9.** If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 10.** Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended general statutes, or to the general statute which most clearly corresponds to the statutory provision which is superseded or recodified.

**Sec. 11.** This act is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of May, 1995.

**[Municipal Attorney's Letterhead]**

North Carolina Eastern Municipal Power Agency  
1427 Meadow Wood Blvd.  
Raleigh, NC 27604

Greetings:

In connection with the Amended and Restated Full Requirements Power Sales Agreement, by and between the **Town of Tarboro** (the "Municipality") and North Carolina Eastern Municipal Power Agency ("Power Agency"), dated as of September 22, 2023, (the "Member Agreement"), I have examined (i) the Constitution and laws of the State of North Carolina and the Charter of the Municipality, (ii) the Member Agreement, (iii) an Ordinance entitled "**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TARBORO, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF TARBORO TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES AGREEMENT BETWEEN THE TOWN OF TARBORO AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**" (the "Ordinance"), approving the terms and provisions of the Member Agreement and authorizing the execution and delivery thereof, and the proceedings of **TOWN COUNCIL OF THE TOWN OF TARBORO** had and taken upon such adoption, (iv) such contracts, instruments and documents to which the Municipality is a party and which might affect the validity or the operation of the Member Agreement, and (v) such other instruments and documentation as I have deemed necessary in order to render the opinions set forth herein.

It is my opinion that:

- (a) The Municipality is a municipal corporation duly created and validly existing under and pursuant to the Constitution and laws of the State of North Carolina;
- (b) The Municipality has power and is authorized to enter into, execute and deliver the Member Agreement and carry out and perform the obligations of the Municipality thereunder;
- (c) The Ordinance has been duly adopted by the governing body of the Municipality, has not been amended, rescinded or repealed and is in full force and effect. The meeting at which the Ordinance was adopted was duly called, duly held, and all applicable laws respecting notice of such meeting were complied with fully;
- (d) The Member Agreement has been duly authorized, executed and delivered by the Municipality and constitutes a valid and binding agreement of the Municipality, enforceable in accordance with its terms;

(e) The authorization, execution and delivery by the Municipality of the Member Agreement and compliance with all terms and provisions thereof to be carried out and performed by the Municipality thereunder do not conflict with and are not in violation of any law of the State of North Carolina, including any of the provisions, terms and conditions of any ordinance, resolution, rule, by-law or motion of the Municipality;

(f) The authorization, execution and delivery by the Municipality of the Member Agreement and compliance with all terms and provisions thereof to be carried out and performed by the Municipality thereunder will not be a breach of, or constitute a default under, the terms and conditions of any indenture, loan agreement, mortgage, resolution, ordinance, contract, or other instrument, agreement or document to which the Municipality is a party or may be bound; and

(g) To my knowledge, information and belief there are no burdensome restrictions or conditions of any unusual character in any indenture, loan agreement, mortgage, resolution, ordinance or contract or other instrument, agreement or document to which the Municipality is a party or may be bound which impairs its ability to discharge its obligations under and carry out the terms of the Member Agreement.

In addition, to my knowledge, information and belief, there is not litigation pending or threatened against the Municipality which, if decided unfavorably to the interests of the Municipality, would materially adversely affect the validity of the Member Agreement or the financial affairs or the Municipality's electric system.

The opinion expressed in paragraph (d) above is subject to applicable bankruptcy, insolvency, reorganization, moratorium, and other laws heretofore or hereafter affecting creditors' rights and is subject to the principles of equity relating to or affecting the enforcement of obligations, whether such enforceability is considered in equity or at law.

Very truly yours,

**Chad Hinton, Town Attorney**

**[Municipality's Letterhead]**

Sydney P. Davis, Esq.  
Poyner Spruill, LLP  
1151 Falls Road, Suite 1000  
Rocky Mount, NC 27804

Re: North Carolina Eastern Municipal Power Agency

Dear Ms. Davis:

The contracts and certificate listed below are being transmitted to you as attorney for North Carolina Eastern Municipal Power Agency by the undersigned Clerk of the **Town of Tarboro.**

1. Two (2) executed copies of Amended and Restated Full Requirements Power Sales Agreement (the "Amended and Restated FRPSA"); and
2. Clerk's Certificate, with attached Ordinance, Minutes of the meeting at which the Ordinance was adopted and all other documents required thereby.

Yours very truly,

Leslie Lunsford, Town Clerk

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**NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**

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**Amended and Restated  
Full Requirements Power Sales Agreement**

**Dated as of September 22, 2023**

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# **NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**

## **AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES AGREEMENT**

**THIS AGREEMENT**, dated as of the 22<sup>nd</sup> day of September, 2023, is by and between North Carolina Eastern Municipal Power Agency, a joint agency of the State of North Carolina (including successors and permitted assigns, “Power Agency”), and the municipality of the State of North Carolina (including successors and permitted assigns, the “Member”) which has executed this Agreement (as supplemented and amended pursuant to the terms of this Agreement, the “Agreement”).

**WHEREAS**, the parties hereto are parties to a Full Requirements Power Sales Agreement, dated as of April 24, 2015, (the “FRPSA”), pursuant to which Power Agency sells and the Member purchases the Full Requirements Bulk Power Supply requirements of the Member; and

**WHEREAS**, Power Agency entered into a Full Requirements Power Purchase Agreement with Duke Energy Progress, LLC (including successors and permitted assigns, “DEP”), dated as of September 5, 2014, as amended and restated effective as of December 10, 2014, August 1, 2015, June 1, 2017, July 1, 2017, November 1, 2018, June 1, 2020, January 1, 2021, October 1, 2021, and March 1, 2022 (as amended and restated, the “Original FRPPA”), pursuant to which Power Agency agreed to purchase from DEP and DEP agreed to sell to Power Agency firm capacity and energy in amounts required by Power Agency to reliably serve the then current and future electrical loads of Power Agency’s Members; and

**WHEREAS**, Power Agency and DEP agreed to replace the Original FRPPA with the Tenth Amended and Restated Full Requirements Power Purchase Agreement, executed as of June 27, 2023 to be effective as of January 1, 2023 (the “FRPPA”), pursuant to which Power Agency has agreed to purchase from DEP and DEP has agreed to sell to Power Agency full requirements capacity and energy to serve Power Agency’s Native Load (as defined therein); and

**WHEREAS**, certain defined terms in the Original FRPPA have been amended by the FRPPA and, as a result thereof, Power Agency and the Member desire to amend and restate the FRPSA to give effect to the amended defined terms set forth in the FRPPA; and

**WHEREAS**, on September 22, 2023, the Board of Directors of Power Agency adopted a resolution pursuant to which it approved this Amended and Restated Full Requirements Power Sales Agreement and directed that it be submitted to the Members for approval; and

**WHEREAS**, the governing board of the Member has authorized the execution and delivery of this Amended and Restated Full Requirements Power Sales Agreement; and

**WHEREAS**, Power Agency is a party to the Network Integration Transmission Service Agreement (the “NITSA”) and the Network Operating Agreement (the “NOA”) between Duke Energy Progress, Inc. and North Carolina Eastern Municipal Power Agency, as amended by DEP from time to time, on file with the Federal Energy Regulatory Commission as OATT Service

Agreement No. 268 of Duke Energy Progress, Inc., a copy of which is attached to this Agreement as **Exhibit A**; and

**WHEREAS**, Power Agency is a party to an Agreement for Transmission Use and Other Electric Service (the "Dominion NCP Transmission Agreement") with Dominion North Carolina Power (formerly Virginia Electric and Power Company) ("Dominion NCP"), dated as of July 30, 1981, with respect to (i) arrangements for the transmission of electric energy from points of interconnection of the DEP and Dominion NCP electric systems; and (ii) other related matters; and

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

**SECTION 1. Definitions.**

The singular of any term defined in this Agreement shall encompass the plural, and the plural the singular, unless the context clearly indicates otherwise or may otherwise require.

(a) "Affiliate" of any Person means any other Person directly or indirectly Controlling, directly or indirectly Controlled by or under direct or indirect common Control with such Person.

(b) "Bond Resolution" means the resolution adopted by Power Agency, as the same may be amended or supplemented from time to time pursuant to the terms thereof, pursuant to which the Bonds are issued. Subsequent amendments to the Bond Resolution may be made without the approval of the Member if made pursuant to the terms of the Bond Resolution.

(c) "Bonds" means Bonds (as such term is defined in the Bond Resolution) issued from time to time pursuant to and under the authority of the Bond Resolution (i) to pay Balance of Defeasance Costs (as such term is defined in the Debt Service Support Contract), and (ii) to refund Bonds, Notes (as such term is defined in the Debt Service Support Contract) or Subordinated Debt (as such term is defined in the Debt Service Support Contract) theretofore issued and outstanding as authorized by Section 8 of the Debt Service Support Contract.

(d) "Contract Year" means the 12-month period commencing January 1 of each year during the term of this Agreement and ending midnight local time on the December 31 next following (or such other 12-month period as Power Agency shall determine); provided, however, that the first Contract Year shall commence, with respect to Full Requirements Bulk Power Supply, on the day immediately following the Effective Date; and provided further, however, that the last Contract Year shall end at midnight local time on the date of termination of this Agreement as provided in Section 2 herein.

(e) "Control" of any Person means the possession, directly or indirectly, of the power either to (a) vote more than fifty percent (50%) of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Person or (b) direct or cause the direction of management or policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

(f) "Customer Resource" means any generating unit having a nameplate capacity rating of 95 kW or more or an Energy Injection Device, including any Energy Injection Device owned by



Power Agency, that is installed behind (i) a member's retail customer meter, (ii) a Member's wholesale customer meter, or (iii) the meter of a retail customer of a wholesale customer of a Member.

(g) "Debt Service Support Contract" means the Debt Service Support Contract, dated as of the date hereof, entered into between Power Agency and the Members, as the same may be supplemented and amended from time to time.

(h) "Delivery Point" means the point on the DEP Transmission System where the delivery of power to the Member is measured in accordance with the NITSA and NOA, at which point the delivery of electric power to the Member is measured for billing purposes under this Agreement.

(i) "Dominion NCP Transmission Agreement" has the meaning assigned in the preambles to this Agreement.

(j) "Economic Development Resource" means any generating unit or Energy Injection Device that is installed for the purpose of retaining the load of an existing customer or attracting the load of a new customer served or to be served by a Member and that is used to serve load at the site of the generating unit or Energy Injection Device consistent with Section 4.3 of the FRPPA.

(k) "Edenton Generators" means the two (2) 1,250 kW generators owned and operated by the Town of Edenton that are located on Tower Drive, Edenton, North Carolina.

(l) "Effective Date" means January 1, 2023.

(m) "Electric System" means all properties and assets, real and personal and tangible and intangible, of the Member now or hereafter existing, used for or pertaining to the generation, transmission, transformation, distribution and sale of electric power and energy or general plant associated therewith, including all renewals, replacements, additions, extensions, expansions, improvements and betterments thereto.

(n) "Elizabeth City Generators" means the four (4) 1,750 kW generators owned and operated by the City of Elizabeth City that are located at 410 Pritchard Street, Elizabeth City, North Carolina.

(o) "Energy Injection Device" means battery storage, or any other current or future technologies that withdraw, store, and reinject energy into the electrical system that have a maximum capable injection capacity of 95 kW or more.

(p) "Full Requirements Bulk Power Supply" means, with respect to the Member, all electric power and energy required by the Member at its Delivery Point(s)<sup>1</sup>, exclusive of any purchases of power and energy by the Member from the Southeastern Power Administration ("SEPA"), if any, and, as applicable, exclusive of the output of Customer Resources, Member Resources, Economic Development Resources, the Edenton Generators and the Elizabeth City Generators. Full Requirements Bulk Power Supply shall include all transmission service to deliver Full Requirements Bulk Power Supply to the Member's Delivery Point(s), power and energy purchases

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<sup>1</sup> Including any load met by NCEMPA Generation that is interconnected with the Member's Electric System.

made by Power Agency pursuant to the Full Requirements Power Purchase Agreement, power and energy supplied by NCEMPA Generation, and power and energy derived by Power Agency from any resource used to replace power and energy purchases under the Full Requirements Power Purchase Agreement (i) following the exercise by Power Agency of an early termination option set forth in the Full Requirements Power Purchase Agreement, or (ii) in connection with a PURPA Qualifying Facility owned by Power Agency.

(q) “Full Requirements Power Costs” for any period means all costs associated with or incidental to Full Requirements Bulk Power Supply for such period. In addition to the costs associated with or incidental to Full Requirements Bulk Power Supply, Full Requirements Power Costs also shall include, without limitation (i) Power Agency’s general and administrative overhead costs allocated to Power Agency’s activities related to its provisions of Full Requirements Bulk Power Supply, (ii) working capital deemed necessary by Power Agency, (iii) costs and expenses relating to the acquisition, construction, maintenance and operation of an administrative building or office, including land therefor, together with any administrative equipment and facilities, which may be owned alone or together with any other joint agency or agencies, joint municipal assistance agencies, municipalities, corporations, associations or Persons under such terms and provisions for sharing costs and otherwise as may be determined by Power Agency, (iv) costs associated with Power Agency management and other services provided to Members, including, but not limited to, costs associated with compliance with renewable energy requirements or mandatory electric reliability standards, (v) amounts necessary for the payment of the principal of and premium, if any, and interest on any bonds, notes (including notes issued in anticipation of the issuance of bonds), certificates, warrants or other evidences of indebtedness, including commercial paper, issued for Full Requirements Power Costs (collectively, “Full Requirements Power Debt”), which Full Requirements Power Debt shall be payable from all or any amounts received under the Full Requirements Power Sales Agreements, as determined by Power Agency, after giving effect to the provisions of Section 6(d) thereof, as payments from the Members of Full Requirements Power Costs, and (vi) all costs and expenses relating to the issuance, security and payment of Full Requirements Power Debt, including without limitation costs and expenses associated with insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase Full Requirements Power Debt, depositaries for safekeeping and agents for delivery and payment.

(r) “Full Requirements Power Purchase Agreement” has the meaning assigned in the preambles to this Agreement.

(s) “Full Requirements Power Sales Agreement” means this Agreement and all other Agreements substantially identical to this Agreement entered into by Power Agency and the Members with respect to the purchase and sale of Full Requirements Bulk Power Supply, as the same may be supplemented or amended from time to time.

(t) “Guidelines Concerning Distributed Resources” means the Guidelines Concerning Distributed Resources, originally approved and adopted as Guidelines Concerning Load-Side Generation by the North Carolina Eastern Municipal Power Agency Board of Commissioners on June 23, 1993 and revised by the Board of Directors of Power Agency on November 16, 2012, January 27, 2017 and January 26, 2018, as supplemented and amended, including, but not limited to, as supplemented and amended on July 28, 2023.

(u) "Hourly Demand" means, in each hour, the aggregate load of Power Agency's Members for which there is in effect a Full Requirements Power Sales Agreement, determined by summing the metered 60-minute demands of the Members (integrated metered kilowatt load, compensated where applicable, in accordance with the NITSA and NOA and Dominion NCP Transmission Agreement, to reflect losses from the meter location back to the Delivery Point), adjusted to include the output of PURPA Qualifying Facilities in each clock hour in accordance with Section 4.4.2 of the Full Requirements Power Purchase Agreement, and adjusted further to include line losses over the DEP transmission system.

(v) "Interruptible Load", as used in the Guidelines Concerning Distributed Resources, means the load of any retail customer of a Member that is not a residential customer that such customer may elect to interrupt, curtail, or otherwise reduce, either on its own or at the request or direction of Power Agency or a Member.

(w) "Late Payment Interest Rate" means, for any month, the prime rate being charged by Bank of America, N.A., or its successor, or by any other major bank selected by Power Agency in its sole discretion, on the first day of such month, plus one percentage point, divided by twelve, expressed in percentage points, to the nearest hundredth, but not in excess of the rate permitted by applicable North Carolina law.

(x) "Members" means those entities which enter into Full Requirements Power Sales Agreements with Power Agency substantially identical to this Agreement.

(y) "Member Resource" means any generating unit (other than the Edenton Generators and Elizabeth City Generators) having a nameplate capacity of 95 kW or more or Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is directly connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

(z) "Member's Share" has the meaning assigned in the Debt Service Support Contract.

(aa) "Monthly Bill" means the written statement prepared monthly by Power Agency and provided to the Member pursuant to Section 5 herein.

(bb) "Monthly Support Costs" has the meaning assigned in the Debt Service Support Contract.

(cc) "NCEMPA Generation" means any generating unit owned by Power Agency having a nameplate capacity rating of 95 kW or more that is connected to the electric system behind the Duke-owned wholesale meter of a Member.

(dd) "NITSA" has the meaning assigned in the preambles to this Agreement.

(ee) "NOA" has the meaning assigned in the preambles to this Agreement.

(ff) "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, unincorporated organization, governmental authority or any other form of legal entity.

(gg) “Policy Guidelines for Leased Facilities Charges” means the Policy Guidelines For Leased Facilities Charges approved and adopted by the Board of Directors of Power Agency, as revised, supplemented and amended, including, but not limited to, as supplemented and amended on April 23, 2004.

(hh) “Prudent Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or 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 was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Utility Practices are not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the electric utility industry. In evaluating whether any matter conforms to Prudent Utility Practice as used in this Agreement, the parties hereto shall take into account (i) the fact that Power Agency and each Member is a public body and a body corporate and politic organized under the laws of the State of North Carolina, with the statutory duties and responsibilities thereof, and (ii) the objectives to integrate Full Requirements Bulk Power Supply with the other resources of the Members, including, but not limited to, Qualified Resources owned by Power Agency, its Members and its Members’ customers, SEPA Purchases and other PURPA Qualifying Facilities to achieve optimum utilization of the resources and achieve efficient and economical operation of each system.

(ii) “PURPA Qualifying Facility” means a generating facility that is a “small power production facility” or “cogeneration facility” that, in each case, meets the requirements of Sections 292.203(a) and 292.203(b) of Title 18 of the Code of Federal Regulations and that has satisfied the procedures for obtaining Qualifying Facility status under Section 292.207 of Title 18 of the Code of Federal Regulations.

(jj) “Qualified Resources”, as used in the Guidelines Concerning Distributed Resources consists of Member Resources, Customer Resources, and NCEMPA Generation.

(kk) “Renewable Energy Development and Service Agreement” means the Renewable Energy Development and Service Agreement between Power Agency and each of its members dated as of May 26, 2009, as the same may be supplemented and amended.

(ll) “Revenues” means all income, rents, rates, fees, charges, receipts, profits and other moneys or monetary benefits derived by the Member directly or indirectly from the ownership or operation of its Electric System and the sale, furnishing or supplying of capacity or output and power and energy therefrom, including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges receipts, profits or other moneys derived from the sale, furnishing or supplying of the electric power and energy and other services’ facilities and commodities sold, furnished or supplied the facilities of the Electric System, (ii) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, receipts, profits or other moneys to the extent that the use of such earnings and income is limited by or pursuant to law to the Electric System and (iii) the proceeds derived by the Member directly or indirectly from the sale, lease or other disposition of a part of the Electric System, but the term “Revenues” shall not include retail customers’ deposits or any other deposits subject to refund until such deposits have become the

property of the Member and shall not include any refunds associated with electric service by a Member prior to the Effective Date.

(mm) “SEPA Purchases” means the aggregate sum of capacity and energy that some or all of Power Agency’s Members receive as preference customers, through the U.S. Department of Energy - Southeastern Power Administration (“SEPA”), pursuant to contracts entered into between the United States of America and such Members pursuant to the Flood Control Act of 1944 or similar or superseding Federal law.

(nn) “Telemetry and Metering System Services Agreement” means the Telemetry and Metering System Services Agreement between DEP (formerly Carolina Power & Light Company) and Power Agency dated as of August 7, 1998, and January 1, 2020, and as supplemented from time to time.

(oo) “Total Annual Budget” means the budget adopted by Power Agency pursuant to Section 5 of this Agreement.

## SECTION 2. Term of Agreement.

This Agreement shall be effective as of the Effective Date. Power Agency shall notify the Member of the Effective Date as soon as practical thereafter.

The term of this Agreement shall expire at midnight local time on December 31, 2043; provided, however, that this Agreement may be terminated by the Member effective at midnight local time on December 31, 2035, upon written notice to Power Agency (i) not later than July 31, 2027, or (ii) not later than March 31, 2031; provided, however, if the number of Members giving notice to terminate pursuant to clause (ii) of Section 2 of such Members’ Full Requirements Power Sales Agreements would cause Power Agency’s 12-month average Monthly Coincident Billing Demands (as such term is defined in the Full Requirements Power Purchase Agreement) to be reduced by more than 700 megawatts, as determined by Power Agency based on Power Agency’s actual Monthly Coincident Billing Demands during Calendar Year 2030, Power Agency shall give written notice, not later than July 31, 2031, of such fact to all Members from whom Power Agency has received such notice to terminate, together with Power Agency’s best estimate of the costs Power Agency expects to incur under the Full Requirements Power Purchase Agreement as a result of a reduction in its 12-month average Monthly Coincident Billing Demands exceeding 700 megawatts, and any such Member who has given such notice to terminate thereafter may rescind such notice to terminate by written notice to Power Agency not later than September 30, 2031. In the event Power Agency determines that the number of Members giving notice to terminate pursuant to clause (ii) of Section 2 of such Members’ Full Requirements Power Sales Agreements would cause Power Agency’s 12-month average Monthly Coincident Billing Demands to be reduced by more than 700 megawatts, Power Agency shall use its reasonable best efforts to engage in negotiations (in which the Member may participate) with DEP to permit all Members who have given such notice to terminate to terminate their Full Requirements Power Sales Agreements without any financial costs to Power Agency. Notwithstanding the foregoing, any costs incurred by Power Agency pursuant to the Full Requirements Power Purchase Agreement if the final number of Members giving notice to terminate pursuant to clause (ii) of this Section 2 causes Power Agency’s 12-month average

Monthly Coincident Billing Demands to be reduced by more than 700 megawatts shall be borne by such terminating Members on a pro rata basis, as determined by Power Agency using Power Agency's actual Monthly Coincident Billing Demands during Calendar Year 2030. This Agreement may be terminated by Power Agency as provided in Section 7(b) of this Agreement.

(a) Notwithstanding the foregoing, the expiration or termination of this Agreement shall not affect any accrued liability or obligation hereunder. This Agreement shall not be subject to termination by either party under any circumstances, whether based upon the default of any other party under this Agreement or any other instrument or otherwise, except as specifically provided in this Agreement.

### SECTION 3. Sale and Purchase of Full Requirements Bulk Power Supply.

(a) Commencing with the first day of the first Contract Year, Power Agency shall provide or cause to be provided and sell, and the Member shall purchase from Power Agency, the Full Requirements Bulk Power Supply requirements of the Member. Power Agency will be responsible in accordance with the provisions of this Agreement for planning, negotiating, designing, financing, acquiring or constructing, contracting for, administering, operating, and maintaining all generation and transmission arrangements and facilities and power purchases necessary to effect the delivery and sale of Full Requirements Bulk Power Supply to the Member during the term of this Agreement. In furtherance of Power Agency's obligations to sell and the Member's obligations to purchase hereunder, Full Requirements Bulk Power Supply shall initially be sold and purchased pursuant to the provisions of this Agreement (i.e., on a take and pay basis to the extent delivered or provided).

(b) Full Requirements Bulk Power Supply shall be obtained or furnished and delivered or caused to be delivered by Power Agency in the manner it determines to be most economical, dependable, and otherwise feasible. Initially, Full Requirements Bulk Power Supply shall be obtained and furnished to all Members in accordance with the Full Requirements Power Purchase Agreement and the NITSA and NOA. If Power Agency exercises one or more of its early termination options set forth in the Full Requirements Power Purchase Agreement, Power Agency may provide for Full Requirements Bulk Power Supply by any additional or alternative means it determines to be most economical, dependable, and otherwise feasible, including, but not limited to, one or more of the following methods: (1) purchase by Power Agency of power generated by one or more other power suppliers and transmission thereof over the facilities of one or more other power suppliers, either solely or in combination with transmission facilities owned by Power Agency or as to which Power Agency has the right of use, if any; (2) acquisition or construction by Power Agency of generation or transmission facilities or any project supplying a portion of Full Requirements Bulk Power Supply; (3) acquisition or construction by Power Agency of such additional generation facilities and transmission of the power and energy generated thereby over the facilities of one or more other power suppliers, either solely or in combination with transmission facilities owned by Power Agency or as to which Power Agency has the right of use, if any; or (4) generation, transmission and delivery by one or more other power suppliers, pursuant to a contract arrangement therefor obtained or approved by, or assigned to, Power Agency for and on behalf of Member or the Members as its agent for that purpose. In the event that any such method or any combination of such methods is such that the Member makes payment for any part of such power supply service directly to one or more other power suppliers, such payments shall

nevertheless be accounted for as though the same were paid by Power Agency, and the Member shall be granted a credit with respect to Power Agency's rates and charges to the Member with respect to the same billing period, accordingly.

(c) From and after the Effective Date, neither Power Agency nor the Member shall enter into any new contract or permit any then or thereafter existing contract to be renewed or extended (regardless of the manner in which such renewal or extension may be effectuated, including failure of a party thereto timely to cancel and terminate the same upon any anniversary date when such is possible) or enter into any amendment to or modification to such a contract, with any other bulk power supplier which shall preclude or impair the ability of Power Agency or the Member to exercise and perform its rights and obligations under this Agreement.

(d) Power Agency, for the purpose of carrying out its rights and obligations under this Agreement, shall be, and the Member hereby designates and appoints Power Agency as, the Member's sole agent to the fullest legal extent that such agency may be established for such purposes.

(e) From and after the effective date of any termination of this Agreement pursuant to Section 7(b) of this Agreement, the Member shall be solely responsible for providing its Full Requirements Bulk Power Supply to the Member's Delivery Point(s); provided, however, that such Member shall be obligated to Power Agency under this Agreement for any costs incurred by Power Agency pursuant to any agreements with a bulk power supplier associated with the delivery to the Member's Delivery Point(s) of Full Requirements Bulk Power Supply or any delivery facilities, and any other cost not included in the costs payable by the Member under any other agreement with Power Agency, including, but not limited to: wheeling charges, leased facilities charges; costs of administration, operation, maintenance, renewals, replacements, or capital additions required for the Member's Delivery Point(s); costs associated with delivery facilities, protection stations, metering, transmission extensions, capacitors, reactive charges, changes in DEP-owned equipment, or loss due to early retirement of delivery facilities and all such similar costs incurred by Power Agency with respect to the Member or otherwise. Following such a termination, the Member shall be entitled to purchase the balance of its Full Requirements Bulk Power Supply requirements from Power Agency only if Power Agency and the Member shall enter into a new power sales agreement, containing such additional or different terms and conditions, if any, as Power Agency may reasonably require.

#### SECTION 4. Rates and Charges; Surplus Moneys.

Power Agency shall establish appropriate rates and charges for Full Requirements Bulk Power Supply for the Members sufficient at all times to pay all costs and expenses incurred by Power Agency and reserves deemed necessary therefor by Power Agency, including reserves for the payment of such costs and expenses in future periods (including future Contract Years) and taking into account withdrawals of such reserves established in previous periods, all with respect to Full Requirements Bulk Power Supply, and shall establish appropriate rates and charges for special obligations as set forth in the Monthly Bill as provided in Section 5 of this Agreement. Such rates and charges shall be sufficient at all times to permit the payment of all Monthly Support Costs and of all Full Requirements Power Costs of Power Agency and shall at all times be consistent with the provisions of the NITSA and NOA, the Dominion NCP Transmission

Agreement, the Renewable Energy Development and Service Agreement and the policies and guidelines established from time to time by Power Agency, including, but not limited to, Policy Guidelines for Leased Facilities Charges, Guidelines Concerning Distributed Resources, and policies regarding any compliance responsibilities associated with mandatory electric reliability standards applicable to the Members.

Power Agency shall furnish to the Members the basis for changes in rates and charges for Full Requirements Bulk Power Supply made pursuant to the provisions of Section 6(a) of this Agreement.

**SECTION 5. Total Annual Budget and Monthly Bills; Payments by the Member.**

(a) Not less than thirty (30) days prior to each Contract Year, Power Agency shall provide to the Member a proposed annual budget for the ensuing Contract Year with respect to amounts to be paid under this Agreement, and thereafter shall hold a public hearing on such proposed annual budget and shall provide to the Member a Total Annual Budget for the Contract Year. During each Contract Year, Power Agency shall review at least quarterly, and at such other times as Power Agency deems desirable, the Total Annual Budget for the Contract Year. In the event such review indicates that the Total Annual Budget does not or will not substantially correspond with actual receipts and expenditures, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits, or costs substantially affecting the Monthly Support Costs or Full Requirements Power Costs, Power Agency shall adopt and provide to the Member an amended Total Annual Budget, which shall supersede, for the remainder of such Contract Year, the Total Annual Budget or amended Total Annual Budget theretofore provided as the basis for the determination of Monthly Support Costs and Full Requirements Power Costs. The Total Annual Budget under this Agreement shall include, as a component thereof, any budget required to be provided the Member under the Member's Debt Service Support Contract.

(b) On or before the fifth (5th) day of each month of each Contract Year (beginning with the first full month of the Contract Year), or such other date not later than the tenth (10<sup>th</sup>) day of such month as Power Agency shall establish from time to time, Power Agency shall prepare, date, and on such date provide to the Member a Monthly Bill separately showing (i) the amount of power and energy of Full Requirements Bulk Power Supply delivered to the Member in the preceding calendar month at the Delivery Point(s) and the total amount payable by the Member therefor at Power Agency's applicable Full Requirements Bulk Power Supply rates and charges; (ii) the amount payable by the Member under the Monthly Bill pursuant to the Debt Service Support Contract for the next succeeding month for its Member's Share of Monthly Support Costs; (iii) the amount payable by the Member for special obligations, which shall be for leased facilities charges, delivery facilities costs, any back end costs or liabilities or any charges payable by the Member for services or facilities other than for the provisions of Full Requirements Bulk Power Supply for the preceding month, and (iv) any costs or charges payable by the Member associated with the Agreement for Transmission Use and Other Electric Service.

(c) The amounts shown in the Monthly Bill to be paid to Power Agency by the Member shall be due and payable ten (10) days after the date of the Monthly Bill, and any amounts due and not paid by the Member within fifteen (15) days after the date of the Monthly Bill shall accrue a late payment charge computed at the Late Payment Interest Rate. Remittances received by mail will



be accepted without assessment of a late payment charge, provided that the postmark of the United States Postal Service clearly indicates that the payment was mailed on or before such fifteenth (15th) day. Remittances due in a month transmitted by wire transfer will be accepted without assessment of a late payment charge if received on or before the twenty-fifth (25<sup>th</sup>) day of such month.

(d) All monies received by Power Agency as payment from the Member of any Monthly Bill (whether in full or partial payment thereof) shall be applied by Power Agency pro rata to the separate monthly charges shown on the Monthly Bill in the ratio that each separate charge as set forth in Sections 5(b)(i) through 5(b)(iv) of this Agreement bears to the total Monthly Bill rendered, and the resulting amounts shall be credited to the appropriate accounts on the books of Power Agency. ***The Member understands and agrees that a failure by the Member to pay in full its obligations under this Agreement and under its Debt Service Support Contract may result in an event of default under this Agreement and under its Debt Service Support Contract.***

(e) In each Contract Year, the Member shall pay to Power Agency the Member's Share of Monthly Support Costs for such Contract Year. The Member shall be obligated to make such payments unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of Full Requirements Bulk Power Supply is delivered to the Member pursuant to Section 3 of this Agreement or this Agreement expires or is terminated in whole or in part. Such payments shall be made and shall not be conditioned upon the performance or non-performance by Power Agency or any other Member under this or any other agreement or instrument. The remedies for any such non-performance by Power Agency shall be limited to those provided by Sections 7(d) and 7(e) of this Agreement.

(f) In the event of any dispute as to any portion of any Monthly Bill, the Member shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to Power Agency within sixty (60) days following the date on which such payment is due. Such notice shall identify the disputed bill, state the amount in dispute, and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. Power Agency shall give consideration to such dispute and shall advise the Member with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication, or otherwise) of the correct amount, an appropriate adjustment shall be made on the Monthly Bill next submitted to the Member after such determination, together with interest computed at the Late Payment Interest Rate.

#### SECTION 6. Rate Review and Payment Sources.

(a) Power Agency, at such intervals as it shall deem appropriate, but in any event not less frequently than once each Contract Year, shall review its rates and charges and, if necessary, shall revise such rates and charges so that the revenues collected hereunder shall be at least sufficient to comply with the provisions of Section 4 of this Agreement. In making revisions to rates and charges, Power Agency shall comply with the provisions of Chapter 159B, including, but not limited to, the provisions of §159B-10(b), if applicable, and §159B-16.1(b). Power Agency shall cause a notice in writing to be given to the Member and the other Members which shall set out all the proposed revisions of the rates and the date upon which such revised rates shall become

effective. The effective date shall not be less than forty (40) days after the date of the notice except when required to assure compliance with the provisions of Section 4 of this Agreement, and shall set forth the basis upon which the rates are proposed to be adjusted and established. Monthly changes in amounts billed pursuant to automatic adjustment clauses included in the rates and charges shall not require, notice, but changes in such clauses shall be subject to the foregoing notice provisions.

(b) The obligations of the Member to make payments under Section 5 of this Agreement for its Full Requirements Bulk Power Supply shall be an operating expense of its Electric System.

(c) The Member shall not be required to make any payments to Power Agency under this Agreement except from the Revenues of its Electric System. The Member covenants and agrees that it will fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold, furnished, or supplied through the facilities of its Electric System at least sufficient to provide Revenues adequate to meet its obligations under this Agreement, any additional contract relating to supplying Full Requirements Bulk Power Supply by and between Power Agency and the Member and its Debt Service Support Contract, and to pay any and all other amounts payable from or constituting a charge and lien upon such Revenues, including, but not limited to, amounts sufficient to pay the principal of and interest on all general obligation bonds (if also payable from Revenues) and revenue bonds heretofore or hereafter issued by the Member to finance its Electric System. Notwithstanding the foregoing, nothing set forth in this Agreement shall be construed to limit, constrain or affect in any way the legal rights and authority of the Member to design, set and implement rates, fees and charges for electric power and energy and other services to its retail and wholesale customers through the operation of the Member's duly authorized rate setting process so long as the Member's rates, fees and charges for electric power and energy and other services fully meet and comply with the Member's obligations set forth in this Section 6(c).

(d) The Member shall take no action the effect of which would be to prevent, hinder, or delay Power Agency from the timely fulfillment of its obligations under this Agreement, the Full Requirements Power Purchase Agreement, the NITSA and NOA, the Agreement for Transmission Use and Other Electric Service, the Bond Resolution, and the Bonds or other securities or evidences of indebtedness issued to provide the amounts due and payable between Power Agency and the Member relating to delivery facilities, or any other agreement entered into between Power Agency and any Member.

#### SECTION 7. Obligations in the Event of Default.

(a) Upon failure of the Member to make any payment in full when due under this Agreement or to perform any obligation herein, Power Agency shall make demand upon the Member for payment or performance, and if said failure is not cured within fifteen (15) days from the date of such demand, it shall constitute a default under this Agreement at the expiration of such period, and notice of such default shall forthwith be given to the Member. Notice of such demand, and the default if it occurs, shall be provided to the other Members by Power Agency.

(b) If the Member shall fail to pay any amounts due to Power Agency under this Agreement, or to perform any other obligation hereunder which failure constitutes a default under this

Agreement, Power Agency may terminate this Agreement. In either such event, Power Agency shall forthwith notify such Member of such termination. Notice of such termination shall be given to the other Members of Power Agency. Except for such termination, the obligations of the Member under this Agreement shall continue in full force and effect. For purposes of applying the other provisions of this section, such termination shall be considered to be a default under this Agreement.

(c) Any waiver at any time by either party to this Agreement of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with such Agreement, shall not be considered a waiver with respect to any subsequent default, right, or matter.

(d) In the event of any default by Power Agency under any covenant, agreement, or obligation of this Agreement, the Member may, upon fifteen (15) days' prior written notice, bring any suit, action, or proceeding in law or in equity, including mandamus and injunction, as may be necessary or appropriate to enforce any covenant, agreement, or obligation of this Agreement against Power Agency.

(e) No remedy conferred upon or reserved to the parties hereto is intended to be exclusive of any other remedy or remedies available hereunder or now or hereafter existing at law, in equity, or by statute or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other such remedy. The pursuit by either party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or by law, equity, or statute. Any delay by either party in the exercise of any remedy with respect to any matter arising in connection with this Agreement shall not constitute a waiver by such party of any right to later exercise such remedy with respect to the same or any other matter arising in connection with this Agreement.

#### SECTION 8. Deliveries; Delivery Facility Costs; Load Forecasts; System Reliability.

(a) Full Requirements Bulk Power Supply shall be delivered to the high voltage side of the Member's Delivery Point(s).

(b) In addition to the rates and charges for Full Requirements Bulk Power Supply, the Member, to the extent applicable, shall be responsible to Power Agency for all costs of delivery facilities, Power Agency's payments to DEP for Protection Station costs, leased facilities charges, net loss in salvage (as defined in the NITSA and NOA) of delivery facilities, capacitor costs and charges for reactive power, all pursuant to the NITSA and NOA, all such similar costs incurred by Power Agency pursuant to the Dominion NCP Transmission Agreement, if applicable, and all other charges incurred by Power Agency at the request or on behalf of the Member in accordance with Power Agency's established policies and guidelines. The Member shall fulfill such cost responsibility by: (i) payment to Power Agency of any costs to Power Agency relating to delivery of Full Requirements Bulk Power Supply to the Member's Delivery Point(s) and not included in the rates and charges of Power Agency for delivery of Full Requirements Bulk Power Supply, including, but not limited to, leased facilities charges; (ii) payment of any and all costs of ownership, operation, maintenance, renewals, replacements, and additions to delivery facilities owned by Power Agency but required to deliver Full Requirements Bulk Power Supply to the

Member pursuant to a Delivery Facility Use Agreement between Power Agency and the Member; (iii) payment of any and all costs of operation and maintenance, exclusive of renewals, replacements, and additions of delivery facilities owned by the Member and operated by Power Agency pursuant to a Delivery Facility Operating and Maintenance Agreement; and (iv) payment by any combination of the foregoing. Leased facilities charges for Members connected to the DEP and Dominion NCP transmission systems will be calculated in accordance with Power Agency's Policy Guidelines for Leased Facilities Charges, as established and amended from time to time by Power Agency.

(c) Delivery Point data sheets shall be completed for each Delivery Point. No revisions or modifications (other than necessary maintenance) of the delivery facilities for Members shall be undertaken for the purpose of modifying the characteristics of delivery from transmission facilities of DEP or Dominion NCP, as applicable, and/or of Power Agency set out on the Delivery Point data sheets unless prior agreement is obtained from Power Agency and DEP or Dominion NCP, as applicable, and revised Delivery Point Data Sheet(s) are first executed. Power Agency and each Member shall agree on the amount of firm capacity required at each such Delivery Point, taking into account the firm load expected to be served at such Delivery Point(s). A reasonable allowance will be included if growth is anticipated. A Member shall not place loads on Delivery Point(s) in excess of the firm capacity amount(s) so agreed to and recorded on the Delivery Point Data Sheet(s) without Power Agency and the Member first negotiating a new Delivery Point Data Sheet. Pursuant to the NITSA and NOA, DEP has agreed with Power Agency that it shall not unreasonably withhold its agreement for an increase in the firm capacity amount. The Agreement for Transmission Use and Other Electric Service also includes provisions for modifications to existing Delivery Points. Delivery Points will be established and/or modified in accordance with the terms and conditions of the NITSA and NOA or the Dominion NCP Transmission Agreement and the Procedure for Establishing New Delivery Points adopted by Power Agency in accordance with the requirements of NERC Reliability Standard FAC-002-0, as each may be amended from time to time.

(d) Should a Member request more capacity at a Delivery Point than is reasonably necessary to serve the continuous load at that point for the purpose of switching load between Delivery Points, such capability will be provided by DEP pursuant to the NITSA and NOA. If additional transmission or other facilities are required, and payment by Power Agency of a leased facilities charge to cover the investment in any required additional transmission or other facilities is required, the Member shall agree to reimburse Power Agency for payment of such charge. In the alternative, Power Agency or a Member may provide such capability through its own facilities if Power Agency gives written notice to DEP sufficient to enable DEP to accommodate such an arrangement. Parallel operation, transfer of loads, emergency switching and other operations at or in connection with Delivery Points will be undertaken in accordance with Section 5.0 of the NOA.

(e) Prior to March 31 of each Contract Year, each Member shall assist Power Agency with development of projected capacity requirements at each Delivery Point for the next ten (10) calendar years in order for Power Agency to fulfill in a timely manner its responsibilities to DEP and to Dominion NCP, and its responsibilities to the Member hereunder. The projected capacity requirement shall be for the load reasonably expected to exist in the area served by each such Delivery Point. The proposed location, delivery voltage, and estimated capacity requirements of

any new delivery point desired by the Member or Power Agency for the next ten (10) calendar years shall also be delineated.

The terms and conditions of the NITSA and NOA shall govern the size of loads connected to Delivery Points on, or extensions from, the 115kV or 230kV transmission system of DEP and the conditions upon which a Delivery Point may be connected to a DEP transmission line.

(f) Subject to the terms and conditions of the NITSA and NOA, transmission line extensions shall be made to new Delivery Points for Members whose conductors connect with those of DEP (either directly or through Power Agency's facilities) from a transmission line which has adequate capacity to serve the additional load involved.

(g) In accordance with Section 3.5 of the Dominion NCP Transmission Agreement, Future Delivery Points on the Dominion NCP transmission system will be established pursuant to Prudent Utility Practices as defined therein. Future Delivery Points shall be established at 230kV or 115kV at the option of Dominion NCP, exercised consistent with Prudent Utility Practices, except in the case of small loads where Dominion NCP may agree to provide service at lower voltage levels.

(h) The Member shall operate and maintain Delivery Points in a manner consistent with the terms and conditions of the NOA. The Member shall avoid and refrain from any acts or transactions, or the use of any equipment, appliance, or device, which would (i) have a significant adverse effect upon the reliability or operating characteristics of the DEP or Dominion NCP systems, or the interconnected facilities of Power Agency or of its other Members, including, but not limited to, such adverse effects caused by the interconnection of, or the transfer of loads between, Delivery Points not made in accordance with the terms and conditions of the NOA, or (ii) interconnect the DEP or Dominion NCP systems through the systems of Power Agency or the Member with other power suppliers without agreement between Power Agency and DEP or Dominion NCP on reasonable measures or conditions, if any, for parallel operation. Each Member shall maintain a reasonable electrical balance between the phases at each Delivery Point.

(i) It is expressly understood and agreed that Power Agency does not hereby contract to furnish Member electric power for pumping water for extinguishing fires.

(j) The Member shall install, maintain, and operate such protective equipment and switching, voltage control, load shedding, and other facilities as shall be required in order to meet the requirements of DEP and Dominion NCP, as applicable, to assure continuity and adequacy of service and the stability of the interconnected facilities of DEP or Dominion NCP and Power Agency and the other Members and to provide adequate protection for DEP's or Dominion NCP's facilities, and its services to other customers, against trouble originating on the electric system of Power Agency or the Member. In addition, the Member recognizes and agrees to comply and to cooperate with Power Agency in complying, as applicable, (i) with the terms and conditions of the NITSA and NOA and the applicable NERC Reliability Standards, including, but not limited to, those related to system protection, load reduction, load shedding and load management and (ii) with any similar provisions applicable to Dominion NCP.

(k) The Member shall provide promptly to Power Agency any and all information requested by Power Agency to permit Power Agency to provide to DEP the information which DEP may

request pursuant to the terms and conditions of the NITSA and NOA to carry out DEP's scheduling and dispatch function, including the telemetering of Delivery Point data and other network planning and operation activities.

#### SECTION 9. Member Planning and Operations.

(a) Power Supply Planning. The Member will keep Power Agency advised on matters relating to the Member's power supply planning, including, but not limited to, load forecasts, proposed transmission additions, and new Delivery Points.

(b) Diligence. The Member will exercise diligence in the operation of its Electric System with the view of securing efficiency in keeping with Prudent Utility Practice, will construct its facilities in accordance with specifications at least equal to those prescribed by the National Electric Safety Code of the United States Bureau of Standards, and will maintain its lines at all times in a safe operating condition. Each Member will operate said lines in conformity with Section 8(h) of this Agreement. The Member will use electric service equally from the three phases as nearly as possible.

(c) Capacitors. Members whose conductors connect with those of DEP (either directly or through Power Agency's facilities) shall install capacitors and operate switched capacitors in accordance with the terms and conditions of the NITSA and NOA. In the alternative, Power Agency may install such capacitors, or cause such capacitors to be installed, to maintain the required power factor, and such Member will reimburse Power Agency for the costs and expenses it incurs in connection therewith. Power Agency may (i) require each Member whose conductors connect with those of Dominion NCP (either directly or through Power Agency's facilities) to install on its distribution system sufficient capacitors or other facilities to maintain at the time of Dominion NCP's monthly peak a power factor of 92% or higher, or any future power factor established by Dominion NCP, at each of that Member's Delivery Points, or (ii) in the alternative, install facilities to maintain such power factor, and such Member will reimburse Power Agency for the costs and expenses it incurs in connection therewith. Any such costs or expenses incurred by Power Agency pursuant to arrangements with Dominion NCP shall be reimbursed by the Member which caused such costs or expenses to be incurred.

(d) Access. Power Agency and the Member each will give the other the right to enter the premises of the other, and the Member will give DEP or Dominion NCP the right to enter the Member's premises, at all reasonable times for the purpose of repairing or removing facilities, reading meters, or performing work incidental to delivery and receipt of Full Requirements Bulk Power Supply.

(e) Compliance. The Member will be subject to and will comply with all applicable terms and conditions set forth in those tariffs, rate schedules, guidelines, including, but not to, the Guidelines Concerning Distributed Resources, and contracts which affect Power Agency and the Member.

## SECTION 10. Disposition of Electric Systems.

The Member covenants and agrees that it shall not sell, mortgage, lease or otherwise dispose of or encumber its Electric System or any part thereof except as permitted by any of the following provisions of this Section 10:

(a) The Member may, in the ordinary course of the business of operating and maintaining its Electric System, scrap, trade-in, sell or otherwise dispose of any property or equipment if the Member determines that (i) such property or equipment is surplus, obsolete or otherwise not required for the operation and maintenance of its Electric System, and (ii) the original cost of all property and equipment disposed of pursuant to this subparagraph (a) in any fiscal year of the Member is less than the greater of \$25,000 or two percent (2%) of the gross plant investment of the Electric System as reported on the books for the Electric System as of the end of the most recent fiscal year of the Member for which such figure is available.

(b) The Member may sell, lease, mortgage or otherwise dispose of or encumber any property and equipment (i) if and to the extent permitted by N.C.G.S. Section 160A-20, as the same may be amended from time to time, or (ii) if the Member determines, with the written concurrence of Power Agency (which concurrence shall not be unreasonably withheld), that, taking into account past and current operating results of its Electric System and any replacements or intended replacements for such property and equipment to be disposed of, the proposed action will not have a material adverse effect on the Revenues or the operation of its Electric System, or materially increase the operating and maintenance expenses of its Electric System.

(c) The Member may sell or otherwise dispose of its Electric System to one or more other Members, or merge or consolidate its Electric System with the Electric System or Systems of one or more other Members, provided that the purchasing or surviving Member(s), as the case may be, shall have assumed all of the transferor Member's duties and obligations hereunder and under the transferor Member's Debt Service Support Contract.

(d) The Member may merge or consolidate with, or be merged or consolidated into, one or more units of local government which shall have assumed all of the Member's duties and obligations hereunder, in which event such Member shall be relieved from all such duties and obligations, but only if (i) this Agreement shall have been assigned to such unit(s) of local government, which shall have assumed all of the transferor Member's duties and obligations hereunder, and (ii) the Local Government Commission of North Carolina shall have determined that after such merger or consolidation the survivor unit(s) of local government will have the ability to meet the obligations of such Member hereunder.

(e) The Member may sell or otherwise dispose of its Electric System to any other Person but only if the Member (i) has assigned and transferred this Agreement and all interests herein to the transferee Person who has assumed all of the transferor Member's duties and obligations hereunder, and (ii) has terminated its Debt Service Support Contract pursuant to the provisions of Section 13 of the Debt Service Support Contract; provided, however, that prior to any sale or other disposition pursuant to this subsection (e), Power Agency shall have determined that such sale or other disposition will not increase the cost of power and energy under the Full Requirements Power Sales Agreement of any other Member; and provided further, however, that if the transferee Person

is DEP, or a subsidiary or Affiliate of DEP, this Agreement shall be terminated and not assigned and transferred and DEP shall have agreed to (a) exclude the transferor Member's load from the calculation of Power Agency's Hourly Demand under the Full Requirements Power Purchase Agreement, and (b) delete the transferor Member's Delivery Points from the NITSA and NOA.

(f) In the event of a sale or other disposition permitted by subsection (c) of this Section 10, or a merger or consolidation permitted by subsection (c) and (d) of this Section 10, the Member shall provide to Power Agency a counsel's opinion, satisfactory in form and substance to counsel to Power Agency, that (i) in the event of a sale or other disposition, the transferee has assumed and become liable for the duties and obligations of the transferor Member under this Agreement and the transferor Member's Debt Service Support Contract, or (ii) in the event of a merger or consolidation, that following such merger or consolidation the Electric System or unit of local government, as the case may be, surviving such merger or consolidation shall remain or shall have become subject to this Agreement and the transferor Member's Debt Service Support Contract and liable for the duties and obligations of the Member hereunder and thereunder to the same extent that such Electric System or Member had been so subject prior to such merger or consolidation. In the event of a sale or other disposition permitted by subsection (e) of this Section 10 (other than a sale or disposition to DEP or a subsidiary or Affiliate of DEP), the Member shall provide to Power Agency a counsel's opinion, satisfactory in form and substance to counsel to Power Agency, that the transferee has assumed and become liable for the duties and obligations of the transferor Member under this Agreement.

(g) Nothing contained in the foregoing subsections (a) through (f) of this Section 10 shall be deemed to authorize a Member to mortgage or encumber all or substantially all of the properties of its Electric System.

#### SECTION 11. Miscellaneous General Provisions.

(a) Character and Continuity of Service. Power Agency shall use its reasonable best efforts to enforce the terms and conditions of the Full Requirements Power Purchase Agreement, the NITSA and NOA and the Dominion NCP Transmission Agreement, and the terms and conditions of any other similar agreement(s) with other parties for Full Requirements Bulk Power Supply.

Power Agency may temporarily interrupt or reduce deliveries of electric energy to the Member if Power Agency determines that such interruption or reduction is necessary in case of emergencies, to meet any regulatory compliance or reliability directives or in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on its generation or transmission facilities and related apparatuses. After informing the Member regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, Power Agency will, to the best of its ability and if sufficient time is available, schedule such interruption or reduction at a time which will cause the least interference with the operations of the Members.

Power Agency shall not be required to provide, and shall not be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Force Majeure or, with respect to the services to be provided for Full



Requirements Bulk Power Supply, is caused by the inability of Power Agency to obtain any required governmental approvals to enable Power Agency to acquire or construct any facilities.

(b) Metering. Electric capacity and energy delivered by Power Agency to Members' Delivery Points connected to the DEP transmission system will be measured by meters installed at such Members' Delivery Points. The installation, operation, maintenance, repair and replacement of all metering equipment located at Delivery Points connected to the DEP transmission system will be performed by DEP pursuant to the NITSA and NOA. Electric capacity and energy delivered by Power Agency to Members' Delivery Points connected to the Dominion NCP transmission system will be measured by meters installed at such Members' Delivery Points, and such measurements will be transmitted to the point of interconnection between the DEP transmission system and the Dominion NCP transmission system pursuant to the Telemetry and Metering System Services Agreement. The installation, operation, maintenance, repair and replacement of all metering equipment located at Delivery Points connected to the Dominion NCP transmission system will be performed pursuant to the Dominion NCP Transmission Agreement.

(c) Power Deliveries. Power and energy furnished to the Member under this Agreement shall be in the form of three phase current, alternating at a frequency of approximately 60 Hertz.

(d) Effect of PURPA. Power Agency shall endeavor to provide the Member with capacity and energy, or transmission services, as required by the provisions of Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 USC 824a-3) and its implementing regulations ("PURPA Requirements") in connection with the service of loads by the Members pursuant to the PURPA Requirements. In the event a PURPA Qualifying Facility interconnects within the Member's system, the Member may purchase the output from such PURPA Qualifying Facility. Any such purchases will be treated for billing and crediting purposes under this FRPSA in the same manner as such purchases are treated under Section 4.4 of the FRPPA.

(e) Liability of Parties. Neither Power Agency nor the Member shall be responsible for the transmission, control, use or application of electric power provided under this Agreement on the other side of the Point of Connection (hereinafter defined) therefor and shall not, in any event, be liable for damage or injury to any Person or property whatsoever arising, accruing, or resulting from, in any manner, the receiving, transmission, control, use, application, or distribution by Power Agency or the Member of said electric power.

Where Power Agency or the Member has facilities and equipment located on the premises of the other party, the party owning the premises shall permit no one but the other party's authorized representatives to have access to or handle those facilities and equipment. Each party shall indemnify, hold and save harmless the other party for any loss or damage to that other party's premises caused by or arising out of the negligence of the party owning the facilities and equipment, or its representatives, while on the premises of the other party. Each party shall indemnify, hold and save harmless the other party from and against any and all legal and other expenses, claims, costs, losses, suits or judgments for damages, injuries to or death of Persons, or damage to or destruction of property, arising in any manner directly or indirectly by reason of acts of negligence of either party's authorized representative while on the premises of the other party under the right of access provided in this Section 11(e).

Power Agency and the Member shall indemnify, hold and save each other harmless from any and all loss or damage sustained, and from any and all liability to any Person or property incurred by the other (the indemnified party), by reason of any act or performance, or failure to act or perform, on the part of the other (the indemnifying party) or its officers, agents, or employees, in constructing, maintaining or operating the indemnifying party's apparatus, appliances or other property, or in the transmission, control, or application, redistribution, delivery, or sale of said power and energy on the indemnifying party's side of said Point of Connection. Whenever any claim is made against either party, whether the indemnified party or the indemnifying party, the party against whom the claim is made shall give notice to the other party within a reasonable time after the party against whom the claim is made becomes aware of any facts which could reasonably cause it to conclude that the claim is covered by this indemnification. Except as otherwise specifically provided in this Section 11(e), such indemnification shall hold harmless the indemnified party, its officer, agents or employees, from and against any and all liability and any and all losses, damages, injuries, costs and expenses, including expenses incurred by the indemnified party, its agents, servants or employees, in connection with defending any claim or action, and including reasonable attorneys' fees incurred or suffered by the indemnified party, its officer, agents or employees, by reason of the assertion of any such claim against the one indemnified, its officer, agents or employees. The indemnification provided for in this Section 11(e) shall not cover the following expenses: (1) the expense of investigating any claim prior to the time that notice is given to the other party that said claim is covered by this indemnification; (2) compensation for time of employees of the indemnified party spent in defending any action; and (3) attorneys' fees incurred by an indemnified party after an indemnifying party has assumed the defense of an action as provided in this Section 11(e). At any time, the indemnifying party may, at its option, assume on behalf of the indemnified party, its officer, agents and employees, after written notification by the indemnified party of the existence of such a claim, the defense of any action at law or in equity which may be brought against the indemnified party, its officers, agents or employees. The indemnifying party, regardless of whether it assumes the defense of any such action, will pay on behalf of the indemnified party, its officer, agents or employees, the amount of any judgment that may be entered against the indemnified party, its officer, agents or employees, in any such action.

If, pursuant to the provisions of the Full Requirements Power Purchase Agreement, Power Agency is liable to DEP for any loss or damage sustained or any liability to any Person or property incurred by DEP by reason of any act or performance, or failure to act or perform, by the Member, its officers, agents or employees, then the Member shall reimburse Power Agency for any costs or expenses incurred in connection therewith.

In the event that a Member sustains any loss or damage or incurs any liability to any Person or property by reason of any act or performance, or failure to act or perform, by DEP, its officers, agents or employees, then Power Agency shall indemnify and hold harmless such Member from and against such loss, damage or liability; provided, however, that Power Agency shall not be required to indemnify and hold harmless such Member from and against such loss, damage or liability unless Power Agency shall be entitled to recover from DEP the amount of any indemnification sought by the Member pursuant to this paragraph.

The term "Point of Connection" as used in this Section 11(e) shall mean any point at which the conductors owned by a Member connect with the conductors owned by any other entity,

including Power Agency, for the purpose of delivering electric power to the Member in accordance with the provisions of this Agreement.

(f) No Adverse Distinction. Power Agency agrees that there shall be no pattern of adverse distinction and no pattern of undue discrimination in carrying out its obligations under this Agreement relating to the Member as compared to the other Members.

(g) Other Terms and Conditions. Service hereunder shall be in accordance with such other terms and conditions as are established as part of Power Agency's service rules and regulations, which shall not be inconsistent with the provisions of this Agreement.

(h) Notices and Computation of Time. Any notice or demand given by the Member to Power Agency under this Agreement shall be deemed properly given if mailed postage prepaid and addressed, or electronically mailed, to the chief executive officer of Power Agency at its principal office or electronic mail address designated in writing filed with the Members by Power Agency. Any notice, demand, budget, or statement given or rendered by Power Agency to the Members under this Agreement shall be deemed properly given or rendered if mailed postage prepaid and addressed, or electronically mailed, to the Person and at the address designated in writing filed with Power Agency by the Member. The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

In computing any period of time prescribed or allowed under this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday in North Carolina, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday in North Carolina.

## SECTION 12. Future Members.

It is expressly understood that nothing herein shall preclude other future Members from contracting with Power Agency for planning, procuring, and providing such other future Members' bulk power supply.

## SECTION 13. Records; Accounts; Reports; Audits.

Power Agency shall keep accurate records and accounts for any projects owned or controlled by Power Agency and for Full Requirements Bulk Power Supply, separate and distinct from its other records and accounts. Such records and accounts shall contain information supporting the allocation of Power Agency's indirect costs associated with any projects owned or controlled by Power Agency and with Full Requirements Bulk Power Supply. Such records and accounts shall be audited annually by a firm of independent certified public accountants, experienced in electric utility accounting and of national reputation, to be employed by Power Agency. Such records and accounts and such annual audit, including all written comments and recommendations of such accountants, shall be made available for inspection at any reasonable time by the Member at the principal office of Power Agency.

The Member shall keep accurate records and accounts for its Electric System, separate and distinct from its other records and accounts. Such records and accounts shall be audited annually by a firm of certified public accountants or by an accountant approved by the Local Government Commission of North Carolina as qualified to audit Local Government accounts who has no personal interest, direct or indirect, in the fiscal affairs of the municipal government or any of its officers, which audit may be part of the annual audit of the accounts of the Member. Such records and accounts shall be made available for inspection by Power Agency at any reasonable time, and a copy of such annual audit, including all written comments and recommendations of such accountants, shall be furnished to Power Agency not later than one hundred eighty (180) days after the close of the Member's fiscal year.

Power Agency shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Members, to the North Carolina Utilities Commission, and to the Local Government Commission of North Carolina. Each such report shall set forth a complete operating and financial statement covering the operations of Power Agency.

#### SECTION 14. Modification and Uniformity of Contracts.

This Agreement shall not be subject to termination by either party hereto under any circumstances whether based upon the default of the other party under this Agreement, or any other agreement, or otherwise, except as specifically provided in this Agreement. If any other Full Requirements Power Sales Agreement is amended or replaced, so that it contains terms and conditions different from those contained in this Agreement, Power Agency shall notify the Member and, at the option of the Member and upon timely request, Power Agency shall amend this Agreement to include similar terms and conditions.

#### SECTION 15. Assignment of Agreement.

Except as provided in Section 10 of this Agreement, this Agreement shall not be transferred or assigned.

#### SECTION 16. Severability.

If any section, paragraph, clause, or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall be unaffected by such adjudication and all of the remaining provisions of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein. In the event of any such invalidity, the parties hereto shall promptly negotiate in good faith valid new provisions to restore the Agreement to its original intent and effect.

Notwithstanding the invalidity or unenforceability of any or all other provisions of this Agreement, the provisions of this Agreement in respect of the Member's obligation to pay its Member's Share of Monthly Support Costs shall remain in full force and effect.

#### SECTION 17. Applicable Law; Construction.

This Agreement is made under and shall be governed by the law of the State of North Carolina without regard to principles of conflicts of laws. Headings herein are for convenience only and shall not influence the construction of this Agreement.

#### SECTION 18. Survivorship of Obligations.

The termination of this Agreement shall not discharge any party hereto from any obligation it owes to the other party under this Agreement by reason of any transaction, loss, cost, damage, expense, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to such termination. It is the intent of the parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Agreement) shall survive the termination of this Agreement.

#### SECTION 19. No Delay.

No disagreement or dispute of any kind between the parties to this Agreement or between any party and any other entity, concerning any matter, including, without limitation, the amount of any payment due from said party or the correctness of any billing made to the party, shall permit the said party or either of them, to delay or withhold any payment or the performance by any party of any other obligation pursuant to this Agreement. Each party shall promptly and diligently undertake to resolve such disagreement and dispute without undue delay.

#### SECTION 20. Further Documentation.

From time to time after the execution of this Agreement, the parties hereto shall within their legal authority execute other documents as may be necessary, helpful, or appropriate to carry out the terms of this Agreement.

#### SECTION 21. Incorporation of Exhibits.

All Exhibits attached to this Agreement shall be incorporated into and be a part of this Agreement.

#### SECTION 22. Continuance and Enforcement of Agreement.

(a) Except as provided in Section 7(b) of this Agreement, Power Agency shall continue this Agreement in full force and effect and shall enforce this Agreement in accordance with its terms to the extent permitted by law.

(b) The failure of a party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other party of any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or the right of such party thereafter to enforce each and every such provision.

SECTION 23. Relationship to Other Instruments.

It is recognized by the parties hereto that Power Agency must comply with the requirements of the Bond Resolution, and it is therefore agreed that this Agreement is made subject to the terms and provisions of the Bond Resolution.

SECTION 24. Counterparts; Electronic Signatures.

This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, taken together, shall constitute but one and the same Full Requirements Power Sales Agreement. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement and, when printed from electronic files, if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. For purposes of this Agreement, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means, and "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message.

SECTION 25. Entire Agreement.

This Agreement shall constitute the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

SECTION 26. Preaudit.

Execution of this Agreement by the finance officer of the Member shall constitute a certification of such finance officer that, to the extent this Agreement requires the Member to satisfy a financial obligation during the Member's fiscal year in which the Effective Date occurs, this Agreement has been preaudited in the manner required by the N.C. Local Government Budget and Fiscal Control Act.

[Balance of Page Intentionally Left Blank; Signature Page Follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement all by authority of their respective governing bodies duly given.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2023.

TOWN OF TARBORO

By: \_\_\_\_\_  
Mayor

Attest:

For purposes of Section 26 only:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Finance Officer

(SEAL)

Executed this 22nd day of September 2023.

NORTH CAROLINA EASTERN  
MUNICIPAL POWER AGENCY

By: [Signature]  
Chief Executive Officer

Attest:

[Signature]  
Assistant Secretary

(SEAL)



[Signature Page of Full Requirements Power Sales Agreement]

**Exhibit A**

**Network Integration Transmission Service Agreement**

**and**

**Network Operating Agreement**

**between**

**Duke Energy Progress, Inc.**

**and**

**North Carolina Eastern Municipal Power Agency**



**NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT**  
**AND**  
**NETWORK OPERATING AGREEMENT**  
**BETWEEN**  
**DUKE ENERGY PROGRESS, LLC**  
**AND**  
**NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**

## **SERVICE AGREEMENT FOR NETWORK INTEGRATION TRANSMISSION SERVICE**

- 1.0 This Service Agreement, dated as of January 1, 2020, is entered into, by and between Duke Energy Progress, LLC, with its principal offices located at 410 S. Wilmington Street, Raleigh, North Carolina 27601, ("Transmission Provider" or "DEP"), and North Carolina Eastern Municipal Power Agency, with its principal offices located at 1427 Meadow Wood Blvd, Raleigh, NC 27604 ("Transmission Customer" or "NCEMPA").
- 2.0 The Transmission Customer has been determined by the Transmission Provider to have submitted a Completed Application for Network Integration Transmission Service under the Open Access Transmission Tariff of Duke Energy Progress, LLC (the "Tariff").
- 3.0 The Transmission Customer has met the creditworthiness standards of Section 11.2 of the Tariff. In the event that Transmission Customer does not take service for any reason, the Transmission Provider will provide Transmission Customer with a statement identifying the costs incurred.
- 4.0 Service under this Service Agreement shall commence on the later of (1) January 1, 2020, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed, or (3) such other date as it is permitted to become effective by the Commission. —
- 5.0 The Transmission Provider agrees to provide and the Transmission Customer agrees to take and pay for Network Integration Transmission Service in accordance with the provisions of Part III of the Tariff and this Service Agreement.
  - 5.1 The Transmission Customer is responsible for replacing Real Power Losses associated with all transmission service in accordance with Section 28.5 of the Tariff.

NCEMPA has initially arranged, through its contracts with Duke Energy Progress, LLC ("DEP"), for the supply of Real Power Losses associated with its transmission service in accordance with Section 28.5 of the Tariff.

6.0 Any notice or request made to or by either Party regarding this Service Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

Paul Graves  
Duke Energy Progress, LLC  
Manager, Tariff Administration  
299 1<sup>st</sup> Avenue N  
St. Petersburg, FL 33701  
Mailcode: FL-906B  
Phone: (727) 820-5524  
Paul.Graves@duke-energy.com

Transmission Customer:

Kathy Moyer  
ElectriCities of North Carolinas, Inc.  
Vice President, Operations  
1427 Meadow Wood Blvd.  
Raleigh, NC 27604  
Phone: (919) 760-6225  
kmoyer@electricities.org

7.0 The Tariff, Specifications for Network Integration Transmission Service and the Network Operating Agreement, all of which may be amended from time to time, are incorporated herein and made a part hereof.

8.0 Service under this Service Agreement will be subject to some combination of the agreed-upon charges detailed below:

8.1 Transmission Charge:

In each month, Transmission Customer's charge for transmission service shall be determined in accordance with Attachment H of the Tariff. For purposes of applying the provisions of Attachment H, the Transmission Customer's "Network Load" shall be determined as follows:

$$\text{Network Load} = [(TCCP - SEPA) / (1.0 - TLF)] + 50 \text{ MW}$$

where:

"TCCP" for any month is the aggregate of the 60-minute integrated metered demands recorded at (or, if the metering location is remote from the Delivery Point, compensated to) the Transmission Customer's Delivery Points during the hour of the month in which the greatest load was imposed on the Transmission Provider's Transmission System.

"SEPA" is the sum of the preference customer Southeastern Power Administration ("SEPA") capacity allocations of Transmission Customer's municipal participants.

"TLF" is the approved Transmission Loss Factor (expressed as a decimal amount) for the Transmission Provider's Transmission System.

## 8.2 Ancillary Services Charges:

### 1 Scheduling, System Control and Dispatch Service

The charges for Scheduling, System Control and Dispatch Service shall be per Schedule 1 of the Tariff.

The Transmission Customer's load for purposes of computation of the Scheduling, System Control and Dispatch Service, shall include the Customer's coincident peak load reduced by the Customer's allocation of capacity from the Southeastern Power Administration ("SEPA"), plus the associated DEP transmission system losses.

### 2 Reactive Supply and Voltage Control from Generation Sources Service

The charges for Reactive Supply and Voltage Control from Generation Sources Service shall be per Schedule 2 of the Tariff.

The Transmission Customer's load used for the purposes of calculating the charges for Reactive Supply and Voltage Control from Generation Sources Service shall include the Customer's coincident peak load reduced by the Customer's allocation of capacity from the Southeastern Power Administration ("SEPA"), plus the associated DEP transmission system losses minus the Transmission Customer's Retained Capacity (as identified in Section 3.0 (1) of the Specifications for Network Integration Transmission Service).

### 3 Regulation and Frequency Response Service

The charges for Regulation and Frequency Response Service shall be per Schedule 3 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Regulation and Frequency Response Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

### 4 Energy Imbalance Service

The charges for Energy Imbalance Service shall be per Schedule 4 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Energy Imbalance Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

### 5 Operating Reserve - Spinning Reserve Service

The charges for Operating Reserve - Spinning Reserve Service shall be per Schedule 5 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Operating Reserve - Spinning Reserve Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental

Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

**6 Operating Reserve -Supplemental Reserve Service**

The charges for Operating Reserve -Supplemental Reserve Service shall be per Schedule 6 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Operating Reserve -Supplemental Reserve Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

- 9.0 Nothing contained herein shall be construed as affecting in any way the Transmission Provider's right to unilaterally make application to the Federal Energy Regulatory Commission, or other regulatory agency having jurisdiction, for any change in the Tariff or this Service Agreement under Section 205 of the Federal Power Act, or other applicable statute, and any rules and regulations promulgated thereunder; or the Transmission Customer's rights under the Federal Power Act and rules and regulations promulgated thereunder.
- 10.0 The Transmission Customer will be responsible for Delivery Facilities Charges, Distribution Substation Service charges, Redispatch cost, Network Upgrade, and/or Direct Assignment Facilities cost under this agreement as follows:

Delivery Facilities Charges calculated as set forth in Attachment B-1 to the Specifications for Network Integration Transmission Service.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: \_\_\_\_\_

Name: J. Samuel Holeman, III

Date

Title: Vice President, Transmission System Planning & Operations  
Duke Energy Progress, LLC

Transmission Customer:

By: Matthew E. Schull

10/31/19

Name: Matthew E. Schull

Date

Title: Chief Operating Officer, NCEMPA  
ElectriCities of North Carolina, Inc.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By:  10/29/2019  
Name: J. Samuel Holeman, III Date  
Title: Vice President, Transmission System Planning & Operations  
Duke Energy Progress, LLC

Transmission Customer:

By: \_\_\_\_\_  
Name: Matthew E. Schull Date  
Title: Chief Operating Officer, NCEMPA  
ElectriCities of North Carolina, Inc.

## **SPECIFICATIONS FOR NETWORK INTEGRATION TRANSMISSION SERVICE**

**1.0 Term of Transaction:**

Start Date: January 1, 2020

Termination Date: January 1, 2025

If the Service Agreement is not terminated by the Transmission Provider or the Transmission Customer, the Service Agreement will automatically renew for successive five-year terms. The Service Agreement may be terminated at the end of each successive five-year term by the Transmission Provider or the Transmission Customer by giving notice of such termination in writing at least one year prior to the end of the renewal period.

**2.0 Description of capacity and energy to be transmitted by Transmission Provider including the electric Control Area in which the transaction originates.**

The Transmission Customer has capacity and energy pursuant to 1) agreements with Duke Energy Progress, LLC with capacity and energy made available in the DEP Eastern control area, 2) an agreement with Southeastern Power Administration (SEPA) with capacity and energy originating from SEPA's Kerr hydroelectric project in the Dominion Virginia Power control area and SEPA's Philpott hydroelectric project in the American Electric Power control area.

**3.0 Network Resources**

(1) Transmission Customer Generation Owned or Leased:

None



(2) Transmission Customer Generation Purchased:

- (a) The purchase of approximately 29 MW of capacity and associated energy from the Kerr hydroelectric project located in the Dominion Virginia Power control area and the Philpott hydroelectric project located in the American Electric Power control area, operated by the U.S. Army Corps of Engineers, and marketed by the Southeastern Power Administration ("SEPA"). Although considered a Network Resource for purposes of this Service Agreement, SEPA reimburses the Transmission Provider for transmission service under a separate Service Agreement. Consequently, SEPA allocations will be subtracted from the Transmission Customer's Network Load for purposes of determining charges pursuant to paragraph 8.0 of this Service Agreement.
- (b) Effective October 1, 2018, the purchase of capacity and energy from DEP pursuant to the Full Requirements Power Purchase Agreement which obligates DEP to provide capacity and energy to meet NCEMPA's full requirements load, net of load met by SEPA. Full Requirements Capacity and Energy under this Agreement is supplied by DEP's system of generating and purchased resources and is delivered to the DEP-East Control Area. The Full Requirements Power Purchase Agreement obligates DEP to supply such capacity and energy through December 31, 2043.

Total Network Resources = (1) + (2) = Transmission Customer's Total Network Load

4.0 Network Load

(1) Transmission Customer Network Load:

See Attachment A-1 for a list of the Transmission Customer's Delivery Points and the 10-year forecast for each. Detailed information about each of the Transmission Customer's Delivery Points shall be set forth in Delivery Point Data Sheets, executed by the Parties, substantially in the form set forth in Attachment A-2. Initiation of a new Delivery Point, or changes to the configuration of or investment in existing Delivery Points, shall require execution of an appropriately modified Delivery Point Data Sheet.

The Transmission Provider shall include the Transmission Customer's need for sufficient Delivery Point capability in its Transmission System planning and shall, consistent with Good Utility Practice, endeavor to construct and place into service Delivery Point capability sufficient to meet the Transmission Customer's current and forecasted Network Load at each such Delivery Point on a basis comparable to the Transmission Provider's delivery of service to its Native Load Customers. Retirement or modification of any Delivery Point (including a Delivery Point located at any jointly used delivery station) that the Transmission Provider may deem necessary in the course of satisfying the foregoing commitment shall be on a non-discriminatory basis and shall be comparable to the Transmission Provider's termination or modification of delivery stations in serving its Native Load Customers.

(2) Total Network Load at time of most recent annual peak load:

Season (Date - Hour Ending)	Total Network Load [kW]
Summer 2018 (06/19/2018-HE 20:00)	1,501,158
Winter 2018 (01/08/2018-HE 8:00)	1,577,804

5.0 Power Factor Requirements

The power factor requirements applicable to Transmission Customer's Delivery Points shall be as set forth in the Transmission Provider's Tariff.

6.0 Designation of party(ies) subject to reciprocal service obligation:  
None.

7.0 Name(s) of any Intervening Systems providing transmission service:  
None.

8.0 Party Responsible for Providing Real Power Losses:  
Transmission Customer has initially arranged, through its contracts with Duke Energy Progress, LLC ("DEP"), for the supply of Real Power Losses associated with its transmission service in accordance with Section 28.5 of the Tariff.

**ATTACHMENT A-1**

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE  
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)  
BETWEEN  
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY  
AND DUKE ENERGY PROGRESS, LLC**

**NCEMPA DELIVERY POINTS AND  
FORECASTED DELIVERY POINT DEMANDS**

**North Carolina Eastern Municipal Power Agency**  
**2019 Forecast Annual DP NCP Demand Kilowatts at Power Agency Delivery Level**  
**Including SEPA Allocation**

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Apex 1	0	0	0	0	0	0	0	0	0	0
Apex 2	21,469	21,616	22,229	22,759	23,269	23,792	24,319	24,858	25,422	26,038
Apex 3	20,016	20,340	20,724	21,219	21,684	22,181	22,673	23,174	23,702	24,276
Apex 4	38,318	38,938	39,674	40,621	41,531	42,484	43,405	44,383	45,374	46,473
Apex 5	17,736	18,024	18,364	18,802	19,223	19,656	20,091	20,535	21,002	21,511
Ayden 1	21,145	20,935	20,772	20,703	20,618	20,520	20,435	20,344	20,269	20,224
Benson 1	7,913	7,838	7,768	7,779	7,763	7,751	7,740	7,730	7,729	7,742
Clayton 1	9,516	6,853	6,828	7,039	7,145	7,254	7,364	7,477	7,598	7,734
Clayton 2	17,676	20,558	20,763	21,118	21,434	21,761	22,092	22,431	22,795	23,203
Farmville 1	0	0	0	0	0	0	0	0	0	0
Farmville 2	12,108	12,026	11,983	12,004	12,013	12,028	12,044	12,064	12,097	12,162
Fremont 1	3,366	3,331	3,304	3,292	3,276	3,262	3,246	3,231	3,218	3,209
Greenville 1	277,207	302,636	303,713	306,506	309,005	311,666	314,374	317,166	320,349	324,106
Greenville 4	110,387	54,968	55,182	55,689	56,143	56,627	57,119	57,630	58,204	58,887
Greenville 5	0	30,392	30,511	30,791	31,042	31,310	31,582	31,864	32,182	32,559
Hookerton 1	1,515	1,508	1,501	1,502	1,502	1,501	1,501	1,500	1,501	1,504
Kinston 1	92,267	71,559	71,369	71,558	71,678	71,833	71,998	72,165	72,449	72,844
Kinston 2	0	20,172	20,119	20,172	20,208	20,250	20,296	20,349	20,423	20,534
La Grange 1	6,231	6,174	6,131	6,115	6,095	6,073	6,051	6,030	6,012	6,004
Laurinburg 1	28,713	0	0	0	0	0	0	0	0	0
Laurinburg 2	0	28,505	28,388	28,422	28,428	28,448	28,472	28,504	28,567	28,680
Louisburg 1	11,526	11,394	11,269	11,284	11,217	11,178	11,136	11,100	11,075	11,069
Lumberton 1	0	0	0	0	0	0	0	0	0	0
Lumberton 2	28,744	28,488	28,295	28,229	28,144	28,047	27,952	27,858	27,785	27,764
Lumberton 3	16,627	16,478	16,367	16,328	16,279	16,223	16,169	16,114	16,072	16,054
Lumberton 4	14,582	14,452	14,364	14,321	14,277	14,228	14,180	14,132	14,085	14,079
New Bern 1	34,225	34,011	33,906	33,981	34,023	34,082	34,146	34,220	34,330	34,502
New Bern 2	33,441	33,233	33,130	33,203	33,245	33,302	33,364	33,436	33,544	33,712
New Bern 3	2,050	2,037	2,031	2,035	2,038	2,041	2,045	2,048	2,056	2,066
New Bern 4	26,991	26,823	26,740	26,789	26,832	26,878	26,929	26,987	27,074	27,210
New Bern 5	16,319	16,217	16,167	16,203	16,223	16,251	16,281	16,317	16,369	16,451
Pikeville 1	1,968	1,954	1,945	1,945	1,944	1,941	1,939	1,937	1,936	1,939
Red Springs 1	7,144	7,090	7,058	7,054	7,052	7,055	7,068	7,073	7,086	7,112
Rocky Mount	78,350	77,851	77,201	77,183	77,048	76,971	76,903	76,858	76,894	77,066
Rocky Mount 2	78,169	77,472	77,023	76,985	76,870	76,793	76,726	76,680	76,716	76,888
Selma 2	3,603	3,587	3,538	3,526	3,511	3,494	3,478	3,462	3,449	3,440
Selma 3	11,271	11,157	11,068	11,029	10,982	10,930	10,880	10,829	10,787	10,761
Smithfield 1	29,486	29,302	29,211	29,276	29,312	29,363	29,418	29,481	29,577	29,725
Smithfield 2	6,722	6,680	6,658	6,674	6,682	6,694	6,706	6,721	6,742	6,776
Southport 1	14,526	14,527	14,673	14,697	14,807	14,924	15,044	15,169	15,310	15,480
Wake Forest 2	13,304	13,408	13,654	13,771	13,975	14,188	14,402	14,622	14,858	15,123
Wake Forest 3	27,729	27,947	28,250	28,703	29,129	29,571	30,018	30,476	30,969	31,520
Washington 1	66,429	65,884	65,468	65,361	65,231	65,054	64,884	64,713	64,592	64,569

North Carolina Eastern Municipal Power Agency  
2019 Forecast Annual DP NCP Demand Kilowatts at Power Agency Delivery Level  
Including SEPA Allocation

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Wilson 1	0	0	0	0	0	0	0	0	0	0
Wilson 2	12,876	12,829	12,622	12,882	12,730	12,784	12,840	12,900	12,974	13,071
Wilson 3	45,403	45,235	45,209	45,425	45,566	45,790	45,691	46,205	46,471	46,820
Wilson 4	11,393	11,351	11,345	11,399	11,442	11,490	11,541	11,595	11,661	11,749
Wilson 5	19,134	19,063	19,032	19,143	19,215	19,297	19,381	19,472	19,563	19,731
Wilson 6	25,784	25,669	25,654	25,776	25,873	25,964	26,067	26,219	26,370	26,668
Wilson 7	18,285	18,198	18,167	18,274	18,343	18,421	18,501	18,588	18,695	18,885
Wilson 8	0	0	0	0	0	0	0	0	0	0
Wilson 9	0	0	0	0	0	0	0	0	0	0
Wilson 10	0	0	0	0	0	0	0	0	0	0
Wilson 11	73,109	72,838	72,797	73,144	73,419	73,732	74,055	74,401	74,828	75,390
Wilson 12	58,001	57,786	57,753	58,028	58,247	58,495	58,751	59,026	59,364	59,811
<b>DEP Total</b>	<b>1,472,534</b>	<b>1,469,013</b>	<b>1,469,936</b>	<b>1,478,539</b>	<b>1,485,763</b>	<b>1,493,589</b>	<b>1,501,629</b>	<b>1,510,092</b>	<b>1,520,164</b>	<b>1,532,951</b>
Belhaven	4,035	3,993	3,964	3,956	3,944	3,935	3,925	3,917	3,912	3,915
Edenton	22,723	22,610	22,546	22,684	22,606	22,618	22,634	22,649	22,681	22,749
Elizabeth City 1	35,661	35,441	35,299	35,315	35,307	35,285	35,265	35,248	35,256	35,318
Elizabeth City 2	36,132	35,909	35,765	35,782	35,774	35,751	35,732	35,713	35,721	35,785
Hamilton	785	775	768	765	761	757	754	751	748	747
Hertford	5,373	5,329	5,302	5,303	5,299	5,298	5,297	5,298	5,305	5,321
Hobgood	766	778	771	767	763	759	755	751	747	745
Robersonville*	5,358	5,295	5,250	5,232	5,209	5,188	5,168	5,149	5,136	5,132
Scotland Neck	6,008	5,948	5,902	5,882	5,857	5,831	5,805	5,779	5,757	5,744
Tarboro 1	13,267	13,148	13,071	13,063	13,042	13,028	13,016	13,007	13,012	13,040
Tarboro 2	2,168	2,148	2,136	2,134	2,131	2,129	2,127	2,125	2,126	2,131
Tarboro 3	12,752	12,637	12,583	12,558	12,536	12,523	12,510	12,502	12,507	12,634
Tarboro 4	10,786	10,698	10,636	10,630	10,613	10,602	10,591	10,584	10,588	10,611
Tarboro 5	9,126	9,044	8,991	8,985	8,971	8,962	8,953	8,947	8,950	8,970
<b>VEPCO Total</b>	<b>164,971</b>	<b>163,765</b>	<b>162,962</b>	<b>162,954</b>	<b>162,815</b>	<b>162,664</b>	<b>162,533</b>	<b>162,419</b>	<b>162,447</b>	<b>162,740</b>
<b>Agency Total</b>	<b>1,637,505</b>	<b>1,632,768</b>	<b>1,632,898</b>	<b>1,641,493</b>	<b>1,648,578</b>	<b>1,656,254</b>	<b>1,664,161</b>	<b>1,672,511</b>	<b>1,682,601</b>	<b>1,695,691</b>

\*Robersonville has one delivery point with 3 metering points: (2) 4kV metering points and (1) 12kV metering point, all at one delivery for load forecasting purposes. Since the load forecast is completed by city level and delivery level, and not metering point level, Robersonville is shown as one delivery point. The NCEMPA forecast files do not contain a Robersonville 2 and 3, only Robersonville 1.

**ATTACHMENT A-2**

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE  
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)  
BETWEEN  
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY  
AND DUKE ENERGY PROGRESS, LLC**

**FORM OF DELIVERY POINT DATA SHEETS**

### DELIVERY POINT DATA SHEET

1.	NCEMPA Participant	_____
2.	Location	_____
3.	Effective Date	_____
4.	Delivery Point Name and Location	_____
5.	Delivery Point Voltage	_____
6.	Point of Connection	_____
	A. Name	_____
	B. Number	_____
	C. Physical Location	_____
	D. Firm Capacity of:	_____
	E. Voltage	_____
	F. Metered Voltage	_____
	G. Location of Meter	_____
7.	Special Facilities or Conditions	_____
		_____
		_____
		_____

ACCEPTED BY NCEMPA	Name:	_____
	Title:	_____
	Date:	_____
ACCEPTED BY DEP	Name:	_____
	Title:	_____
	Date:	_____

**ATTACHMENT B-1**

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE  
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)  
BETWEEN  
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY  
AND DUKE ENERGY PROGRESS, LLC**

**DELIVERY FACILITIES CHARGES**



## DELIVERY FACILITIES CHARGES

Transmission Customer will compensate Transmission Provider for Transmission Customer's share of the cost of Delivery Facilities (facilities beyond the Delivery Points that are used to deliver capacity and energy from the Transmission System to the systems of Transmission Customer's municipal participants at each Delivery Point). The charges for Delivery Facilities in each month shall be calculated in accordance with the formulas set forth below, based upon the operating voltage (transmission voltage or distribution voltage) of specific Delivery Facilities at a Delivery Point.

$$\begin{array}{l} \text{Delivery Facilities Charge} \\ \text{for Transmission Voltage} \\ \text{Delivery Facilities} \end{array} = \begin{array}{l} (CACR_{EF} + \\ CACR_{AF}) \end{array} \times MFCR_{TV}$$

$$\begin{array}{l} \text{Delivery Facilities Charge} \\ \text{for Distribution Voltage} \\ \text{Delivery Facilities} \end{array} = \begin{array}{l} (CACR_{EF} + CACR_{AF}) \end{array} \times MFCR_{DV}$$

$$CACR_{EF} = OC_{EF} \times RF$$

$$CACR_{AF} = OC_{AF} \times RF$$

Terms used in the foregoing formulas shall have the following meanings:

**CACR<sub>EF</sub> ("Customer-Assigned Cost Responsibility - Existing Facilities"):** the portion (in \$) of the Original Cost of Delivery Facilities in service as of July 1, 2008 and located at Transmission Customer's Delivery Points for which Transmission Customer shall bear cost responsibility for purposes of calculating Delivery Facilities Charges.

**CACR<sub>AF</sub> ("Customer-Assigned Cost Responsibility - Additional Facilities"):** the portion (in \$) of the Original Cost of Delivery Facilities placed in service on and after July 1, 2008 and located at Transmission Customer's Delivery Points for which Transmission Customer shall bear cost responsibility for purposes of calculating Delivery Facilities Charges. In any year, CACR<sub>AF</sub> shall be determined as the product of the Original Cost of Additional Facilities (Delivery Facilities placed in service on and after July 1, 2008) times the RF for that year.

**OC<sub>EF</sub> ("Original Cost of Existing Facilities"):** for any Delivery Point, the asset costs of Delivery Facilities placed in service before July 1, 2008, as set forth in the Delivery Facilities Investment Data Sheet for such Delivery Point that is in effect as of July 1, 2008. These values, shall not change during the term of the NITSA

except (as set forth below) as necessary to reflect the Transmission Provider's remaining book investment in existing Delivery Facilities that later may be retired from service.

**OCAF ("Original Cost of Additional Facilities"):** for any Delivery Point, the asset costs of new Delivery Facilities or modifications to existing Delivery Facilities that are placed in service on and after July 1, 2008, as properly recorded by Transmission Provider in FERC Accounts 360 through 369 (or their successor accounts) and reflected on a new or modified Delivery Facilities Investment Data Sheet for that Delivery Point.

OCEF and OCAF shall be reduced from time to time by an appropriate share of the Transmission Provider's remaining book investment in existing or new Delivery Facilities that were reflected in the determination of OCEF or OCAF (as applicable) but that later are retired from service.

**RF ("Responsibility Factor"):** For Delivery Points where the Transmission Customer is the sole user of the Delivery Facilities, RF shall equal 1.0. For Delivery Points where the Transmission Customer is not the sole user of the Delivery Facilities, RF shall be calculated as follows:

$$\text{RF} = \frac{\text{(Transmission Customer metered demand at hour of peak annual demand on Delivery Facility)}}{\text{(Total demand on Delivery Facility at hour of peak annual demand on Delivery Facility)}}$$

The Transmission Provider shall update the values used for RF each calendar year based on the most recent available load data.

**MFCRTV ("Monthly Fixed Charge Rate - Transmission Voltage"):** A rate, expressed as a decimal value, representing one-twelfth of the annual cost of ownership of Delivery Facilities operated at transmission voltage (115 kV and higher). The current MFCRTV value is 0.89%.

**MFCRDV ("Monthly Fixed Charge Rate - Distribution Voltage"):** A rate, expressed as a decimal value, representing one-twelfth of the annual cost of ownership of Delivery Facilities operated at distribution voltage (below 115 kV). The current MFCRDV value is 1.05%.

The values used for MFCRTV and MFCRDV may be changed by the Transmission Provider only pursuant to a filing made under Section 205 of the Federal Power Act, and by the Transmission Customer only pursuant to a filing made under Section 206 of the Federal Power Act.

Effective January 1, 2020, Transmission Customer shall pay the following monthly Delivery Facilities charges:

**Delivery Facilities Charge for Transmission Voltage Delivery Facilities = \$10,973.09 /month**

**Delivery Facilities Charge for Distribution Voltage Delivery Facilities = \$84,757.76 /month**

A Delivery Point may be terminated by either Transmission Provider or Transmission Customer upon reasonable notice.<sup>1</sup> In the event that the termination of the Delivery Point results in the Early Retirement (as defined in Section 3.a below) of any of the Transmission Provider's facilities covered by these distribution rates or any of the Transmission Customer's facilities interconnected with such Transmission Provider's facilities, the Transmission Provider or the Transmission Customer, as applicable, shall be responsible for paying to the other party a Loss Due to Early Retirement ("LDER") calculated as follows:

1. If Transmission Provider is the initiator of the termination of the Delivery Point, Transmission Provider shall be responsible for paying to Transmission Customer any LDER incurred by Transmission Customer involving Transmission Customer's facilities interconnected with Transmission Provider's facilities at the Delivery Point. In such event, Transmission Customer's LDER shall consist of the sum of (a) the net book value of the Transmission Customer's facilities interconnected with Transmission Provider's facilities at the Delivery Point, plus actual cost of removal, less any actual salvage value, all as calculated using Transmission Customer's standard accounting practices, and (b) Transmission Customer's Reintegration Costs.

Reintegration Costs shall include the direct labor costs (plus a reasonable percentage for regular employee fringe benefits and a reasonable percentage for engineering and supervision, cost of use of equipment, cost of materials, and miscellaneous expenses) that Transmission Customer incurs in connecting, by the most practical and direct route, (a) the Transmission Customer's lines that were previously connected with the terminated Delivery Point with (b) the Delivery Point that replaces the terminated Delivery Point. Reintegration Costs will be calculated consistent with the standard methodology being used by the Transmission Customer at that time for calculations of this kind.

<sup>1</sup> For purposes of this Attachment B-1, "termination" of a Delivery Point means the Transmission Customer's permanent removal of all load from the point of electrical connection or at the voltage specified in the Delivery Point Data Sheet in effect for that Delivery Point immediately prior to the load removal.

2. If Transmission Customer is the initiator of the termination of the Delivery Point, Transmission Customer shall be responsible for paying to Transmission Provider any LDER incurred by Transmission Provider involving the Transmission Provider facilities covered by these distribution rates. In such event, Transmission Provider's LDER shall consist of the net book value of the Transmission Provider's facilities covered by these distribution rates, plus actual cost of removal, less any actual salvage value, all as calculated using Transmission Provider's standard accounting practices.

3. Definitions

- a. A retirement shall be deemed to result in an "Early Retirement" for LDER purposes if the LDER, calculated as set forth in sections 1 and 2 herein, exceeds 20% of the sum of (a) the original cost of the asset(s) (including any additions or retirements) for which the LDER is calculated (b) actual removal costs, and (c), in the case of a termination initiated by the Transmission Provider, Reintegration Costs.
- b. For LDER calculation purposes, "net book value" of an asset represents the original cost of the asset (including any additions or retirements) less actual accumulated depreciation for the asset as reflected in the fixed assets system of the impacted entity.

4. Billing Provisions. After the Delivery Point is terminated, the Transmission Provider or Transmission Customer, as applicable, shall render a bill to the other party for the Transmission Provider's or Transmission Customer's LDER (excluding the actual cost of removal and actual salvage value), and, if applicable, the Transmission Customer's Reintegration Costs. After the facilities at the Delivery Point have been removed, the Transmission Provider or Transmission Customer, as applicable, shall render a bill to the other party for the Transmission Provider's or Transmission Customer's actual cost of removal and actual salvage value. Bills rendered hereunder shall be subject to the Billing and Payment provisions of Section 7 of the Tariff.

**ATTACHMENT B-2**

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE  
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)  
BETWEEN  
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY  
AND DUKE ENERGY PROGRESS, LLC**

**ORIGINAL COST OF EXISTING DELIVERY FACILITIES AND  
INITIAL CUSTOMER-ASSIGNED COST RESPONSIBILITY  
FOR EXISTING DELIVERY FACILITIES**

**Cost Responsibility for Existing Power Agency Municipal Participant  
Distribution Delivery Facilities**

(a)	(b)	(c)	(d)	(e)	(f)
<b>Delivery Point</b>	<b>OC<sub>EF</sub></b>	<b>OC<sub>AF</sub></b>	<b>CACR<sub>EF</sub></b>	<b>CACR<sub>AF</sub></b>	<b>CACR<sub>TOTAL</sub></b>
Apex	\$1,531,103		\$1,531,103		\$1,531,103
Apex # 4		\$12,389		\$12,389	\$12,389
Apex # 5		\$28,560		\$28,560	\$28,560
Benson	\$1,396,179		\$531,665		\$531,665
Clayton	\$4,044,335		\$1,194,730		\$1,194,730
Farmville		\$14,586		\$14,586	\$14,586
Fremont	\$562,283		\$226,840		\$226,840
Hookerton	\$889,473		\$219,716		\$219,716
Kinston	\$52,117		\$52,117		\$52,117
LaGrange	\$625,884		\$315,970		\$315,970
Laurinburg	\$770,049		\$536,768		\$536,768
Louisburg	\$1,004,227		\$517,651		\$517,651
Lumberton #2	\$39,671		\$39,671		\$39,671
Lumberton #3	\$22,560		\$22,560		\$22,560
Lumberton #4		\$10,740		\$10,740	\$10,740
New Bern #1	\$11,869		\$11,869		\$11,869
New Bern #2	\$52,988		\$52,988		\$52,988
New Bern #3	\$1,002,374		\$130,900		\$130,900
New Bern #4	\$2,641		\$2,641		\$2,641
New Bern Lewis Farm Rd.		\$12,803		\$12,803	\$12,803
Pikeville	\$577,071		\$172,103		\$172,103
Red Springs	\$494,457		\$404,487		\$404,487
Selma # 2	\$671,869		\$464,694		\$464,694
Selma # 3		\$15,664		\$15,664	\$15,664
Smithfield	\$553,433		\$553,433		\$553,433
Smithfield # 2		\$23,948		\$23,948	\$23,948
Southport	\$1,088,355		\$526,946		\$526,946
Wake Forest		\$14,289		\$14,289	\$14,289
Wake Forest # 3		\$26,530		\$26,530	\$26,530
Wilson #1 - #11	\$399,986		\$399,986		\$399,986
Investment in metering, telemetering, and related equipment (combined system load signal)	\$3,821		\$3,821		\$3,821
<b>Total Distribution</b>	<b>\$15,796,745</b>	<b>\$159,509</b>	<b>\$7,912,659</b>	<b>\$159,509</b>	<b>\$8,072,168</b>

**Cost Responsibility for Existing Power Agency Municipal Participant  
Transmission Delivery Facilities**

(a)	(b)	(c)	(d)	(e)	(f)
	<b>Transmission Voltage Delivery Facilities</b>				
	<b>OC<sub>EF</sub></b>	<b>OC<sub>AF</sub></b>	<b>CACR<sub>EF</sub></b>	<b>CACR<sub>AF</sub></b>	<b>CACR<sub>TOTAL</sub></b>
Ayden	\$79,383		\$79,383		\$79,383
Greenville #1, #2 and #3	\$347,501		\$347,501		\$347,501
Rocky Mount	\$240,339	\$37,100	\$240,339	\$37,100	\$277,439
Rocky Mount #4	\$73,932		\$73,932		\$73,932
Washington	\$157,956		\$157,956		\$157,956
Wilson 230 kV POD	\$296,721		\$296,721		\$296,721
<b>Total Transmission</b>	<b>\$1,407,886</b>	<b>\$37,100</b>	<b>\$1,407,886</b>	<b>\$37,100</b>	<b>\$1,232,932</b>

## **Network Operating Agreement**

**Between**

**Duke Energy Progress, LLC**

**And**

**North Carolina Eastern Municipal Power Agency**

Duke Energy Progress, LLC, formerly known as Carolina Power & Light Company (d/b/a Progress Energy Carolinas, Inc.) (Transmission Provider), and North Carolina Eastern Municipal Power Agency (Transmission Customer) agree that the provisions of this Network Operating Agreement (NOA) and the Service Agreement govern the Transmission Provider's provision of Network Integration Service to the Transmission Customer in accordance with DEP's Open-Access Transmission Tariff (Tariff), as it may be amended from time to time. Unless specified herein, capitalized terms shall refer to terms defined in the Tariff.

The Network Operating Committee consisting of a representative and an alternate from each Network Customer and the Transmission Provider shall: (i) coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service; (ii) ensure that current operating practices and procedures are consistent with the Network Operating Agreement; (iii) plan, schedule, and implement operational changes to maintain consistency with the Network Operating Agreement; and (iv) recommend, schedule, and implement Network Operating Agreement changes. Each party's authorized official will inform the other party's authorized official in writing of the representative and alternate to the Network Operating Committee as soon as practical, so that the agreement can be implemented.

### **1.0 Control Area Requirements**

The Transmission Customer shall: (i) operate as a Control Area under applicable guidelines of the North American Electric Reliability Corporation ("NERC") and the SERC Reliability Corporation ("SERC"); or (ii) satisfy its Control Area requirements, including all Ancillary Services, by contracting with the Transmission Provider; or (iii) satisfy its Control Area requirements, including all Ancillary Services, by contracting with another entity that can satisfy those requirements in a manner that is consistent with the Tariff and Good Utility Practice and satisfies NERC and SERC standards. The Transmission Customer shall plan, construct, operate and maintain its facilities and system in accordance with Good Utility Practice, which shall include, but not be limited to, all applicable guidelines of NERC and SERC, as they may be modified from time to time, and any generally accepted practices in the region that are consistently adhered to by the Transmission Provider.



## **2.0 Redispatch Procedures**

- (a) If the Transmission Provider determines that redispatching resources (including reductions in off-system purchases and sales) to relieve an existing or potential transmission constraint is the most effective way to ensure the reliable operation of the Transmission System, the Transmission Provider will redispatch the Transmission Provider's resources, and request the Transmission Customer to redispatch its resources, on a least-cost basis, without regard to the ownership of such resources. The Transmission Provider will maintain a redispatch protocol and will apprise the Transmission Customer of its redispatch practices and procedures, as they may be modified from time to time.
- (b) The Transmission Customer will submit verifiable cost data for its resources, which estimate the cost to the Transmission Customer of changing the generation output of its Network Resources, to the Transmission Provider. This cost data will be used, along with similar data for the Transmission Provider's resources, as the basis for least-cost dispatch. The Transmission Provider's bulk power operations personnel will keep this data confidential, and will not disclose it to the Transmission Provider's marketing personnel. If the Transmission Customer experiences changes to its costs, the Transmission Customer will submit those changes to the Transmission Provider's Energy Control Center. The Transmission Provider will implement least-cost redispatch consistent with its existing contractual obligations and its current practices and procedures for its own resources per Sections 33.2 and 42.2 of the Tariff. The Transmission Customer shall respond within ten minutes to requests for redispatch from the Transmission Provider's Energy Control Center.
- (c) The Transmission Customer may audit, at its own expense, particular redispatch events (such as the cause or necessity of the redispatch) during normal business hours following reasonable notice to the Transmission Provider. Either the Transmission Customer or the Transmission Provider may request an audit of the other Party's cost data. Any audit of cost data will be performed by an independent agent at the requesting Party's cost. Such independent agent will be a nationally recognized accounting firm and will be required to keep all cost data confidential.
- (d) Once redispatch has been implemented, the Transmission Provider will book in a separate account the redispatch costs incurred by the Transmission Provider and the Transmission Customer based on the submitted cost data. The Transmission Provider and the Transmission Customer will each bear a proportional share of the total redispatch costs pursuant to Sections 33 and 42 and Attachment J of the Tariff. The redispatch charge or credit, as appropriate, will be reflected on the Transmission Customer's monthly bill.

## **3.0 Metering**

- (a) Unless otherwise agreed and except as provided in Section 3(b), the Transmission Provider will be responsible for the installation, operation, maintenance, repair and replacement of all metering equipment necessary to provide Network Integration Service or Network Contract Demand Service.

All metering equipment shall conform to Good Utility Practice and, if it is electrically located in the Transmission Provider's Control Area, the standards and practices of the Transmission Provider's Control Area. Prior to installation of any metering equipment by the Transmission Customer or its agents, the Transmission Provider and the Transmission Customer shall review the metering equipment to ensure conformance with such standards or practices.

Metering equipment necessary to provide Network Integration Transmission Service that is in place at each Delivery Point as of the date of this Agreement is included within the Delivery Facilities provided by Transmission Provider pursuant to Section 10 and Attachments B-1 and B-2 of the NITSA.

- (b) Unless otherwise agreed, electric capacity and energy received by the Transmission Provider from the Transmission Customer will be measured by meters installed and maintained by the Transmission Customer at the Transmission Customer's Network Resources if such Network Resources are electrically located within the Transmission Provider's Control Area. When measurement is made at any location other than a Point of Receipt, suitable adjustment for losses between the point of measurement and the Point of Receipt will be agreed upon in writing between the Parties hereto and will be applied to all measurements so made. Metered receipts used in billing and accounting hereunder will in all cases include adjustment for such losses.
- (c) Electric capacity and energy delivered to the Transmission Customer's points of delivery by the Transmission Provider will be measured by meters installed at the points of delivery. When measurement is made at any location other than a Point of Delivery, suitable adjustment for losses between the point of measurement and the Point of Delivery will be agreed upon in writing between the Parties hereto and will be applied to all measurements so made. Metered receipts used in billings and accounting hereunder will in all cases include adjustments for such losses.
- (d) Meters at the Transmission Customer's Network Resources and Network Loads will be tested at least biennially. In addition, the Transmission Customer will, upon request of the Transmission Provider, test any of its meters at its Network Resources or Network Loads used for determining the receipt or delivery of capacity and energy by the Transmission Provider. Representatives of the Transmission Provider will be afforded an opportunity to witness such tests. In the event the test shows the meter to be inaccurate, the Transmission Customer will make any necessary adjustments, repairs or replacements thereon.
- (e) In the event any meter used to measure capacity and energy fails to register or is found to be inaccurate, appropriate billing adjustments, based on the best information available, will be agreed upon by the Parties hereto. Any meter tested and found to be not more than two percent above or below normal will be considered to be correct and accurate insofar as correction of billing is concerned. If, as a result of any test, a meter is found to register in excess of two percent either above or below normal, then the reading of such meter previously taken will be corrected according to the percentage of inaccuracy so found, but no correction will extend beyond ninety days prior to the day on which inaccuracy is discovered by such test.

- (f) The Transmission Provider will have the right to install suitable metering equipment at any Point(s) of Receipt or Delivery, as herein provided for the purpose of checking the meters installed by the Transmission Customer.
- (g) The Transmission Customer will read the meters owned by it, except as may be mutually agreed, and will furnish to the Transmission Provider all meter readings and other information required for operations and for billing purposes. Such information will remain available to the Transmission Provider for 3 years.
- (h) The Transmission Customer has entered into a Metering Services Agreement with the Transmission Provider for NCEMPA members participating in Virginia Electric and Power Company ("VEPCO Participants"). See Attachment A-1 for a list of the Transmission Customer's VEPCO Participant Delivery Points.

#### **4.0 Control Area and Data Equipment**

- (a) Unless otherwise agreed, the Transmission Provider will be responsible for the installation, modification, operation, maintenance, repair and replacement of all data acquisition equipment, protection equipment, and any other associated equipment and software, which may be required by either Party for the Transmission Customer to operate in accordance with its choice under Section 1.0 of this NOA.

Such equipment shall conform to Good Utility Practice and, if the Transmission Customer is electrically located within the Transmission Provider's Control Area, the standards and practices of the Transmission Provider's Control Area. Prior to installation of any such equipment by Transmission Customer or its agents, the Transmission Provider and the Transmission Customer shall review the equipment and software required by this Section to ensure conformance with such standards or practices.

- (b) The selection of real time telemetry and data to be received by the Transmission Provider's Energy Control Center and the Transmission Customer shall be at the reasonable discretion of the Transmission Provider's Control Area, as deemed necessary for reliability, security, economics, and/or monitoring of system operations. This telemetry includes, but is not limited to, loads, line flows, voltages, generator output, and breaker status at any of the Transmission Customer's transmission facilities. To the extent telemetry is required that is not available, the Transmission Customer shall, at its own expense, install any metering equipment data acquisition equipment, or other equipment and software necessary for the telemetry to be received by the Transmission Provider's Energy Control Center.

The Transmission Customer has load located outside the Transmission Provider's Control Area. The Transmission Customer currently provides and shall continue to provide real time telemetry and data for this load to the Transmission Provider's Energy Control Center that is necessary for the provision of Network Integration Transmission Service.

- (c) Each Party shall be responsible for implementing any computer modifications or changes required to its own computer system(s) as necessary to implement this Section.

## 5.0 Operating Requirements

- (a) The Transmission Customer shall operate its generating resources inside the Transmission Provider's Control Area in a manner consistent with that of the Transmission Provider, including following voltage schedules, free governor response, meeting power factor requirements at the point of interconnection with the Transmission Provider's system, and other such criteria required by NERC and SERC, and consistently adhered to by the Transmission Provider.
- (b) When load is being served by the Transmission Customer within the DEP control area, the Transmission Customer shall maintain a power factor of 100% to 90% lagging at each point of delivery determined on the basis of the 60-minute metered or computed reactive demand (kVar) for each hour of the month and the corresponding 60-minute metered or computed kilowatt demand for that hour.

In addition, the Transmission Customer shall maintain a power factor of 100% to 95% lagging at each point of delivery, determined on the basis of the 60-minute metered or computed kilowatt demand at the time of DEP's monthly transmission system peak and the corresponding 60-minute reactive demand (kVar) for that hour.

To the extent the Transmission Customer owns or operates reactive devices which would cause reactive power to flow onto the DEP system, DEP and the Customer will develop procedures governing the Customer's delivery of reactive power to the DEP system.

In the event that the Transmission Customer does not satisfy the power factor requirements outlined above, or the Parties cannot agree on the procedures governing the customer's delivery of reactive power, or the Parties cannot agree on the efforts to be undertaken by the Transmission Customer to satisfy the power factor requirements within an agreed upon period of time, DEP reserves the right to make a unilateral filing with FERC under Section 205 of the Federal Power Act seeking authorization to either (i) assess appropriate charges to the Transmission Customer for reactive power supplied to the Transmission Customer by DEP up to the level of minimum power factor requirement, or (ii) install power factor correction equipment sufficient to bring the Transmission Customer's power factor into compliance with the power factor requirements, and to assess the Transmission Customer the reasonable cost of such equipment.

- (c) Insofar as practicable, the Transmission Provider and the Transmission Customer shall protect, operate, and maintain their respective systems so as to avoid or minimize the likelihood of disturbances which might cause impairment of service on the system(s) of the other. The Parties shall implement load shedding programs to maintain the reliability and integrity of the Transmission System, consistent with the standards of NERC and SERC, as provided in Sections 33.6 and 42.6 of the Tariff. Load shedding shall include: (1) automatic load shedding by under frequency relay or (2) manual load shedding. The Transmission Provider will implement load shedding to maintain the relative sizes of load served, unless otherwise required by circumstances beyond the control of the Transmission Provider or the Transmission Customer. Automatic load shedding devices will operate without notice. When manual load shedding is necessary, the Transmission Provider shall notify the Transmission Customer's dispatchers or

schedulers of the required action and the Transmission Customer shall comply within ten minutes.

- (d) The Transmission Customer shall, at its own expense, provide, operate, and maintain in service high-speed, digital under frequency load shedding equipment. For load served in or from the DEP Zone, the Transmission Customer will install under frequency relays to disconnect automatically its Network Load in a manner consistent with that followed by the Transmission Provider.

The installation of under frequency relays to accomplish any load shedding in addition to that already installed shall be completed on a schedule agreed to by the Network Operating Committee. The Network Operating Committee may review the amount of load that would be disconnected automatically, and make such adjustments and changes as necessary.

- (e) In the event the Transmission Provider modifies the load shedding system, the Transmission Customer shall, at its expense, make changes to its equipment and the settings of such equipment, as required. The Transmission Customer shall test and inspect the load shedding equipment within ninety (90) days of taking Network Integration Transmission Service or Network Contract Demand Transmission Service under the Tariff and thereafter in accordance with Good Utility Practice, and provide a written report to the Transmission Provider. The Transmission Provider may request a test of the load shedding equipment with reasonable notice.
- (f) The Transmission Customer shall ensure that all Network Resources meet the Transmission Provider's requirements for parallel operation of non-utility generation.

The Transmission Customer shall not permit any generating unit greater than 5 MW to be operated in parallel either continuously or momentarily with the Transmission Provider's system without the written approval of the Transmission Provider's Network Operating Committee representative.

For the Transmission Customer owned generation greater than 5 MW operated in parallel with the Transmission Provider's system without prior written approval, the Transmission Provider may take any and all appropriate action necessary to prevent the parallel operation of such generation. These actions may include, but are not limited to, ensuring reliability and safety of the Transmission Provider's system by whatever means necessary.

- (g) Parallel Operation or Transfers of Load Between Points of Connection

- (1) Planning

The Transmission Customer shall not permit any Point of Delivery to be operated in parallel with another Point of Delivery, or transfer load between Points of Delivery, unless the Transmission Provider has first approved the arrangement. The Transmission Provider shall grant such approval unless the reliability of its system and its ability to measure energy at any Point of Delivery would be adversely affected by such operation in parallel or load transfer. Any and all switching shall be done with the prior consent of the Transmission Provider Energy Control Center System Operator.

(2) Operations

The Transmission Customer will be permitted to parallel Points of Delivery or to transfer loads for purposes of emergencies, maintenance, construction, or restoration of service with the prior consent of the Transmission Provider Energy Control Center System Operator.

**6.0 Operational Information**

The Transmission Customer shall provide data needed for the safe and reliable operation of the Transmission Customer's and the Transmission Provider's Control Area and to implement the provisions of the Tariff. The Transmission Provider will treat this information as confidential and will not divulge it to its marketing personnel.

- (a) The Transmission Customer served from the DEP Zone shall provide by September 1<sup>st</sup> of each year the Customer's Network Resource availability forecast (e.g., all planned resource outages, including off-line and on-line dates) for the following year. Such forecast shall be made in accordance with Good Utility Practice. The Transmission Customer shall inform the Transmission Provider, in a timely manner, of any changes to the Transmission Customer's Network Resource availability forecast. In the event that the Transmission Provider determines that such forecast cannot be accommodated due to a transmission constraint on its Transmission System, and such constraint may jeopardize the security of its Transmission System or adversely affect the economic operation of either the Transmission Provider or the Transmission Customer, the provisions of Sections 33.2 and 42.2 of the Tariff will be implemented.
- (b) The Transmission Customer served from the DEP Zone shall provide at least 14 calendar days advance notice of the Transmission Customer's best forecast of any planned transmission or Network Resource outage(s) and other operating information that the Transmission Provider deems appropriate. In the event that such planned outages cannot be accommodated due to a transmission constraint on the Transmission Provider's Transmission System, the provisions of Sections 33.2 and 42.2 of the Tariff will be implemented.
- (c) The Transmission Provider and the Transmission Customer shall notify and coordinate with as much advance notice as reasonably possible with the other Party prior to the beginning of any work by the other Party (or contractors or agents performing on their behalf), which may directly or indirectly have adverse effects on the reliability and security of the other Party's system.
- (d) The Transmission Customer is responsible for replacing Real Power Losses associated with all transmission service in accordance with Sections 28.5 and 36.11 of the Tariff. The Transmission Customer must identify the party responsible for supplying Real Power Losses before the transaction takes place.

**7.0 Network Planning**

In order for the Transmission Provider to plan, on an ongoing basis, to meet the Transmission Customer's requirements for Network Integration Service, the Transmission Customer served from the DEP Zone shall provide, by January 1<sup>st</sup> of each year, updated

information (current year and 15-year projections) for Network Loads and Network Resources, as well as any other information reasonably necessary to plan for Network Integration Service. This type of information is consistent with the Transmission Provider's information requirements for planning to serve its Native Load Customers. The data will be provided in a format consistent with that used by the Transmission Provider.

**8.0 Character of Service**

Power and energy delivered under the Service Agreement and this NOA shall be delivered as three-phase alternating current at a nominal frequency of sixty (60) Hertz, and at the nominal voltages at the delivery and receipt points.

**9.0 Transfer of Power and Energy Through Other Systems**

Since the Transmission Provider's Transmission System is, and will be, directly and Indirectly connected with other electric systems, it is recognized that, because of the physical and electrical characteristics of the facilities involved, power delivered under the Service Agreement and this NOA may flow through such other systems. The Parties agree to advise other electric systems as deemed appropriate of such scheduled transfers and to attempt to maintain good relationships with affected third parties. If the Transmission Provider is charged by another electrical system for loop flow charges, then the Transmission Provider may seek recovery of these charges from the Transmission Customer based on his cost responsibility pursuant to § 205 of the Federal Power Act.

**10.0 Notice**

If any Notice or request made to or by either Party regarding this NOA shall be made to the representative of the other Party as indicated in the Network Service Agreement.

**11.0 Incorporation**

The Tariff and the Service Agreement, as may be amended from time to time, are incorporated herein and made a part hereof.

**12.0 Term**

The term of this NOA shall be concurrent with the term of the Service Agreement between the Parties.

IN WITNESS WHEREOF, the Parties have caused this NOA to be executed by their respective authorized officials.

Transmission Provider:

By: \_\_\_\_\_

Name: J. Samuel Holeman, III

Date

Title: Vice President, Transmission System Planning & Operations  
Duke Energy Progress, LLC

Transmission Customer:

By: Matthew E. Schull

10/31/19

Name: Matthew E. Schull

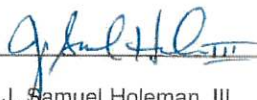
Date

Title: Chief Operating Officer, NCEMPA  
ElectricCities of North Carolina, Inc.



IN WITNESS WHEREOF, the Parties have caused this NOA to be executed by their respective authorized officials.

Transmission Provider:

By:  10/29/2014  
Name: J. Samuel Holeman, III Date  
Title: Vice President, Transmission System Planning & Operations  
Duke Energy Progress, LLC

Transmission Customer:

By: \_\_\_\_\_  
Name: Matthew E. Schull Date  
Title: Chief Operating Officer, NCEMPA  
ElectriCities of North Carolina, Inc.



**TENTH AMENDED AND RESTATED**

**FULL REQUIREMENTS POWER PURCHASE AGREEMENT**

**BETWEEN**

**NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**

**AND**

**DUKE ENERGY PROGRESS, LLC**

Tariff Submitter: Duke Energy Progress, LLC

FERC Program Name: FERC FPA Electric Tariff

Tariff Title: Tariffs, Rate Schedules and Service Agreements

Tariff Effective Date: January 1, 2023

Tariff Record Title: Full Requirements Power Purchase Agreement with NCEMPA

Option Code: A

Record Content Description: Rate Schedule No. 200

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**TENTH AMENDED AND RESTATED****FULL REQUIREMENTS POWER PURCHASE AGREEMENT**

This Tenth Amended and Restated Full Requirements Power Purchase Agreement, including Exhibit I (“Capacity Rate Formula”), Exhibit II (“Energy Rate Formula”), Exhibit III (“Reserve Capacity Rate Formula”), Exhibit IV (“Base Load Reduction Compensation Payment”), Exhibit V (“Form of Notice of Member Resource, Customer Resource, and Economic Development Resource”), Exhibit VI (“Methodology for Calculation of GSU Loss Factor - DEP”), Exhibit VII (“Calculation of Coal Combustion Residual Costs”), Exhibit VIII (“Buyer Maximum Annual CCR Billing Amount”), Exhibit IX (“Rate Discounts for North Carolina Excess Deferred Taxes”), Exhibit X (“Rate Discounts Pursuant to Settlement Agreement in FERC Docket No. EL20-4-000”), and Exhibit XI (“Grandfathered Energy Injection Devices”) hereto, which are incorporated into and made a part hereof, as such exhibits may be amended from time to time (collectively, the “Agreement”), is made and entered into as of June 27, 2023 (the “Execution Date”), between North Carolina Eastern Municipal Power Agency (“Power Agency” or “Buyer”), a public body and body corporate and politic organized and existing under Chapter 159B of the General Statutes of North Carolina, known as the Joint Municipal Electric Power and Energy Act (“Joint Municipal Act”), with offices in Raleigh, North Carolina, and Duke Energy Progress, LLC (“DEP” or “Duke”), a limited liability company organized and existing under Chapter 55 of the General Statutes of North Carolina, known as the Business Corporation Act, with offices in Raleigh, North Carolina.

Power Agency and DEP are sometimes herein referred to individually as a “Party” or

collectively as the “Parties.”

### **RECITALS**

**Whereas**, DEP is engaged in the business of generating, transmitting and distributing electric power in portions of North Carolina and South Carolina, and operates its own electric generation facilities; and

**Whereas**, Power Agency is a joint agency organized by its member municipalities pursuant to the Joint Municipal Act to own and operate facilities for the generation, transmission, sale, and supply of electric power and energy; and

**Whereas**, the Parties entered into the Full Requirements Power Purchase Agreement as of September 5, 2014, for which FERC granted an effective date of December 10, 2014; and

**Whereas**, DEP as Transmission Provider under the DEP OATT accepted the Full Requirements Power Purchase Agreement as a designated network resource of Power Agency under the DEP OATT for the entire Delivery Period; and

**Whereas**, the Parties replaced the Full Requirements Power Purchase Agreement with the First Amended and Restated Full Requirements Power Purchase Agreement dated as of December 10, 2014, with a FERC effective date of December 10, 2014; and

**Whereas**, the Parties replaced the First Amended and Restated Full Requirements Power Purchase Agreement with the Second Amended and Restated Full Requirements Power Purchase Agreement dated as of July 31, 2015, with a FERC effective date of August 1, 2015; and

**Whereas**, the Parties replaced the Second Amended and Restated Full Requirements Power Purchase Agreement with the Third Amended and Restated Full Requirements Power Purchase Agreement dated as of June 1, 2017, with a FERC effective date of June 1, 2017; and

**Whereas**, the Parties replaced the Third Amended and Restated Full Requirements Power Purchase Agreement with the Fourth Amended and Restated Full Requirements Power Purchase Agreement dated as of April 28, 2017, with a FERC effective date of July 1, 2017; and

**Whereas**, the Parties replaced the Fourth Amended and Restated Full Requirements Power Purchase Agreement with the Fifth Amended and Restated Full Requirements Power Purchase Agreement dated as of December 19, 2018, with a FERC effective date of November 1, 2018; and

**Whereas**, the Parties replaced the Fifth Amended and Restated Full Requirements Power Purchase Agreement with the Sixth Amended and Restated Full Requirements Power Purchase Agreement dated as of April 24, 2020, with a FERC effective date of June 1, 2020; and

**Whereas**, the Parties replaced the Sixth Amended and Restated Full Requirements Power Purchase Agreement with the Seventh Amended and Restated Full Requirements Power Purchase Agreement dated as of May 27, 2021, with a FERC effective date of January 1, 2021; and

**Whereas**, the Parties replaced the Seventh Amended and Restated Full Requirements Power

Purchase Agreement with the Eighth Amended and Restated Full Requirements Power Purchase Agreement dated as of September 24, 2021, with a FERC effective date of October 1, 2021; and

**Whereas**, on December 17, 2021, pursuant to Section 205 of the Federal Power Act, DEP unilaterally proposed to replace the Eighth Amended and Restated Full Requirements Power Purchase Agreement with the Ninth Amended and Restated Full Requirements Power Purchase Agreement with a FERC effective date of March 1, 2022, which proposal NCEMPA opposed; and

**Whereas**, FERC permitted the proposed Ninth Amended and Restated Full Requirements Power Purchase Agreement to go into effect as of March 1, 2022, subject to refund, pending the outcome of settlement and hearing procedures ordered by the Commission;

**Whereas**, the Parties entered into a settlement agreement pursuant to which the Ninth Amended and Restated Full Requirements Power Purchase Agreement would be effective for the period March 1, 2022 through December 31, 2022, and would be replaced with this Tenth Amended and Restated Full Requirements Power Purchase Agreement, effective January 1, 2023; and

**Whereas**, the Parties hereby replace the Ninth Amended and Restated Full Requirements Power Purchase Agreement with the Tenth Amended and Restated Full Requirements Power Purchase Agreement with a FERC effective date of January 1, 2023; and

**Whereas**, pursuant to the terms, conditions, cost of service rates, and charges set forth in this Agreement, Power Agency agrees to purchase from DEP and DEP agrees to sell to Power Agency full requirements capacity and energy to serve Power Agency's Native Load (defined below) needs.

**NOW THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION THE SUFFICIENCY OF WHICH IS ACKNOWLEDGED, AND INTENDING TO BE BOUND, THE PARTIES AGREE AS SET FORTH IN THIS AGREEMENT:**

**1. Definitions**

Unless defined in the body of the Agreement, any capitalized term herein shall have the meaning set forth below:

- 1.1 “Affiliate” means, in relation to any person, any entity controlled, directly or indirectly, by such person, any entity that controls, directly or indirectly, such person, or any entity directly or indirectly under common control with such person. An affiliate includes a division of the specified entity that operates as a functional unit. For purposes of this definition only, “control” means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to be directed the management policies of an entity.
- 1.2 “Adjusted Base Block” has the meaning set forth in Section 2.9.2.
- 1.3 “Adjusted Supplemental Load” has the meaning set forth in Section 2.9.3.
- 1.4 “AFUDC” means allowance for funds used during construction.
- 1.5 “Allocable Share of CCR Disallowances” means (a) if a Retail Rate Order or applicable Law provides for a CCR Disallowance for any year(s), the CCR Disallowances for such year(s) times Buyer’s Production Demand Allocation Factor for that year(s) for

demand-related costs and/or Buyer's allocable share for fuel-related costs; and/or (b) if a Retail Rate Order or applicable Law does not identify a year(s) for all or any portion of the CCR Disallowances provided for in a Retail Rate Order or other applicable Law, the average of Buyer's Production Demand Allocation Factors for demand-related costs and/or Buyer's allocable share for fuel-related costs for the years subject to the Retail Rate Order or applicable Law times the CCR Disallowances provided for in such Retail Rate Order or applicable Law that are not identified for any particular year(s).

- 1.6 "Agreement" has the meaning set forth in the first paragraph of this Agreement.
- 1.7 "Allocation/Billing Change" has the meaning set forth in Section 2.5.
- 1.8 "Alternative Base Load Capacity" has the meaning set forth in Section 2.9.2.
- 1.9 "Alternative Resource" means an owned or purchased generation resource that Power Agency will use to reduce Power Agency's Supplemental Load and/or Base Load purchases under this Agreement.
- 1.10 "Ancillary Service Credit" has the meaning set forth in Section 3.10.1.
- 1.11 "Annual Coincident Billing Demand" means (i) Power Agency's Annual Coincident Demand, less (ii) the SEPA capacity allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in kilowatts), less (iii) any Alternative Base Load Capacity metered at or (if necessary) adjusted to the DEP generator level; provided, however, that the Annual Coincident Billing Demand shall not be greater than the Supply Cap or less than zero.

- 1.12 “Annual Coincident Demand” means Power Agency’s Hourly Demand that is coincident with the hour of DEP’s Annual Peak Demand.
- 1.13 “Annual True-up Amount” has the meaning set forth in Section 7.1.1.
- 1.14 “Applicable Rate” has the meaning set forth in Section 4.4.2.1.
- 1.15 “Asset Purchase Agreement” means that certain Asset Purchase Agreement by and between Power Agency and DEP dated as of September 5, 2014, as the same may be amended from time to time.
- 1.16 “Bankrupt” means that a Party:
- (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
  - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
  - (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditor's rights, or a petition is presented for its winding-up or liquidation;
  - (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or substantially all of its assets;
  - (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets;
  - (viii) causes or is subject to any event with respect to which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or
  - (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.
- 1.17 “Base Block” means 700 MWs, or such reduced amount in accordance with Section 2.9.4.
- 1.18 “Base Load” means the portion of Power Agency’s Hourly Demand during each clock hour that is equal to the lesser of (i) the Base Block, or (ii) Power Agency’s Hourly Demand.
- 1.19 “Beneficial Reuse” means any beneficial uses of coal combustion residuals made by non-affiliated third parties in connection with construction projects, mining reclamation projects, and any other beneficial uses that may be made by such non-affiliated third parties.



- 1.20 “Beneficial Reuse Costs” mean Duke’s generation system level costs incurred less any revenue or credits earned by Duke arising from the transfer of title of quantities of coal combustion residuals to non-affiliated third parties for their Beneficial Reuse.
- 1.21 “Billing Dispute Notice” has the meaning set forth in Section 8.3.1.
- 1.22 “Business Day” mean any day on which Federal Reserve member banks in New York, New York are open for business, and such day shall commence at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.
- 1.23 “Buyer Deferred CCR Costs” shall have the meaning specified in Section 5.5.2.1.
- 1.24 “Buyer Maximum Annual CCR Billing Amount” shall be the annual values as stipulated in Exhibit VIII.
- 1.25 “Buyer’s CCR Costs” means Buyer’s allocable share of demand and/or energy related CCR Costs for a year.
- 1.26 “Buyer’s Production Demand Allocation Factor” has the meaning specified in Section I of Exhibit VII.
- 1.27 “Buyer’s Share of CCR Insurance Proceeds” mean the share of CCR Insurance Proceeds that are allocable to Buyer: (a) if the CCR Insurance Proceeds specifies a year(s) and/or specific costs identifiable in a specific year(s), then Buyer’s Share of CCR Insurance Proceeds shall be the CCR Insurance Proceeds times the Buyer’s Production Demand Allocation Factor for demand related charges and/or the Buyer’s allocable share for fuel related charges for the year(s) to which such proceeds apply, or (b) if the CCR Insurance Proceeds do not specify a year(s) nor specify costs, the Buyer’s Share of the CCR

Insurance Proceeds shall equal the ratio of the Buyer's CCR Costs to total CCR Costs incurred from January 1, 2015 through December 31<sup>st</sup> of the year prior to the year in which the CCR Insurance Proceeds are received times the CCR Insurance Proceeds.

- 1.28 "Calculation of Coal Combustion Residual Costs" means the computation included in Exhibit VII that is to be applied each year during the term of this Agreement for purposes of calculating the Charge for Buyer CCR Costs.
- 1.29 "Calendar Year" means the period from January 1 through December 31 of any year.
- 1.30 "CAMA" means the North Carolina Coal Ash Management Act, 2014 N.C. Sess. Laws 122; 2014 N.C. Ch. 122; 2013 N.C. SB 729, as amended in June 2015 by the Mountain Energy Act, N.C. SB 716, as further amended by the Drinking Water Protection/Coal Ash Cleanup Act, House Bill 630/S.L. 2016-95, as such legislation may be amended or modified from time-to-time.
- 1.31 "Capacity Rate" means the unit charge for capacity, as such charge is calculated annually through application of the Capacity Rate Formula, expressed in dollars per kilowatt per month or per year, as applicable.
- 1.32 "Capacity Rate Formula" means the spreadsheets and related notes included in Exhibit I that are to be applied each year during the term of this Agreement for purposes of calculating the Capacity Rate.
- 1.33 "CCR Disallowance" means CCR Costs that the NCUC disallows for recovery in a Retail Rate Order, or those costs which Duke is prohibited from recovering from retail ratepayers in accordance with any applicable Law, including those costs disallowed as

a lump sum and/or for a particular type of expenditure. Any billing credit associated with a CCR Disallowance shall include any rate of return previously charged on such amount by Duke as well as interest computed at the Interest Rate.

- 1.34 "CCR Insurance Proceeds" means payments received by Duke from insurance companies that recover CCR Costs which Buyer has paid or has an obligation to pay under this Agreement.
- 1.35 "CCR Rule" means the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities promulgated by the United States Environmental Protection Agency and published on April 17, 2015, 80 Fed Reg. 21302, as such regulations may be amended or modified from time to time.
- 1.36 "Charge for Buyer CCR Costs" shall be the charge calculated in accordance with Exhibit VII.
- 1.37 "Coal Combustion Residual Costs" or "CCR Costs" mean costs that have been or will be incurred in the future by Duke to satisfy the various requirements of CAMA, the CCR Rule, and consent and/or settlement agreements/orders concerning the treatment, management and remediation of coal combustion residuals. CCR Costs shall not include any of the following:
- (i) Requirements or obligations imposed on Duke to treat, manage or remediate coal combustion residuals by new legislation or regulations promulgated after December 31, 2016; and
  - (ii) DOJ Settlement Costs.

- 1.38 “Combined System” means those certain generating facilities owned and/or operated by DEP and those certain firm power purchase arrangements to which DEP is a party that are collectively used to serve Firm Native Load during the Delivery Period of this Agreement.
- 1.39 “Combined System Capacity” has the meaning set forth in Section 4.1.4.5.
- 1.40 “Commercial and Industrial Customer” means any retail customer of a Member that is not a residential customer.
- 1.41 “Compensation Payment” means the payment, calculated in accordance with the methodology set forth in Exhibit IV, that is to be made by Power Agency to DEP in the event Power Agency reduces its Base Load purchases pursuant to Section 2.7.
- 1.42 “Construction Project” has the meaning set forth in Section 16.3.
- 1.43 “Customer Resource” means any generating unit having a nameplate capacity rating of 95 kW or more or an Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is installed behind (i) a Member’s retail customer meter, (ii) a Member’s wholesale customer meter, or (iii) the meter of a retail customer of a wholesale customer of a Member.
- 1.44 “CWIP” means construction work in progress.
- 1.45 “Defaulting Party” has the meaning set forth in Section 13.1.
- 1.46 “Delivery Period” has the meaning set forth in Section 2.1.1.
- 1.47 “Delivery Points” means the points on the DEP Transmission System where the delivery of power to Power Agency’s Members is measured in accordance with the NITSA.

- 1.48 “Demand Response” means those activities engaged in by Power Agency or its Members to reduce, interrupt, or otherwise manage end-use consumer load through the use of centralized control and/or by supplying load signal information, real-time pricing signals, or specific instruction. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Demand Response.
- 1.49 “Demand-Side Management” means energy and load-shape modifying activities undertaken by Power Agency and/or a Member that are designed to encourage end-use consumers to modify patterns of electricity usage to shift the timing and level of electricity consumption. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Demand-Side Management.
- 1.50 “DEP Cost of Capital” means the carrying cost rate (in %) computed by multiplying the Weighted Cost of Capital (Exhibit 1, page 4) by the sum of one (1) plus the Tax Revenue Requirement Factor (Exhibit 1, page 3).
- 1.51 “DEP Generation System” means the system of electric generating units owned by, operated by, or under the control of DEP and used by DEP to meet the requirements of its Firm Native Load customers and other system obligations.
- 1.52 “DEP OATT” means the Open Access Transmission Tariff on file at the FERC, as it may be amended from time to time, pursuant to which DEP as Transmission Provider offers transmission service over the DEP transmission system, or the open access transmission tariff of a successor Transmission Provider.
- 1.53 “DEP-Supplied Load” has the meaning set forth in Section 3.12.

- 1.54 “DEP Supply Ratio” has the meaning set forth in Section 3.11.
- 1.55 “DEP’s Annual Peak Demand” means the highest of DEP’s Monthly Peak Demands during each Calendar Year.
- 1.56 “DEP’s Monthly Peak Demand” means the highest sixty (60) minute net integrated demand in megawatts recorded by DEP during each month associated with serving its Firm Native Load.
- 1.57 “DEP Transmission System” means the integrated transmission system over which transmission service is provided to customers in the DEP Zone pursuant to the DEP OATT.
- 1.58 “Department of Justice Settlement Costs” or “DOJ Settlement Costs” means the burden of, or the costs associated with, compliance with the criminal and/or civil fines, restitution related to counts of conviction, community service payments, the mitigation obligation, and funding of the environmental compliance plans as set forth in the Judgment in *United States v. Duke Energy Progress, Inc.*, Case Nos. 5:15-CR-62, 67 & 68 (E.D.N.C. May 14, 2015), Additional Probation Term 16. The term “DOJ Settlement Costs” also includes:
- (i) the burden of, or costs associated with criminal and/or civil fines, penalties, restitution, community service payments or any mitigation obligation imposed on Duke from its failure to comply with the terms as set forth in the Judgment in *United States v. Duke Energy Progress, Inc.*, Case Nos. 5:15-CR-67 & 68 (E.D.N.C. May 14, 2015), Additional Probation Term 16;

- (ii) “Unallowable Costs” as described in paragraph III.C.16 of the “Interim Administrative Agreement between Duke Energy Corporation; Duke Energy Business Services, LLC; Duke Energy Carolinas, LLC; and Duke Energy Progress, Inc. and the United States Environmental Protection Agency (EPA Case Nos. 15-0411-00 thru 15-0411-03 and 15-0411-00A thru 15-0411-02A); and
  - (iii) the burden of and/or costs associated with CCR Costs that Duke is prohibited from collecting in rates pursuant to an agreement reached with a governmental authority; provided however, for purposes of this definition only, the phrase “an agreement reached with a governmental authority” shall neither include nor apply to any agreement, order, cost treatment, and/or finding issued, accepted and/or approved by (a) FERC pertaining to wholesale rates and/or regulation, and/or (b) the NCUC or SCPSC pertaining to retail rates and/or regulation.
- 1.59 “Eastern Prevailing Time” (or “EPT”) means the time in effect in the Eastern Time Zone of the United States of America, whether it be Eastern Standard Time or Eastern Daylight Savings Time.
- 1.60 “Economic Development Resource” means any generating unit or Energy Injection Device that is installed for the purpose of retaining the load of an existing customer or attracting the load of a new customer served or to be served by a Member and that is used to serve load at the site of the generating unit or Energy Injection Device consistent with Section 4.3 of this Agreement.

- 1.61 “Edenton Generators” means the two (2) 1,250 kW generators owned and operated by the Town of Edenton that are located on Tower Drive, Edenton, North Carolina.
- 1.62 “Effective Date” means the start of service of this Rate Schedule No. 200, which was August 1, 2015.
- 1.63 “Elizabeth City Generators” means the four (4) 1,750 kW generators owned and operated by the City of Elizabeth City that are located at 410 Pritchard Street, Elizabeth City, North Carolina.
- 1.64 “Energy Efficiency Measures” means programs sponsored or specifically implemented by Power Agency and/or a Member to reduce the energy used by specific end-use devices and systems, typically without affecting the services provided. Energy Efficiency Measures reduce overall electricity consumption and achieve energy savings by substituting technically more advanced equipment to produce the same level of end-use services (e.g., lighting, heating, and motor drive) with less electricity consumed in all hours of operation, not merely the peak hours. Examples include, but are not limited to, high efficiency appliances, efficient lighting programs, high-efficiency heating, ventilating and air conditioning (“HVAC”) systems or control modifications, efficient building design, advanced electric motor drives, and heat recovery systems. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Energy Efficiency Measures.



- 1.65 "Energy Injection Device" means battery storage, or any other current or future technologies that withdraw, store, and reinject energy into the electrical system that have a maximum capable injection capacity of 95 kW or more.
- 1.66 "Energy Rate" means the unit charge for energy, calculated annually through application of the Energy Rate Formula, expressed in dollars per megawatt-hour.
- 1.67 "Energy Rate Formula" means the spreadsheets and related notes included in Exhibit II that are to be applied each year during the term of this Agreement for purposes of calculating the Energy Rate.
- 1.68 "Estimated Nuclear Integration Date" has the meaning set forth in Section 2.7.5.
- 1.69 "Event of Default" has the meaning set forth in Section 14.1.
- 1.70 "Excepted Provision" has the meaning set forth in Section 16.2.
- 1.71 "FERC" means the Federal Energy Regulatory Commission or any successor or replacement agency vested with regulatory authority over wholesale power sales in interstate commerce.
- 1.72 "Firm Native Load" means the demands of wholesale and retail power customers for which DEP, by statute, franchise, regulatory requirements, or contract, has undertaken the obligation to plan, construct and operate its system to provide reliable power supply services and meet the electric needs of such customers.
- 1.73 "Force Majeure" means any cause beyond the control of the party affected and which with reasonable efforts the party affected is unable to overcome, including without limitation the following: acts of God; fire, flood, landslide, lightning, earthquake,

hurricane, volcanic eruption, tornado, storm, freeze, or drought; blight, famine, epidemic or quarantine; strike, lockout or other labor difficulty; act or failure to act of the other party (and such party so acting or failing to act shall not use its act or failure to act to excuse any other obligation which it has under this Agreement); act or failure to act of any regulatory agency or other governmental authority; changes in the work or delays caused by public bidding requirements; theft; casualty; accident; equipment breakdown; failure or shortage of, or inability to obtain from usual sources, goods, labor, equipment, information or drawings, machinery, supplies, energy, fuel or materials; embargo; injunction; litigation or arbitration with suppliers or vendors; shortage of rolling stock; arrest; war; civil disturbance; explosion; acts of public enemies; sabotage; invasion; or breach of contract by any supplier, contractor, subcontractor, or laborer.

- 1.74 "Formal Notice" has the meaning set forth in Section 2.7.5.
- 1.75 "Governmental Authority" mean any federal, state, local or municipal governmental body; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority, or jurisdictional power; any court or governmental tribunal; any Transmission Organization, regional power pool, or NERC; any instrumentality of any of the foregoing; or any other entity performing any similar function(s) or purpose.
- 1.76 "GSU Losses" means the product in any hour of the GSU Loss Factor and Power Agency's load as measured or calculated at its Delivery Points.

- 1.77 “GSU Loss Factor” means the factor (expressed as a decimal fraction) intended to represent the ratio of (i) the amount of energy consumed or lost in transformation over the generator step-up transformers and, (ii) the total amount of energy delivered from the DEP Transmission System in any hour, as determined in accordance with Section 3.13.
- 1.78 “Hourly Demand” means in each hour, the aggregate load of Power Agency’s Members for which there is in effect a Member Power Sales Agreement determined by summing the metered 60-minute demands of the Members (integrated metered kilowatt load, compensated where applicable, in accordance with the NOA, to reflect losses from the meter location back to the Delivery Point), adjusted to include the output of PURPA Qualifying Facilities in each clock hour in accordance with Section 4.4.2 of this Agreement, and adjusted further to include Line Losses and GSU Losses.
- 1.79 “Interest Rate” means for any month, the prime rate being charged by Bank of America, N.A., or its successor, on the first day of such month, less one percentage point, divided by twelve, expressed in percentage points, to the nearest hundredth.
- 1.80 “Interruptible Demand Charge” has the meaning set forth in Section 9.7.
- 1.81 “Interruptible Load” shall mean that load of a Commercial and Industrial Customer that such Commercial and Industrial Customer may elect to interrupt, curtail, or otherwise reduce, either on its own or at the request or direction of Power Agency or a Member.
- 1.82 “ISO” means an independent system operator that has functional or operating control over a transmission system.

- 1.83 “ITC” means an independent transmission company.
- 1.84 “Law” means any statute, regulation, rule, procedure, code, ordinance, resolution, order, writ, judgment, decree or permit enacted, adopted, issued or promulgated; and/or, any legal, regulatory, or administrative determination by any regulatory body, administrative agency, or court, including without limitation under principles of common law; and/or, or any decree or issuance of a Governmental Authority; and/or, any change in, modification of, or new or changed interpretation of any of the foregoing.
- 1.85 “Line Losses” means the energy consumed or lost in the transmission, transformation and/or delivery of energy over the DEP Transmission System between the Transfer Point and the Delivery Points and, in any hour is equal to the Transmission Loss Factor (expressed as a decimal fraction) multiplied by Power Agency’s load as measured or calculated at its Delivery Points.
- 1.86 “MAC” has the meaning set forth in Section 11.2.1.
- 1.87 “Member” means a municipality in North Carolina which has become, or which may hereafter become, a member of the Power Agency and which is a party to a Member Power Sales Agreement.
- 1.88 “Member Debt Service Support Contract” means a contract between Power Agency and each of its Members pursuant to which Power Agency agrees to issue bonds to refinance its existing indebtedness and each Member agrees to pay its share of Monthly Support Costs, as such term is defined therein.

- 1.89 “Member Resource” means any generating unit (other than the Edenton Generators and Elizabeth City Generators) having a nameplate capacity of 95 kW or more or Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is directly connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.
- 1.90 “Member Power Sales Agreement” means an agreement between Power Agency and each of its Members pursuant to which Power Agency sells to a Member and such Member purchases from Power Agency such Member’s full requirements bulk power supply.
- 1.91 “Monthly Billing Energy” means (i) the sum of Power Agency’s Hourly Demand for each hour of a given month, less (ii) the SEPA energy allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in megawatt-hours), less (iii) energy served by an Alternative Resource metered at or (if necessary) adjusted to the DEP generator level; provided, however, that Monthly Billing Energy shall not be less than zero.
- 1.92 “Monthly Capacity Charge” has the meaning set forth in Section 5.1 of this Agreement.
- 1.93 “Monthly Charge for Buyer’s CCR Costs” shall have the meaning specified in Section III of Exhibit VII.
- 1.94 “Monthly Coincident Billing Demand” means (i) Power Agency’s Monthly Coincident Demand, less (ii) the SEPA capacity allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in kilowatts), less (iii) any Alternative

Base Load Capacity metered at or (if necessary) adjusted to the DEP generator level; provided, however, that the Monthly Coincident Billing Demand shall not be greater than the Supply Cap or less than zero.

- 1.95 “Monthly Coincident Demand” means Power Agency’s Hourly Demand in a month that is coincident with the hour of DEP’s Monthly Peak Demand in such month.
- 1.96 “Monthly Energy Charge” has the meaning set forth in Section 5.3.
- 1.97 “Monthly Reserve Capacity Charge” has the meaning set forth in Section 6.1.
- 1.98 “Monthly Transmission System Peak” has the meaning set forth in Section 3.12.
- 1.99 “NCEMPA Generation” means any generating unit owned by Power Agency having a nameplate capacity rating of 95 kW or more that is connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.
- 1.100 “NCUC” means the North Carolina Utilities Commission.
- 1.101 “Neighbor Compensation Costs” means costs incurred by Duke that are not required by Law and that are incurred under a program voluntarily implemented by Duke and publicly announced by Duke in December 2016 under which Duke provides to eligible property owners located within a certain proximity to Duke coal ash basins goodwill cash payments, compensation for reduction in property values, and compensation for water bills.
- 1.102 “NERC” means the North American Electric Reliability Corporation.
- 1.103 “Network Integration Transmission Service Agreement” (or “NITSA”) means the Agreement for Network Integration Transmission Service between DEP (as

Transmission Provider) and Power Agency (as Transmission Customer), effective July 1, 2013, as it may be amended from time to time, providing for the furnishing of network integration transmission service under the DEP OATT, on file with FERC and designated as DEP Service Agreement No. 268.

- 1.104 "Network Operating Agreement" (or "NOA") means the Network Operating Agreement entered into between DEP (as Transmission Provider) and Power Agency (as Transmission Customer) pursuant to the DEP OATT, effective July 1, 2013, on file with FERC as part of DEP Service Agreement No. 268, as it may be amended from time to time.
- 1.105 "New Nuclear Generation" means any nuclear-fueled generating unit other than the four (4) nuclear-fueled generating units that are part of the DEP Generating System on the Effective Date of this Agreement (*i.e.*, Shearon Harris Unit 1, Brunswick Units 1 and 2, and Robinson Unit 2), and any contract pursuant to which DEP acquires an entitlement to all or a portion of the capacity of a nuclear-fueled generating unit, in either case acquired or entered into after the Effective Date.
- 1.106 "Non-Defaulting Party" has the meaning set forth in Section 14.1.1.
- 1.107 "Notice Event Conditions" has the meaning set forth in Section 2.7.
- 1.108 "NRC" means the Nuclear Regulatory Commission.
- 1.109 "OATT" means Open Access Transmission Tariff.
- 1.110 "Performance Assurance" has the meaning set forth in Section 11.2.1.

- 1.111 “Power Agency’s Native Load” means the load of the electric power customers of Power Agency’s Members, the electric needs of which the Members have undertaken the obligation to meet.
- 1.112 “Protected Information” has the meaning set forth in Section 7.3.5.
- 1.113 “Prudent Utility Practices” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or 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 was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Utility Practices are not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the electric utility industry.
- 1.114 “PURPA Qualifying Facility” means a generating facility that is a “small power production facility” or “cogeneration facility” that, in each case, meets the requirements of Sections 292.203(a) and 292.203(b) of Title 18 of the Code of Federal Regulations and that has satisfied the procedures for obtaining Qualifying Facility status under Section 292.207 of Title 18 of the Code of Federal Regulations.
- 1.115 “Qualified Resources” consists of Member Resources, Customer Resources, and NCEMPA Generation.
- 1.116 “Qualified Resource Addition” has the meaning set forth in Section 4.1.4.



- 1.117 "Qualified Resource Factor" has the meaning set forth in Section 4.1.4.
- 1.118 "Renewables Act" means the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard, N.C. Gen. Stat. 62-133.8 et seq., including all related rules promulgated by the North Carolina Utilities Commission, as may be amended or modified from time-to-time, and any such successor statutes, regulations, or rules.
- 1.119 "Requirements Service" has the meaning set forth in Section 3.1.
- 1.120 "Reserve Capacity Billing kW" has the meaning set forth in Section 4.1.3.
- 1.121 "Reserve Capacity Rate" means the unit charge for reserve capacity, calculated annually through application of the Reserve Capacity Rate Formula, expressed in dollars per kilowatt per month.
- 1.122 "Reserve Capacity Rate Formula" means the spreadsheets and related notes included in Exhibit III that are to be applied each year during the term of this Agreement for purposes of calculating the Reserve Capacity Rate.
- 1.123 "Response Notice" has the meaning set forth in Section 8.3.2.
- 1.124 "Retail Rate Order" means a final, non-appealable order issued by the NCUC in (i) a retail rate proceeding; (ii) a proceeding approving Duke's recovery of CCR Costs, including Beneficial Reuse Costs through Duke's fuel adjustment clause; and/or (iii) any other proceeding in which the NCUC expressly approves Duke's recovery of CCR Costs from North Carolina retail customers.
- 1.125 "RPS" means any federal and/or state renewable energy portfolio program and/or mandate that requires or encourages either Party to comply with requirements to obtain

energy or related products and/or services from renewable energy facilities or sources, or similar program or mandate.

- 1.126 "RTO" means a regional transmission organization.
- 1.127 "SCPSC" means the South Carolina Public Service Commission.
- 1.128 "SEPA Entitlement" shall mean the aggregate sum of the capacity and energy that some or all of Power Agency's Members are entitled to receive during the Delivery Period as preference customers, through the U.S. Department of Energy - Southeastern Power Administration ("SEPA"), pursuant to contracts entered into between the United States of America (Government) and such Members pursuant to the Flood Control Act of 1944 or similar or superseding Federal law.
- 1.129 "SERC" means the SERC Reliability Corporation or any successor thereto.
- 1.130 "Supplemental Load" means that portion of Power Agency's Hourly Demand during each clock hour that exceeds the Base Block minus any Alternative Resources supplied by Power Agency in accordance with the provisions of Section 2.9.3.
- 1.131 "Supply Cap" has the meaning set forth in Section 2.9.6.
- 1.132 "Taxes" means all taxes, fees, levies, licenses or charges imposed by any Governmental Authority, together with any applicable interest and penalties thereon.
- 1.133 "Transfer Point" means the location(s) on the DEP Transmission System's East control area where the capacity and energy comprising the Requirements Service purchased and sold hereunder is transferred to the DEP Transmission System for delivery to Power Agency.

- 1.134 "Transmission Loss Factor" means the Real Power Loss factor applicable to the DEP Zone as reflected in the DEP OATT.
- 1.135 "Transmission Organization" has the meaning set forth in Section 10.1.
- 1.136 "Transmission Provider" means the entity responsible for transmitting and/or distributing electric energy utilizing the facilities that comprise the DEP Transmission System, including, without limitation, any ISO, RTO, ITC, or other provider approved by FERC to transmit or distribute energy utilizing the facilities that comprise the DEP Transmission System.
- 1.137 "Transmission Service Agreement" means an agreement for wholesale transmission service entered into between Power Agency and a Transmission Provider, and placed on file with and made effective by FERC, pursuant to the Transmission Provider's OATT. The Parties agree and acknowledge that a Transmission Service Agreement is a separate and independent agreement from this Agreement, and that the obligations and/or liabilities of the Parties with respect to the subject matter of a Transmission Service Agreement shall be governed solely by such agreement.

## **2. Term, Commencement & Termination**

- 2.1 Term. This Rate Schedule No. 200 shall be deemed to be effective as of the Effective Date and shall remain in full force and effect (the "Term") through the end of the Delivery Period. Following satisfaction of the conditions precedent set forth in Section 2.2, the Ninth Amended and Restated Full Requirements Power Purchase Agreement, with a FERC effective date of March 1, 2022, shall be replaced by this Agreement, the

Tenth Amended and Restated Full Requirements Power Purchase Agreement, with a FERC effective date of January 1, 2023, and this Agreement shall remain in full force and effect through the end of the Delivery Period, unless modified or terminated earlier in accordance with the provisions herein that specify the terms for such modification or earlier termination.

2.1.1 The "Delivery Period" for the obligations of the Parties to sell and to purchase Requirements Service under the provisions of this Agreement shall be deemed to have begun as of the Effective Date and will continue through December 31, 2043, subject to Sections 2.3, 2.6 and 2.7 and such other terms of this Agreement as permit termination prior to the expiration of the Term.

2.2 Conditions Precedent. Except to the extent duly and validly waived by the affected Party hereto, the following shall be conditions precedent to the Parties' respective obligations under this Agreement, and at such time that a condition precedent is satisfied, the applicable Party shall promptly notify the other Party in writing that such condition precedent has been satisfied:

2.2.1 FERC shall have approved this Agreement or amendments thereto or accepted it for filing, without modification or other condition (unless such modification or other condition is accepted by the Parties as set forth below) in form and substance reasonably acceptable to DEP, in its sole discretion.

2.3 Submittal for FERC Acceptance or Approval. Following execution of this Agreement by both Parties, DEP shall file this Agreement with FERC. Thereafter, DEP shall

diligently pursue acceptance or approval of this Agreement by FERC without modification, suspension, investigation or other condition not in accordance with the terms hereof. DEP shall keep Power Agency reasonably informed of its efforts to secure FERC acceptance or approval and shall advise Power Agency of any significant developments in such regard. Upon request by DEP, Power Agency shall promptly undertake reasonable efforts to assist in DEP's efforts to obtain FERC acceptance or approval of this Agreement and, upon a reasonable request from DEP, shall make a timely submittal at FERC affirmatively supporting DEP's request for FERC acceptance or approval of this Agreement without modification, suspension, investigation or other condition not in accordance with its terms.

2.3.1 Process for Failure of Conditions in Section 2.2.1. If (i) FERC rejects this Agreement or amendments thereto or otherwise fails to act as specified above in Section 2.2.1, or (ii) FERC issues an order that materially modifies or materially conditions its acceptance of this Agreement in a manner that is unacceptable to either Party, the Parties shall promptly enter into good faith negotiations for a mutually satisfactory resolution regarding any such unsatisfied condition(s) precedent set forth in Section 2.2.1, and shall file with FERC a modified agreement addressing the unsatisfied conditions seeking FERC's approval or acceptance of the modified agreement.

## 2.4 Termination and Survival.

2.4.1 Except as otherwise expressly provided in this Agreement, if this Agreement is terminated for any reason, including, without limitation, by its terms, mutual agreement, early termination, and/or an Event of Default, any monies or other charges, if any, due and owing under this Agreement shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due shall be made, as soon as reasonably practicable but no later than sixty (60) days after such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events, or bases of the same shall be known or unknown at the termination of this Agreement) will survive the termination of this Agreement. Furthermore, any obligations, limitations, exclusions and duties which, by their nature or the express terms of this Agreement, extend beyond the expiration or termination of this Agreement, including, without limitation, provisions relating to compliance requirements, accounting, billing, billing adjustments, indemnification, and dispute resolution, as well as any other provisions necessary to interpret the respective rights and obligations of the Parties hereunder, shall survive the expiration or earlier termination of this Agreement.

2.4.2 Except as set forth in Section 2.4.1, termination of this Agreement for any reason specified and provided for herein is absolute and forever extinguishes any and all obligations existing under this Agreement for (i) DEP to plan or procure resources to serve Power Agency or to provide any products or services to Power Agency and (ii) Power Agency to purchase from and pay DEP for any products or services under this Agreement. Upon termination of this Agreement in accordance with the provisions herein, each and every obligation of DEP to provide electric energy and capacity to Power Agency, and each and every right and obligation of Power Agency to purchase electric energy and capacity from DEP, shall cease, and neither Party shall claim or assert any continuing right to continued performance, whether by rollover, as an evergreen service, or in any other fashion based on this Agreement. By entering into this Agreement, DEP does not commit, and shall not be deemed to have committed, to plan the DEP Generation System to be able to provide any service to Power Agency beyond the Term. Power Agency expressly agrees that it shall not at any time oppose any filings by DEP to cancel this Agreement as a rate schedule under the Federal Power Act concurrently with, or subsequent to, the termination of this Agreement in accordance with its provisions.

2.5 DEP Options for Changes in Cost Allocation and Billing Demand Methodology.

Notwithstanding any provision of this Agreement to the contrary, DEP shall have the

rights specified in Sections 2.5.1 and 2.5.2, which may be exercised in accordance with the procedures set forth in those sections, to change the capacity cost allocation method used in calculating the Capacity Rate, the associated Monthly Coincident Billing Demand, and the Calculation of Coal Combustion Residual Costs billing method from a monthly coincident peak (12-CP) demand method to an annual coincident peak (1-CP) demand method (such change hereinafter being referred to as the “Allocation/Billing Change”):

- 2.5.1 DEP may elect to implement the Allocation/Billing Change by providing written notice to Power Agency on or before December 31, 2026. If DEP provides such notice, the Allocation/Billing Change will be effective on and after January 1, 2036.
- 2.5.2 DEP also may elect to implement the Allocation/Billing Change by providing written notice to Power Agency on or before December 31, 2030. If DEP provides such notice, the Allocation/Billing Change will be effective on and after January 1, 2036.
- 2.5.3 If DEP is required to obtain prior FERC acceptance or approval under Section 205 of the Federal Power Act in order to implement the Allocation/Billing Change, Power Agency shall not oppose any such Section 205 application, nor shall Power Agency propose an effective date for the Allocation/Billing Change that is later than January 1, 2036.



2.5.4 For the period January 1, 2023, through and including December 31, 2027, neither Party shall make a unilateral filing with FERC pursuant to either Section 205 or 206 of the Federal Power Act to change the capacity cost allocation and monthly coincident peak billing demand methodology used in calculating the Capacity Rate, the associated Monthly Coincident Billing Demand, and the Calculation of Coal Combustion Residual Costs.

2.6 Power Agency Options for Early Termination. Notwithstanding any provision of this Agreement to the contrary, Power Agency shall have the rights specified in Sections 2.6.1, 2.6.2, and 2.6.3 to terminate all or a portion of its Supplemental Load and/or Base Load purchases by providing written notice to DEP in accordance with the requirements set forth in those sections.

2.6.1 With written notice provided to DEP on or before December 31, 2023, Power Agency may terminate all or a portion of its Supplemental Load purchases under this Agreement effective with the hour ending 2400 on December 31, 2027.

2.6.2 Power Agency may terminate (i) all or a portion of its remaining Supplemental Load purchases, or (ii) all or a portion of its Base Load purchases, or (iii) a combination of (i) and (ii); provided, however, that Power Agency must provide DEP with written notice of any such termination on or before December 31, 2027, and such termination shall occur with the hour ending 2400 on December 31, 2035.

2.6.3 Power Agency may terminate (i) all or a portion of its remaining Supplemental Load purchases, or (ii) all or a portion of its remaining Base Load purchases, or (iii) a combination of (i) and (ii); provided, however, that Power Agency must provide DEP with written notice of such termination on or before December 31, 2031, and such termination shall occur with the hour ending 2400 on December 31, 2035; provided further, however, that such terminations of Power Agency's Supplemental Load and/or Base Load purchases pursuant to this Section 2.6.3 may not, in the aggregate, reduce Power Agency's 12-month average Monthly Coincident Billing Demand, determined based on actual Monthly Coincident Billing Demands during the immediately preceding Calendar Year (i.e., in Calendar Year 2030), by an amount that exceeds 700 megawatts.

2.7 Power Agency Option Regarding New Nuclear Generation. Notwithstanding any provision of this Agreement to the contrary, if DEP plans to add New Nuclear Generation, Power Agency shall, in accordance with the provisions set forth in this Section 2.7, be entitled to terminate a portion of its Base Load purchases upon the occurrence of each of the conditions (the "Notice Event Conditions") set forth in Section 2.7.1, Section 2.7.2, Section 2.7.3, or Section 2.7.4.

2.7.1 If New Nuclear Generation consists of the construction by DEP (singly or jointly with others) of a new nuclear-fueled generating unit, DEP or another entity acting on DEP's behalf shall have (i) obtained all governmental and

regulatory approvals required for the construction of such unit, including, but not limited to, approvals of local land use authorities, the NRC, the NCUC, and/or the SCPSC; (ii) entered into an engineering, procurement and construction contract for the design and construction of the new nuclear-fueled generating unit; and (iii) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's construction of the new nuclear-fueled generating unit.

- 2.7.2 If New Nuclear Generation consists of the acquisition by DEP of an ownership interest in a nuclear-fueled generating unit that is under construction by one or more other entities at the time of such acquisition, DEP shall have, as applicable (i) obtained all governmental and regulatory approvals required for the acquisition of an ownership interest in such unit, including, but not limited to, approval of the NRC, the NCUC, and/or the SCPSC; (ii) entered into binding commitments to purchase an interest in the land, and the improvements thereon and the construction work in progress at the site of the unit; (iii) entered into binding commitments to acquire an interest in design, engineering, construction and other contracts associated with the construction of the unit; and (iv) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's acquisition of its ownership interest in such new nuclear-fueled generating unit.

- 2.7.3 If New Nuclear Generation consists of the acquisition by DEP of an ownership interest in a nuclear-fueled generating unit that is in operation at the time of DEP's acquisition, DEP shall have, as applicable: (i) obtained all governmental and regulatory approvals required for the acquisition of an ownership interest in the unit, including, but not limited to, approval of the NRC, the NCUC, and/or the SCPSC; (ii) entered into binding commitments to purchase an interest in the land, the improvements thereon, equipment, inventory, materials, fuel and supplies associated with such unit; (iii) entered into binding commitments associated with the operation and maintenance of such unit; and (iv) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's acquisition of its ownership interest in such nuclear-fueled generating unit.
- 2.7.4 If New Nuclear Generation consists of a contract pursuant to which DEP has acquired or will acquire an entitlement to all or a portion of the capacity from the owner(s) of such nuclear-fueled generating unit, DEP shall have entered into a binding contract in connection therewith and obtained any regulatory approvals that are required in connection with such binding contract.
- 2.7.5 As soon as reasonably practicable after DEP makes an initial determination that it will add New Nuclear Generation to the DEP Generation System, DEP shall give Power Agency written notice thereof so that Power Agency can begin evaluating its option to terminate a portion of its Base Load purchases

set forth in Section 2.7.6. DEP will provide written notice to Power Agency when a Notice Event Condition has occurred not later than thirty (30) days after the last of such Notice Event Condition specified in Sections 2.7.1, 2.7.2, 2.7.3, or 2.7.4, as applicable, has been satisfied (the "Formal Notice"). Formal Notice shall be accompanied by DEP's estimates of (i) the date that such New Nuclear Generation will be integrated into the DEP Generation System ("Estimated Nuclear Integration Date"), (ii) the amount of capacity (in MW) of the New Nuclear Generation, and (iii) the impact that the addition of such New Nuclear Generation to the DEP Generation System will have on the Capacity Rates, Energy Rates, and Reserve Capacity Rates. The estimated information included with DEP's Formal Notice shall reflect DEP's projections based on the best information available to DEP at the time of the Formal Notice and shall not constitute a guarantee of (a) any indicated date that DEP will integrate the New Nuclear Generation into the DEP Generation System, (b) the amount of capacity (in MW) of the New Nuclear Generation, or (c) the impact that the addition of such New Nuclear Generation to the DEP Generation System will have on the Capacity Rates, Energy Rates, and Reserve Capacity Rates.

- 2.7.6 After Power Agency receives Formal Notice from DEP in accordance with Section 2.7.5, Power Agency shall have the right, but not the obligation, to terminate a portion of its Base Load purchases pursuant to the procedures and

subject to the conditions set forth in this Section 2.7.6 and in Section 2.7.7. If Power Agency elects to terminate a portion of its Base Load purchases pursuant to this Section 2.7.6, Power Agency shall provide written notice to DEP of such election not later than twelve (12) months after receipt of Formal Notice from DEP. Power Agency's notice shall state the amount of capacity (in MW) and effective date of the termination of Base Load purchases; provided, however, (i) the effective date of Power Agency's termination of Base Load purchases shall not be any earlier than the Estimated Nuclear Integration Date, and (ii) the amount of reduction in Power Agency's Base Load purchases shall not exceed 25% of the estimated amount of capacity (in MW) as set forth in the Formal Notice. Power Agency's written notice provided in accordance with this Section 2.7.6 shall designate the Alternative Resource that will be used to serve the amount of capacity and energy associated with the amount of reduction in Power Agency's Base Load purchases, such amount to be included in the Alternative Base Load Capacity.

2.7.7 Notwithstanding any provision of this Agreement to the contrary, Power Agency's right to terminate a portion of its Base Load purchases pursuant to Section 2.7.6 is expressly subject to Power Agency's obligation to pay DEP the Compensation Payment. Power Agency shall be obligated to pay DEP the full amount of the Compensation Payment on or before the date that is sixty (60) days prior to the effective date of termination of Base Load purchases, as

noticed by Power Agency. If Power Agency's obligation to make the Compensation Payment is ruled by a Governmental Authority to be unenforceable in whole or in part in an order that has become final and non-appealable, Power Agency's right to terminate a portion of its Base Load purchases under Section 2.7 shall be deemed null and void.

- 2.8 Obligations of the Parties in the Event of Termination of any Portion of Service. Not later than eighteen (18) months prior to each of Power Agency's deadlines for providing written notice to DEP in connection with any of Power Agency's options to terminate various portions of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 and 2.7, DEP and Power Agency shall be obligated to meet to discuss issues related to the potential termination of such purchases, taking into account the principles set forth in Section 2.9. At such meetings, Power Agency shall provide to DEP, in as much detail as possible, information related to the Alternative Resource(s) it contemplates utilizing in connection with the potential termination of purchases from DEP, including, but not limited to, (i) the amount of Supplemental Load and/or Base Load purchases to be terminated, (ii) the effective date of such potential termination, and (iii) the capacity of the Alternative Resource(s).
- 2.9 Principles Related to Early Termination of Supplemental Load and/or Base Load Purchases. The following principles will apply to any termination by Power Agency of all or any portion of its Supplemental Load and/or Base Load purchases in accordance with Sections 2.6 and 2.7 of this Agreement.

- 2.9.1 Any termination of all or a portion of Power Agency's Supplemental Load and/or Base Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s) shall be irrevocable effective upon DEP's receipt of Power Agency's notice of such termination.
- 2.9.2 With respect to termination of all or a portion of Power Agency's Base Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the portion of Base Load purchases that will be terminated will be deemed to be at the bottom portion of Power Agency's load (i.e., the base load portion). If Power Agency provides DEP notice that an Alternative Resource will be used to terminate all or a portion of Power Agency's Base Load purchases from DEP, effective upon the termination of such Base Load purchases (i) the Base Load purchases will be reduced by an amount that equals the capacity of the Alternative Resource designated by Power Agency ("Alternative Base Load Capacity"), and (ii) DEP shall be obligated to serve only that amount of Power Agency's Base Load, if any, that exceeds the Alternative Base Load Capacity ("Adjusted Base Block") until the end of the Delivery Period. For example, if Power Agency's Alternative Base Load Capacity is 300 MW and the Adjusted Base Block is 400 MW, then DEP will be obligated to provide Base Load service to Power Agency under this Agreement only during those periods when Power Agency's Hourly Demand is between 301 MW and 700 MW.



2.9.3 With respect to termination of all or a portion of Power Agency's Supplemental Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the portion of Power Agency's Supplemental Load purchases that will be terminated will be deemed to be at the top portion of Power Agency's load (i.e., the peaking portion). If Power Agency provides DEP notice that an Alternative Resource will be used to terminate all or a portion of Power Agency's Supplemental Load purchases from DEP, Power Agency's notice(s) shall specify (i) the capacity designated by Power Agency for such Alternative Resource, and (ii) the amount of remaining Supplemental Load, for each Calendar Year remaining in the Delivery Period, that DEP will be obligated to serve, if any, under this Agreement effective upon such termination and until the end of the Delivery Period ("Adjusted Supplemental Load"). Effective upon the termination of Power Agency's Supplemental Load purchases, DEP shall be obligated to serve only the Adjusted Supplemental Load, if any. For example, if the Base Block is 700 MW, and Power Agency provides notice that the Adjusted Supplemental Load in a given Calendar Year is 300 MW, Power Agency shall be obligated to serve all Hourly Demand that is greater than 1,000 MW in such Calendar Year.

2.9.4 With respect to termination of a portion of Power Agency's Supplemental Load and/or Base Load purchases pursuant to Section 2.6.2 or Section 2.6.3

that is a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the Base Block and the Adjusted Supplemental Load, if any, shall both be reduced by a percentage determined by the ratio of (i) the load of the terminating Member(s) in the hour of Power Agency's Annual Coincident Peak to (ii) Power Agency's Annual Coincident Peak, in each case as determined during Calendar Year, 2035.

- 2.9.5 Within twelve (12) months of Power Agency's notice of termination of all or a portion of its Supplemental Load and/or Base Load purchases, the Parties shall develop procedures to address issues relating to the operation of any and all applicable Alternative Resource(s).
- 2.9.6 If Power Agency terminates all or a portion of its Supplemental Load and/or Base Load purchases as provided for in accordance with Sections 2.6 and 2.7, the resulting Adjusted Base Block plus the resulting Adjusted Supplemental Load will represent the maximum quantity of capacity and associated energy that DEP will be required to serve in any given hour ("Supply Cap"). The Parties acknowledge and agree that any Alternative Resource(s) designated in accordance with the provisions of Sections 2.6 and 2.7 shall not be used to serve any portion of the Adjusted Base Block or the Adjusted Supplemental Load.
- 2.9.7 Any reductions in Supplemental Load and/or Base Load purchases that Power Agency elects to make in accordance with the provisions of Sections 2.6 and

2.7 shall be deemed a termination of the products and services associated with such reduction in Supplemental Load and/or Base Load purchases that is subject to the provisions of Section 2.4, and that for any such reductions in Supplemental Load and/or Base Load purchases (i) DEP shall have no further obligation to plan or procure resources to serve the terminated portion of service to Power Agency or to provide any products or services to Power Agency related to such terminated portion of service, and (ii) Power Agency shall have no further right or obligation to purchase from and pay DEP for any products or services related to the terminated service under this Agreement.

### **3. Requirements Service**

3.1 Nature of Requirements Service. Requirements Service consists of firm capacity and energy in the amounts required by Power Agency to reliably serve the current and future electrical loads of its Members or such loads to the extent assumed by another entity. In accordance with the terms and subject to the conditions of this Agreement, DEP shall provide Requirements Service with the same degree of firmness and at the same level of service priority as the service DEP provides to its other Firm Native Load customers. Consistent with the nature of Requirements Service under this Agreement, Power Agency shall only have the right to engage in self-supply of capacity or energy, whether through SEPA Entitlement, other generating resources, Energy Injection Devices, or any other source, in the manner expressly provided for in this Agreement, and any manner of self-supply not specifically authorized herein is prohibited.

3.2 Obligation to Provide Service. Pursuant to the terms and conditions of this Agreement, DEP shall be obligated to provide and sell to Power Agency, and Power Agency shall be obligated to purchase and receive from DEP, Requirements Service, subject to the following limitations:

3.2.1 DEP shall not be obligated to provide Requirements Service, backstand service, or reserves for any portion of Power Agency's Supplemental Load or Base Load for which Power Agency has provided notice to DEP of the termination of such service pursuant to Section 2.6 or 2.7, and the prior notice period for such termination has elapsed; and

3.2.2 DEP shall not be obligated to provide Requirements Service for any loads that arise from an undertaking by Power Agency or any of its Members to serve:

- (i) a source of demand outside the geographical area served by DEP (provided, however, upon mutual written agreement between the Parties, and subject to regulatory approvals determined necessary by DEP in its sole discretion, DEP may provide Requirements Service for loads of a Member not located in the geographical area in which DEP serves, or in which DEP proposes to serve, if such loads are in an area adjacent to or in reasonable proximity to an area served by such a Member, and would be served directly by such Member); or,
- (ii) any load of a Member that was not such Member's load as of the Effective Date which, because of the type and size of such load, is not included, and would not be included, by DEP in planning its system and which, if DEP were

required to provide Requirements Service for such load, would, in DEP's judgment, (a) compel an enlargement of DEP's generating facilities not otherwise included by DEP in its system planning, including planning for Requirements Service; or (b) impair DEP's ability to render adequate service to its Firm Native Load customers.

3.2.3 DEP's additional charges applicable to the Interruptible Loads of a Commercial and Industrial Customer shall be governed by Section 9.7 of this Agreement.

3.3 Continuous Service.

3.3.1 In providing the Requirement Services pursuant to this Agreement, DEP does not guarantee continuous service to Power Agency, but DEP (i) shall exercise reasonable diligence consistent with Prudent Utility Practices to provide an uninterrupted supply of electricity, and (ii) shall not adversely distinguish between the provision of Requirements Service to Power Agency and the provision of service to its other Firm Native Load customers; and, having acted in accordance with clauses (i) and (ii), DEP shall not be liable to Power Agency for damages resulting from the failure, interruption or suspension of Requirements Service.

3.3.2 DEP shall exercise reasonable diligence consistent with Prudent Utility Practices to promptly restore Requirements Service that has failed or that has been interrupted or suspended. In taking actions to restore service, DEP shall

not adversely distinguish between the restoration of Requirements Service to Power Agency and the restoration of service to its other Firm Native Load customers; provided, however, that DEP has sole responsibility to design all curtailments and restorations of service, and it may order any manner of curtailment or restoration that DEP reasonably believes at the time of such curtailment or restoration is appropriate as long as the Power Agency load and DEP's Firm Native Load present in the electrical area are being restored on a non-unduly discriminatory basis. Power Agency shall cooperate with DEP in DEP's efforts to restore Requirements Service.

- 3.3.3 Neither Party shall be liable to the other Party for any damage or loss resulting from the interruption, prevention, suspension, or failure of service caused by:
- (i) Force Majeure; (ii) an emergency action due to an adverse condition or disturbance on a Party's system or on any other system directly or indirectly interconnected with a Party's system, which requires automatic or manual interruption of the supply of electricity to some customers or areas in order to limit the extent of, or damage caused by, the adverse condition or disturbance, or to prevent damage to generation, transmission or transformation facilities, or to expedite restoration of service, or to effect a reduction in service to compensate for an emergency condition on an interconnected system; and/or
  - (iii) the making of necessary inspections of, adjustments to, changes in or repairs to a Party's lines, substations, or other facilities, and by discontinuing

service to avoid endangering persons or property. Neither Party shall be excused from its obligations under this Agreement on the grounds that its performance has become commercially impracticable.

- 3.4 Scheduling. In operating its system to meet the aggregate of its system obligations, DEP shall dynamically integrate the electrical loads that are served through the provision of Requirements Service with the loads of DEP's other customers. Requirements Service will follow and serve the instantaneous electrical requirements of Power Agency's Members.
- 3.5 Delivery to Transfer Point. DEP shall sell and deliver Requirements Service to Power Agency at the Transfer Point. DEP shall be responsible for making all arrangements necessary to deliver Requirements Service to the Transfer Point.
- 3.6 Transmission from Transfer Point. Power Agency shall purchase and receive Requirements Service from DEP at the Transfer Point. Power Agency shall be responsible for making all arrangements necessary to receive Requirements Service at the Transfer Point and to transmit and deliver Requirements Service from the Transfer Point to the Power Agency Delivery Points.
- 3.7 Passage of Title. Title to and risk of loss of Requirements Service shall pass from DEP to Power Agency at the Transfer Point.
- 3.8 Metering. Arrangements for metering and metering-related services shall be governed by the applicable provisions of the NITSA and NOA.

- 3.9 Operating Responsibility. Power Agency acknowledges and agrees that DEP shall remain solely responsible for operating its system pursuant to its regulatory and statutory obligations in order to meet DEP's obligations to serve DEP's Firm Native Load customers (including Power Agency under this Agreement), and nothing in this Agreement provides or confers upon Power Agency any rights and/or entitlements to manage, direct, control, or otherwise interfere with such responsibility of DEP.
- 3.10 Ancillary Services. DEP will provide Power Agency with an Ancillary Service Credit as set forth and defined in this Section 3.10.
- 3.10.1 Power Agency's "Ancillary Service Credit" for a month will be equal to:
- (a) the sum of the charges paid by Power Agency to the Transmission Provider under the Transmission Provider's OATT for Reactive Supply and Voltage Control from Generation Sources Service (OATT Schedule 2), Regulation and Frequency Response Service (OATT Schedule 3), Operating Reserve – Spinning Reserve Service (OATT Schedule 5) and Operating Reserve – Supplemental Reserve Service (OATT Schedule 6) for the Month, *multiplied by* (b) the DEP Supply Ratio (defined below) for the month.
- 3.10.2 In addition to the credits specified in Section 3.10.1, if and to the extent Power Agency has not terminated its Supplemental Load and/or Base Load purchases as provided for in Sections 2.6 or 2.7, Power Agency's "Ancillary Service Credit" for a month will include an additional amount equal to the charges paid by Power Agency to the Transmission Provider under the Transmission



Provider's OATT for Energy Imbalance Service (Schedule 4), if any. If Power Agency has given notice of a termination of a portion or all of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 or 2.7, the operating procedures agreed to by the Parties in accordance with Section 2.9.5 shall address the extent to which a credit would be appropriate as a result of such termination.

- 3.11 DEP Supply Ratio. "DEP Supply Ratio" for the month shall be equal to the ratio (not to exceed 1.0) of: (a) the DEP-Supplied Load (defined below) for the month to (b) Power Agency's Network Load (as such term is defined and amount is determined under the OATT) for the month.
- 3.12 DEP-Supplied Load. "DEP-Supplied Load" for a month shall be equal to the portion of Power Agency's Network Load for the month that is served by DEP under this Agreement during the hour of the maximum firm usage over the DEP Transmission System in each calendar month (the Transmission Provider's Monthly Transmission System Peak as defined in the OATT).
- 3.13 GSU Loss Factor. The GSU Loss Factor shall be determined as set forth in this Section 3.13. The GSU Loss Factor shall be recalculated and adjusted on an annual basis as follows. After each calendar year, DEP shall calculate the applicable GSU Loss Factor in accordance with the Methodology for Calculation of GSU Loss Factor - DEP set forth in Exhibit VI hereto. By April 1 of the year immediately succeeding the 12-month loss factor calculation period, DEP shall give notice to Power Agency stating the revised

GSU Loss Factor (the “Revised GSU Loss Factor”) along with supporting calculations and documentation in sufficient detail to enable Power Agency to verify the accuracy of the Revised GSU Loss Factor. The Revised GSU Loss Factor shall be effective June 1 following the giving of such notice. Any challenge or correction of the Revised GSU Loss Factor will be made in accordance with the provisions of Articles 7 and 16. The Revised GSU Loss Factor also shall be subject to Power Agency’s audit rights as set forth in Sections 7.3 and 7.4. The calculation, notice, and audit procedure set forth in this Section 3.13 shall begin with the 12-month loss factor calculation period ending in 2016 with the first notice stating the GSU Loss Factor to be given by DEP by April 1, 2017 and with the first GSU Loss Factor to be effective June 1, 2017.

**4. Qualified Resources, Edenton and Elizabeth City Generators, Economic Development Resources and PURPA Qualifying Facilities**

4.1 Qualified Resources. Subject to the limitation on Qualified Resources in Section 4.1.4 and the other provisions of this Article 4, Qualified Resources may be used, and may only be used, in the following manner: (i) Customer Resources may be used to serve load at the site of such Customer Resources and the load served by such Customer Resources shall be excluded from Power Agency’s Hourly Demand, and (ii) NCEMPA Generation and Member Resources may be connected to the electric system behind the Duke-owned wholesale revenue meter of a Member and the load served by such NCEMPA Generation and Member Resources shall be excluded from Power Agency’s Hourly Demand. DEP shall have no obligation to schedule or dispatch Qualified

Resources; provided, however, that in the event of an emergency on the Combined System, if DEP reasonably believes that it is necessary to do so based on the facts available to DEP at the time of such emergency, DEP may request that Power Agency cause any such Qualified Resources to be dispatched as part of DEP's General Load Reduction and System Restoration Plan as an initial step in the phase providing for manual interruption of feeders. In such event, Power Agency shall request that its Members and/or its Members' customers take all reasonable and appropriate actions necessary to comply with DEP's request so long as such actions have results that treat similar customers of DEP and the Members in a consistent manner and that, in any event, are designed to achieve results on a comparable basis; provided, however, that neither Power Agency nor a Member nor a Member's customer shall be required or called upon to operate Qualified Resources in a manner deemed, in their sole discretion, to be unsafe, unreasonable or in violation of any operating permit. DEP shall have no obligation to bear any costs associated with the operation of Qualified Resources as part of DEP's General Load Reduction and System Restoration Plan.

4.1.1 Notice. Power Agency shall provide notice to DEP, in the form of notice set forth in Exhibit V, that a Qualified Resource will be installed. For an individual generating unit having a nameplate capacity rating of 2.5 megawatts or less, or an Energy Injection Device having a maximum capable injection capacity of 2.5 megawatts or less, as measured on the Alternating Current (AC) side of the inverter, such notice shall be provided to DEP at least three

(3) months prior to the date on which such Qualified Resource is scheduled to begin operation. For an individual generating unit having a nameplate capacity rating of more than 2.5 megawatts, or an Energy Injection Device having a maximum capable injection capacity of more than 2.5 megawatts, as measured on the Alternating Current (AC) side of the inverter, such notice shall be provided to DEP at least six (6) months prior to the date on which such Qualified Resource is scheduled to begin operation.

4.1.2 Operation and Safety. Qualified Resources intended to be, or capable of being, operated in parallel with the Combined System shall meet the Transmission Provider's requirements for the protection of the quality, reliability, and/or safety of the Combined System.

4.1.3 Reserve Charges. For each individual unit of Member Resources and Customer Resources having a capacity rating in excess of 2.5 megawatts, measured by nameplate capacity for generating units and by maximum capable injection capacity as measured on the Alternating Current (AC) side of the inverter for Energy Injection Devices, and for each individual generating unit of NCEMPA Generation having a nameplate capacity rating in excess of 6.0 megawatts, Power Agency shall pay to DEP a monthly charge per kW equal to the Reserve Capacity Rate, determined in accordance with Exhibit III, applied to the Reserve Capacity Billing kW, which shall be equal to .12 times the capacity rating of each such Qualified Resource. The

obligation of Power Agency to pay the charge set forth in this Section 4.1.3 shall terminate as of the month following the month in which such Qualified Resource is retired or otherwise permanently removed from service. Power Agency shall have no obligation to provide or pay for spinning reserves in connection with any Qualified Resources.

4.1.4 Limitation on Capacity of Qualified Resources. The aggregate amount of capacity (in megawatts) of Qualified Resources at any one time shall not exceed one point seven five percent (1.75%) of the Combined System Capacity ("Qualified Resource Factor") plus 25 MW ("Qualified Resource Addition").

4.1.4.1 In the event Power Agency exercises one or more of its rights to terminate all or a portion of its Supplemental Load purchases, as provided in Section 2.6, as a result of a decision by Power Agency to serve such terminated Supplemental Load from an Alternative Resource, the Qualified Resource Factor and the Qualified Resource Addition shall be reduced based on the ratio of (i) Power Agency's Annual Coincident Demand less the Base Block, determined for the Calendar Year immediately prior to the year in which the termination of Power Agency's Supplemental Load purchases takes effect, less the capacity of the Alternative Resource designated pursuant to Section 2.9.3(i), divided by (ii) Power Agency's Annual Coincident

Demand less the Base Block for the Calendar Year immediately prior to the year the reduction takes effect. For example, if the capacity of the Alternative Resource is 350 MW and Power Agency's Annual Coincident Demand for the immediately prior Calendar Year less the Base Block is 700 MW, the Qualified Resource Factor will be revised by multiplying such Qualified Resource Factor by 0.50 ( $700 \text{ MW} - 350 \text{ MW} / 700 \text{ MW}$ ), resulting in a new Qualified Resource Factor of 0.875%. The revised Qualified Resource Addition amount would be 12.5 MW.

- 4.1.4.2 In the event Power Agency exercises one or more of its rights to terminate a portion of its Supplemental Load and/or Base Load purchases, as provided for in Section 2.6, as a result of one or more Members having terminated their service from Power Agency, the Qualified Resource Factor and the Qualified Resource Addition, as they may have been revised pursuant to Section 4.1.4.1, will be reduced based on the ratio of the terminating Members' annual coincident demand to the Power Agency's Annual Coincident Demand for the Calendar Year immediately prior to the year the termination takes effect. For example, if the terminating Member(s)' annual coincident demand is 150 MW, and Power Agency's Annual Coincident Demand is 1,500 MW, the Qualified Resource Factor will

be revised by multiplying the Qualified Resource Factor by 0.90 (1500 MW-150 MW)/1500 MW), resulting in a new Qualified Resource Factor of 1.575%). The revised Qualified Resource Addition amount would be 22.5 MW.

4.1.4.3 The Parties agree that any changes to the Qualified Resource Factor and Qualified Resource Addition made pursuant to Sections 4.1.4.1 and/or 4.1.4.2 will be incorporated in mutually agreed upon operating procedures.

4.1.4.4 For purposes of determining compliance with the limitation set forth in Section 4.1.4, the capacity of PURPA Qualifying Facilities, the capacity of the Edenton and Elizabeth City Generators, the capacity of Economic Development Resources, and the capacity of the Energy Injection Devices listed in Exhibit XI shall not be included in the calculation of Qualified Resources. In addition, the exclusion of the Energy Injection Devices listed in Exhibit XI from the calculation of Qualified Resources shall only apply to the Energy Injection Devices listed in Exhibit XI and shall not apply to either a replacement of such Energy Injection Devices or uprates to such Energy Injection Devices.

4.1.4.5 For purposes of applying the terms of Section 4.1.4: (A) "Combined System Capacity" shall mean (i) the capacity of the generation

resources, including the dependable capacity (as such term is established for purposes of DEP's Integrated Resource Planning) of Energy Injection Devices installed or purchased by DEP, that comprise the Combined System, provided, however, that any capacity of any generation resource constituting part of the Combined System but subsequently sold by DEP to any other power supplier within the DEP control area shall continue to be included in the capacity comprising the Combined System until such generation resource is retired, plus (ii) the capacity of any firm purchases being made by DEP, plus (iii) the capacity of all PURPA Qualifying Facilities purchased by DEP and all PURPA Qualifying Facilities purchased by Power Agency pursuant to Section 4.4.2 of this Agreement, less (iv) long-term (*i.e.*, one year or more) off-system sales of capacity, to the extent such sales result in a portion of the capacity described in (i), (ii), or (iii) above not being available to serve load in DEP's control area, which load for this purpose shall include the loads of the Power Agency Members served from the Dominion NC Power transmission system and load of others Members that may now or in the future be served under similar arrangements; in each case determined as of the time of DEP's Annual Peak Demand for the Calendar Year immediately preceding



the year in which a notice for Qualified Resource is given by Power Agency, and (B) for Qualified Resources, the capacity of each individual generating unit shall be the nameplate capacity rating of each such generating unit, and the capacity of each Energy Injection Device shall be the maximum capable injection capacity, as measured on the Alternating Current side of the inverter.

4.1.4.6 The determination required to be made pursuant to Section 4.1.4 shall be made as of the date of the notice for the Qualified Resources given by Power Agency pursuant to Section 4.1.1 and any such determinations shall be conclusive as of the date of such notice, and Power Agency shall not be required, thereafter, to reduce the aggregate amount of Qualified Resources due to a reduction in Combined System Capacity.

4.1.5 Limitation of Financing Activities. Power Agency acknowledges and agrees that it will not, directly or indirectly, advance funds, lend money, lend or extend its credit, or provide security for, the acquisition, installation or operation of Customer Resources; provided, however, that nothing contained herein shall prohibit or otherwise prevent a Member from directly or indirectly advancing funds, lending money, lending or extending its credit, or providing security for, or otherwise participating in, the financing of the acquisition, installation or operation of Customer Resources; provided further, however,

that nothing contained herein shall prohibit or otherwise prevent Power Agency from establishing a rate or rates for its Members that is intended to encourage the acquisition, installation and operation of Member Resources or Customer Resources.

4.1.6 NCEMPA Generation. Notwithstanding any provision of this Article 4 to the contrary, a total of thirty-eight (38) MW of NCEMPA Generation may be installed by Power Agency.

4.2 Edenton and Elizabeth City Generators. Notwithstanding any other provision of this Agreement to the contrary, during the term of this Agreement the output of the Edenton Generators and the Elizabeth City Generators may be used to serve load on the distribution systems of Edenton and Elizabeth City, respectively, and the load served is thereby excluded from the calculation of Power Agency's Hourly Demand. DEP shall have no obligation to schedule or dispatch the Edenton Generators or Elizabeth City Generators; provided, however, that in the event of an emergency on the Combined System, DEP may request that Power Agency cause the Edenton Generators and Elizabeth City Generators to be dispatched as part of DEP's General Load Reduction and System Restoration Plan as an initial step in the phase providing for manual interruption of feeders. In such event, Power Agency shall request that Edenton and Elizabeth City take all reasonable and appropriate actions necessary to comply with DEP's request so long as such actions have results that treat similar customers of DEP and the Members in a consistent manner and that, in any event, are designed to achieve

results on a comparable basis; provided, however, that neither Edenton nor Elizabeth City shall be required or called upon to operate such generators in a manner deemed, in their sole discretion, to be unsafe, unreasonable or in violation of any operating permit. DEP shall have no obligation to bear any costs associated with the operation of such generators as part of DEP's General Load Reduction and System Restoration Plan. Power Agency shall cause Edenton and Elizabeth City to operate the Edenton Generators and the Elizabeth City Generators in a manner that is compliant with the provisions of Section 4.1.2 (Operation and Safety). Notwithstanding the foregoing, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Sections 2.6, the output of the Edenton Generators and the Elizabeth City Generators may not be used to reduce Power Agency's Monthly Coincident Billing Demand.

- 4.3 Economic Development Resources. In addition to Power Agency's and/or its Members' or its Members' customers' rights to install Qualified Resources pursuant to Section 4.1, in each Calendar Year during the term of this Agreement Power Agency and/or its Members or its Members' customers may collectively install up to an aggregate of three (3) MW of Economic Development Resources. Power Agency will provide notice to DEP of any generation or Energy Injection Device that meets the criteria for Economic Development Resources in the form of notice provided for in Exhibit V. If DEP agrees that the proposed Economic Development Resource meets the criteria, DEP will provide Power Agency with approval of the classification of the resource. The load served by

such Economic Development Resource will be excluded from the calculation of Power Agency's Hourly Demand. Notwithstanding the foregoing, however, Economic Development Resources shall not be installed to serve a customer requiring electric service that has a choice, under North Carolina law, to select DEP as its electric service provider. Notwithstanding the foregoing, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Sections 2.6, the output of the Economic Development Resource may not be used to reduce Power Agency's Monthly Coincident Billing Demand.

4.4 PURPA Qualifying Facilities. In the event that Power Agency is required under PURPA to permit a PURPA Qualifying Facility to directly interconnect behind the Duke-owned wholesale revenue meter of a Member, Power Agency may purchase the output from such PURPA Qualifying Facility in accordance with the provisions of this Section 4.4.

4.4.1 Qualifying Facilities Below 500 kW. Any purchase of energy and capacity, if applicable, by Power Agency from a PURPA Qualifying Facility that has a nameplate capacity below 500 kW, or the amount of energy generated by and capacity, if applicable, of a PURPA Qualifying Facility owned by Power Agency that has a nameplate capacity below 500 kW, will be excluded from Power Agency's Monthly Coincident Billing Demand and Monthly Billing Energy for purposes of calculating Power Agency's charges for Requirements Service.

4.4.2 Qualifying Facilities 500 kW and Above. The hourly energy associated with any purchase of energy and capacity, if applicable, by Power Agency from a PURPA Qualifying Facility that has a nameplate capacity at or above 500 kW, and the hourly energy generated by a PURPA Qualifying Facility owned by Power Agency that has a nameplate capacity at or above 500 kW, will be added to Power Agency's Hourly Demand for purposes of determining the Monthly Coincident Billing Demand and Monthly Billing Energy to be used in calculating Power Agency's charges for Requirements Service.

4.4.2.1 For any such PURPA Qualifying Facility described in Section 4.4.2, DEP shall provide Power Agency a billing credit, on a monthly basis, equal to the rate that such PURPA Qualifying Facility would receive pursuant to the terms and conditions of DEP's applicable North Carolina filed rate tariff (the "Applicable Rate") applied to the energy and capacity, if applicable, from such PURPA Qualified Facility. For a PURPA Qualifying Facility subject to the provisions of Section 4.4.2, the Applicable Rate shall be either: (i) the energy-only rate under DEP's North Carolina filed rate tariff that the Qualified Facility would be eligible to receive from DEP for facilities not directly interconnected with DEP, or (ii) the energy and capacity, if applicable, rates that such facility would be eligible to receive from

DEP, based on DEP's PURPA avoided cost rates, as determined in accordance with the methodology adopted by the NCUC.

- 4.4.3 Operating Procedures. The provisions for administering Power Agency's purchases from a PURPA Qualifying Facility or Power Agency's use of a PURPA Qualifying Facility that it owns, and the energy and/or capacity, if any, billing credits related to such purchases or use, will be addressed in operating procedures to be developed by and agreed upon by the Parties.
- 4.4.4 Direct DEP Purchases. If DEP purchases the output of a PURPA Qualifying Facility that is directly interconnected to a Member's electrical system, then in such circumstances, in any month in which the PURPA Qualifying Facility was in operation and sold its output to DEP, the energy generated in each hour by the PURPA Qualifying Facility shall be added back to the Monthly Coincident Demand and Monthly Billing Energy to be used in calculating Power Agency's charges for Requirements Service.
- 4.4.5 Treatment of PURPA Qualifying Facilities in the Event of Early Termination of Supplemental Load and/or Base Load Purchases. Notwithstanding the provisions of this Section 4.4, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Section 2.6, the output of any PURPA Qualifying Facility may not be used to reduce Power Agency's Monthly Coincident Billing Demand. In addition, notwithstanding the provision of this Section 4.4, if Power Agency has given notice of a

termination of any of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 or 2.7, the Parties shall develop procedures to address the appropriate treatment, including the bill credits, as applicable, on and after the effective date of such termination, of PURPA Qualifying Facilities that are, or are proposed to be, directly interconnected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

**5. Charges for Capacity, Energy and CCR Costs**

- 5.1 Capacity Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for capacity equal to (i) the Monthly Coincident Billing Demand multiplied by (ii) the Capacity Rate, calculated on the basis of the Monthly Coincident Billing Demand (the "Monthly Capacity Charge"). Notwithstanding the foregoing, if DEP exercises its right to implement the Allocation/Billing Change set forth in Section 2.5 of this Agreement, the Monthly Capacity Charge shall be equal to one twelfth (1/12) of (a) the Annual Coincident Billing Demand multiplied by (b) the Capacity Rate, calculated on the basis of the Annual Coincident Billing Demand. The estimated and actual Monthly Capacity Charge will be calculated as set forth in Section 5.2. The Parties agree that (i) the Monthly Capacity Charge for service provided during the period beginning January 1, 2019 through December 31, 2026 shall be reduced by the rate discounts set forth in Exhibit IX hereto, and (ii) the Monthly Capacity Charge for service provided during the period beginning January 1, 2021 through December 31, 2023 shall be reduced by the

rate discounts set forth in Exhibit X hereto, as such amounts are adjusted in accordance with the terms of Exhibit X.

- 5.2 Estimated Monthly Capacity Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Capacity Rate for the next succeeding Calendar Year of service beginning on January 1<sup>st</sup>. The estimated Capacity Rate will be used in monthly billings of Monthly Capacity Charges for the service provided from January 1<sup>st</sup> through December 31<sup>st</sup> of such Calendar Year, and the Monthly Capacity Charges resulting from application of the estimated Capacity Rate during such period will be reconciled (“trued-up”) each year with the Capacity Rate that results from incorporating actual values in the Capacity Rate Formula, as provided in Article 7 below. Any challenge or correction of the Capacity Rate or Monthly Capacity Charges will be made in accordance with the provisions of Articles 7 and 16.
- 5.3 Energy Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for the energy provided to Power Agency that is equal to (i) the Energy Rate, multiplied by (ii) Monthly Billing Energy (the “Monthly Energy Charge”). The estimated and actual Monthly Energy Charge will be calculated as set forth in Section 5.4.
- 5.4 Estimated Monthly Energy Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Energy Rate for the next succeeding Calendar Year of service



beginning on January 1<sup>st</sup>. The estimated Energy Rate will be used in monthly billings of Monthly Energy Charges for the service provided from January 1<sup>st</sup> through December 31<sup>st</sup> of such Calendar Year, and the Monthly Energy Charges during such period will be reconciled (“trued-up”) each year with the Energy Rate that results from incorporating actual values in the Energy Rate Formula, as provided in Article 7 below. Any challenge or correction of the Energy Rate or Monthly Energy Charges will proceed in accordance with the provisions of Articles 7 and 16.

- 5.5 Charges for CCR Costs. The Charge for Buyer CCR Costs for each Calendar Year shall be calculated in accordance with Section III of Exhibit VII. Notwithstanding the foregoing, if DEP exercises its right to implement the Allocation/Billing Change set forth in Section 2.5 of this Agreement, the Buyer’s Production Demand Allocation Factor thereafter used to calculate the Charge for Buyer CCR Costs will be the Annual Coincident Billing Demand divided by DEP’s Annual Peak Demand, as adjusted consistent with Exhibit I, page 16. The Parties agree that CCR Costs shall not include payments ordered in a final, non-appealable order, agreed upon in a final, non-appealable settlement, or sought by any third party and which Duke by a final, non-appealable settlement expressly agrees to assume or pay for third-party personal injury or property damage caused or alleged to have been caused by either: (a) Duke’s activities in complying with the requirements of CAMA, the CCR Rule, and consent and/or settlement agreements/orders concerning the treatment, management and remediation of coal combustion residuals, or (b) the release or threatened release to the

environment of any of Duke's CCR under 42 U.S.C. § 9607 or 9613 (or any substantively similar state law), whether such payment liability for either (a) or (b) results from litigation or settlement. It is intended that the Capacity Rate Formula, the Energy Rate Formula, the Reserve Capacity Rate Formula and the Calculation of Coal Combustion Residual Costs shall exclude DOJ Settlement Costs and Neighbor Compensation Costs. If any of the cost items set forth in Exhibits I, II, III and/or VII contain DOJ Settlement Costs and/or Neighbor Compensation Costs, then such costs shall be excluded when calculating the Capacity Rate Formula, the Energy Rate Formula, the Reserve Capacity Rate Formula, and the Calculation of Coal Combustion Residual Costs under this Agreement.

5.5.1 Estimated Monthly CCR Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Charge for Buyer CCR Costs for the next succeeding Calendar Year of service beginning on January 1<sup>st</sup>. The estimated Monthly Charge for Buyer's CCR Costs will be used in monthly billings for the service provided from January 1<sup>st</sup> through December 31<sup>st</sup> of such Calendar Year, and the resulting charges during such period will be reconciled ("trued-up") each year with the Charge for Buyer CCR Costs that results from incorporating actual values in the Calculation of Coal Combustion Residual Costs, as provided in Article 7 below. Any challenge or correction

of the Charge for Buyer CCR Costs will be made in accordance with the provisions of Articles 7 and 16.

5.5.1.1 The Parties also agree to, and hereby, establish a Buyer Maximum Annual CCR Billing Amount through December 31, 2027, as set forth in Exhibit VIII for CCR Costs, not including Beneficial Reuse Costs recorded in FERC Account No. 501. Beginning January 1, 2028, Buyer shall pay the Charge for Buyer CCR Costs as incurred.

5.5.1.2 For each year through December 31, 2027, Buyer shall be billed the lower of the estimated Charge for Buyer CCR Costs or the Buyer Maximum Annual CCR Billing Amount for the Calendar Year. Beginning January 1, 2028, Buyer shall be billed the estimated Charge for Buyer CCR Costs. Such annual amount shall be divided by 12 to determine the estimated Monthly Charge for Buyer's CCR Costs.

5.5.2 Annual True-up of Charge for Buyer CCR Costs. Calculations of the actual Charge for Buyer CCR Costs pursuant to Section III.A of Exhibit VII for the prior year shall be provided to Buyer in accordance with Section 7.1.

5.5.2.1 If Buyer payments under Section 5.5.1.2 for the prior year were less than the actual Charge for Buyer CCR Costs, Buyer shall:

(a) Pay the difference to Duke as a lump sum, or

- (b) Pay the difference to Duke up to the Buyer Maximum Annual CCR Billing Amount, and defer the amount by which the actual Charge for Buyer CCR Costs exceeds the Buyer Maximum Annual CCR Billing Amount for the prior year for recovery in succeeding years ("Buyer Deferred CCR Costs").

5.5.2.2 If Buyer payments under Section 5.5.1.2 for the prior year were greater than the actual Charge for Buyer CCR Costs, then the difference shall:

- (a) First be applied to reduce any outstanding balance of Buyer Deferred CCR Costs, and then
- (b) Duke shall refund the remaining difference to the Buyer.

5.5.2.3 Payments made pursuant to the annual true-up of the Charge for Buyer CCR Costs shall include interest payable by Buyer or Duke, as applicable, on any refunds or surcharges calculated at the Interest Rate from the date on which any payment was made that included excess or deficient charges to the date on which the refund or surcharge is paid.

5.5.3 Buyer Deferred CCR Costs. Buyer Deferred CCR Costs that are permitted in accordance with Section 5.5.2.1 shall accrue interest (i) at the Interest Rate on any deferred amount less than twenty million dollars (\$20,000,000), and (ii)

at the DEP Cost of Capital on any deferred amount that exceeds twenty million dollars (\$20,000,000).

5.5.4 Buyer Payments. At its option, Buyer may make periodic lump-sum payments to reduce its Buyer Deferred CCR Costs balance. If a Buyer Deferred CCR Cost balance exists subsequent to the true-up for calendar year 2027 as provided pursuant to Section 7, Buyer then shall pay the then-outstanding Buyer Deferred CCR Costs within twelve (12) months of the date on which the true-up was rendered, with interest. If this Agreement expires or terminates at any time when a balance in the Buyer Deferred CCR Costs exists, Buyer shall pay the then-outstanding Buyer Deferred CCR Costs within ninety (90) days of the date on which this Agreement expired or terminated.

5.5.5 Buyer Deferred CCR Costs Example. Exhibit VIII provides examples of calculations of Buyer Deferred CCR Costs.

5.6 Beneficial Reuse Costs. Beneficial Reuse Costs shall be subject to any CCR Disallowance related to Beneficial Reuse Costs. Beneficial Reuse Costs that are recorded in FERC Account No. 501 shall be recovered as a component of the Monthly Energy Charges determined in accordance with Section 5.4, and shall not be included in CCR Costs for purposes of applying the methodology set forth in Exhibit VII. Beneficial Reuse Costs shall be subject to true-up in accordance with Section 7.1.

## **6. Charges for Reserve Capacity**

- 6.1 Reserve Capacity Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for the Reserve Capacity provided to Power Agency that is equal to (i) the Reserve Capacity Rate, multiplied by (ii) Reserve Capacity Billing kW (the “Monthly Reserve Capacity Charge”). The estimated and actual Monthly Reserve Capacity Charge will be calculated as set forth in Section 6.2.
- 6.2 Estimated Monthly Reserve Capacity Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Reserve Capacity Rate for the next succeeding Calendar Year of service beginning on January 1<sup>st</sup>. The estimated Reserve Capacity Rate will be used in monthly billings of Monthly Reserve Capacity Charges for the service provided from January 1<sup>st</sup> through December 31<sup>st</sup> of such Calendar Year, and the Monthly Reserve Capacity Charges during such period will be reconciled (“trued-up”) each year with the Reserve Capacity Rate that results from incorporating actual values in the Reserve Capacity Rate Formula, as provided in Article 7 below. Any challenge or correction of the Reserve Capacity Rate or Monthly Reserve Capacity Charges will be made in accordance with the provisions of Articles 7 and 16.

## **7. True-Up Process**

- 7.1 Capacity, Energy and Charges for CCR True-Up Process. Pursuant to Sections 5.2, 5.4, 5.5, 5.6, and 6.2, charges for service during any Calendar Year during the Delivery

Period shall be based on a calculation of the Monthly Capacity Charges, Monthly Energy Charges, Monthly Charge for Buyer's CCR Costs, and Monthly Reserve Capacity Charges, as applicable, that incorporate estimated values (to the extent actual values are not fixed or not known for such Calendar Year) in the Capacity Rate Formula, the Energy Rate Formula, the Calculation of Coal Combustion Residual Costs, and the Reserve Capacity Rate Formula, as applicable. On or about June 30<sup>th</sup> of each Calendar Year (or as soon thereafter as practicable), DEP will provide Power Agency with the following values for service rendered during the immediately preceding Calendar Year, calculated based on (a) actual values recorded and reported by DEP in its FERC Form No. 1 for such Calendar Year, (b) values that are reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information, and (c) values calculated in accordance with schedules or other information set forth in the: (i) Capacity Rate and Monthly Capacity Charges, based on the inclusion of actual values in the Capacity Rate Formula; (ii) Energy Rate and Monthly Energy Charges, based on the inclusion of actual values in the Energy Rate Formula; (iii) Reserve Capacity Rate and Monthly Reserve Capacity Charges, based on the inclusion of actual values in the Reserve Capacity Rate Formula; (iv) Charge for Buyer CCR costs, based on the inclusion of actual values in the Calculation of Coal Combustion Residual Costs; and (v) Annual True-up Amount (defined below), if any.

7.1.1 Annual True-up Amount. Each Calendar Year, DEP shall reconcile the estimated Monthly Capacity Charges, Monthly Energy Charges, Monthly

Charge for Buyer's CCR Costs, and Monthly Reserve Capacity Charges that were billed to Power Agency during the immediately preceding Calendar Year with charges recalculated for such year in accordance with Section 7.1. The difference between the estimated amounts and the recalculated amounts for such charges represents the extent to which Power Agency overpaid or underpaid for those services during the immediately preceding Calendar Year. The sum of the monthly differences (the "Annual True-up Amount") will be invoiced, and paid or credited, as provided for herein.

- 7.1.2 Underpayment True-Up. If the Annual True-up Amount results in Power Agency owing an additional amount to DEP for services billed to Power Agency during the immediately preceding Calendar Year, Power Agency may, at its option, remit to DEP either: (i) a lump-sum payment of the Annual True-up Amount; or (ii) monthly payments over the twelve-month period following completion of the reconciliation, each such payment equaling 1/12th of the Annual True-up Amount, provided that at any time during such twelve-month payment period Power Agency may, at its option, remit to DEP any then-unpaid portion of the Annual True-up Amount. The Annual True-up Amount, whether paid through a lump-sum payment or through monthly payments, shall bear interest at the Interest Rate for the period of time between (i) the date on which Power Agency remitted payment to DEP of the invoice for each month of service in the immediately preceding Calendar Year, and (ii) the date



on which Power Agency remits to DEP payment of the portion of the Annual True-up Amount attributable to such month. Charges associated with the Annual True-up Amount shall be reflected in DEP's determination of the amount due from Power Agency in invoices prepared and submitted by DEP in accordance with Article 8.

- 7.1.3 Overpayment True-Up. If the Annual True-up Amount results in DEP owing an amount to Power Agency for services billed to Power Agency during the immediately preceding Calendar Year, then DEP may, at its option, provide to Power Agency either: (i) a single credit equal to the full amount of the Annual True-up Amount; or (ii) monthly credits over the twelve-month period following completion of the reconciliation, each such credit equaling 1/12th of the Annual True-up Amount, provided that at any time during such twelve-month credit period DEP may, at its option, provide to Power Agency a credit equaling the then-uncredited portion of the Annual True-up Amount. The Annual True-up Amount, whether credited through a single credit or through monthly credits, shall bear interest at the Interest Rate for the period of time between (i) the date on which Power Agency remitted payment to DEP of the invoice for each month of service in the immediately preceding Calendar Year and (ii) the date on which DEP provides to Power Agency a credit for the portion of the Annual True-up Amount attributable to such month. Credits associated with the Annual True-up Amount shall be reflected in DEP's

determination of the amount due from Power Agency in invoices prepared and submitted by DEP in accordance with Article 8.

7.1.4 CCR Disallowances that are ordered or determined under an applicable Law that are related to a year in which the annual true-up for the Monthly Energy Charge and/or the Monthly Charge for Buyer's CCR Costs has already occurred shall be reflected in charges to Buyer in accordance with Section IV.A of Exhibit VII. Adjustments for such additional CCR Disallowances shall survive termination of this Agreement as a payment obligation in accordance with Section 18.17.

7.2 Disputes of Charges. Power Agency may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice (including the Annual True-up Amount and the calculation thereof) rendered by DEP pursuant to this Agreement within thirty-six (36) months following the date on which the invoice, or adjustment to an invoice, was rendered by DEP. Notwithstanding the foregoing, the thirty-six (36) months referenced herein shall not apply to the payment of billing credits to Buyer from Duke as a result of CCR Disallowances and/or CCR Insurance Proceeds in accordance with Section IV of Exhibit VII. In the event Power Agency seeks to initiate such a dispute, it shall follow the procedures set forth in Section 8.3.

7.3 Records and Audits. DEP shall keep and maintain such records and documents, including cost information used to calculate charges, as may be necessary in verifying the accuracy and correctness of any invoice, adjustment, charge, or computation

rendered pursuant to this Agreement. DEP shall preserve such records and documents for the longer of (i) thirty-six (36) months from and after the date on which DEP rendered the invoice, adjustment, charge, or computation to which the record or document relates, or (ii) the period of time records and documents are required to be preserved pursuant to DEP's corporate records retention policy. Notwithstanding the foregoing, the thirty-six (36) months referenced herein shall not apply to the payment of billing credits to Buyer from Duke as a result of CCR Disallowances and/or CCR Insurance Proceeds in accordance with Section IV of Exhibit VII. Power Agency and any designated representative of Power Agency shall be entitled to audit the records and documents of DEP, including records and documents in the custody of third parties, to the extent records and documents are reasonably related to any invoice, charge or computation rendered pursuant to this Agreement, subject to the following provisions.

- 7.3.1 If Power Agency seeks to initiate an audit, it shall do so by notifying DEP in writing that Power Agency is exercising its right to examine records and documents of DEP that are subject to Power Agency's audit right. Following its receipt of such notice, DEP shall retain and preserve the records and documents subject to such audit until the audit is complete.
- 7.3.2 Records of DEP that are kept in electronic form shall be made available to Power Agency in that same form. In addition, to the extent reasonably practicable, DEP shall make available to Power Agency copies or electronic scan files of any records or documents kept by DEC in paper form.

- 7.3.3 Power Agency shall be solely responsible for the costs of any independent auditor it may retain for purposes of conducting an audit hereunder.
- 7.3.4 If any audit or examination reveals an error or inaccuracy in any invoice rendered by DEP and if such error or inaccuracy resulted in an overpayment or underpayment by Power Agency, DEP shall promptly render to Power Agency a revised invoice reflecting such adjustments as are necessary to correct the error or inaccuracy, and shall either reimburse or charge Power Agency for any charges paid to DEP that are attributable to the error or inaccuracy. Unless otherwise requested by Power Agency, DEP shall provide any reimbursement as a credit on the next following monthly invoice. Any reimbursement or charge required under this Section 7.3.4 shall include interest on the adjustment at the Interest Rate from the date on which Power Agency remitted payment of the invoice that reflected the error or inaccuracy until the date on which the invoice that includes the reimbursement credit is provided by DEP to Power Agency or charged by DEP to Power Agency.
- 7.3.5 To the extent any non-public information disclosed to Power Agency in connection with an audit of DEP's records and documents constitutes Protected Information, as defined in Article 12 of this Agreement, Power Agency shall maintain the confidentiality of that information in accordance with Article 12.

- 7.4 Additional Rights to Obtain Information. In addition to its audit rights set forth in Section 7.3, Power Agency at any time may submit requests for information relating to DEP's calculation of the Monthly Capacity Rate, the Monthly Energy Rate, the Monthly Reserve Capacity Rate, and the Monthly Charge for Buyer's CCR Costs, and the basis for the values DEP incorporated in such calculations. DEP shall make good faith efforts to respond to any such information requests within thirty (30) Business Days of its receipt of a request. Any unresolved disagreement between DEP and Power Agency pertaining to such requests for information or responses thereto shall be subject to the informal dispute resolution process set forth in Section 17.1.
- 7.5 Projections of the Capacity Rate, the Energy Rate, the Reserve Capacity Rate, and the Charge for Buyer CCR Costs. Not later than September 1 of each Calendar Year during the Delivery Period, DEP shall provide its best projection of the Capacity Rate, the Energy Rate, the Reserve Capacity Rate, and the Charge for Buyer CCR Costs expected to be applied in calculating charges to Power Agency for a period of not less than five (5) years starting with the next-following Calendar Year. DEP shall provide an update to such five-year projections by December 1 of each Calendar Year. DEP shall provide such supporting documentation and calculations for its projection of rates and charges as may be agreed to by the Parties.

## **8. Billing & Payment**

- 8.1 Invoicing and Payment. As promptly as practicable after the close of each month during the Delivery Period, DEP shall prepare and deliver to Power Agency an invoice

covering all amounts due from Power Agency to DEP pursuant to this Agreement for services provided during the preceding month, and all amounts that may be due from DEP to Power Agency. DEP may deliver each such invoice by mail, express mail, courier or electronic mail, and all such invoices shall be due and payable within fifteen (15) days of (i) the postmark date of the invoice (if delivered via U.S. mail or express mail), (ii) the date the invoice was received (if delivered by courier), or (iii) the date the invoice was sent (if delivered via electronic mail). Each invoice rendered by DEP shall be accompanied by an electronic data file containing metered hourly load data for each Member's Delivery Points for the month to which the invoice relates. Invoices not paid when due shall be deemed delinquent, and, in such circumstances, interest shall accrue at the Interest Rate on any amount that is due but unpaid. The Party from whom payment is due shall deliver said payment to the payee, or to the account of the payee at a bank designated by the payee, by electronic funds transfer or such other means as provides the payee immediately available funds.

- 8.2 Setoff and Netting of Amounts Due. The Parties agree to the automatic setoff and netting of all amounts due to or from each other arising out of the payment obligations under this Agreement. If, in a given month during the Delivery Period, DEP owes credits or payments to Power Agency under this Agreement, DEP may net the amounts of such credits or payments against the amounts that Power Agency otherwise owes DEP for such month, such that DEP will only invoice Power Agency for the amount that Power Agency owes DEP in excess of any amounts that DEP owes to Power

Agency, or it will credit Power Agency for the amount DEP owes in excess of any amounts Power Agency owes DEP, except for the invoice for the last month of the Delivery Period of this Agreement, for which each Party shall pay the other Party directly rather than set-off of net amounts due and owing. All outstanding obligations to make payment under this Agreement may be netted, offset, set off, or recouped therefrom, and payments and credits shall be made as set forth above.

8.3 Disputes Regarding Invoiced Charges.

8.3.1 If Power Agency disputes all or any portion of an invoice or adjustment, it shall provide written notice to DEP (the "Billing Dispute Notice") that (i) states the good faith basis for the dispute, and (ii) provides Power Agency's best estimate of the amount in dispute and the basis for that amount. Power Agency shall, at its option, (a) make payment to DEP of the full amount shown on the invoice, including any portion of the invoiced amount that is disputed by Power Agency, or (b) withhold one half (1/2) of the amount in dispute and make payment to DEP of the other one half (1/2) of the amount in dispute. Payment to DEP of one half (1/2) of the amount in dispute shall not relieve Power Agency of the obligation to pay interest on any amount withheld by Power Agency that is later determined to have been chargeable to Power Agency pursuant to the terms of this Agreement. Likewise, DEP shall not be relieved of the obligation to pay interest on any amount paid by Power Agency

that it is later determined was not chargeable to Power Agency pursuant to the terms of this Agreement.

8.3.2 DEP shall review Power Agency's Billing Dispute Notice and the disputed invoice or adjustment, and thereafter shall notify Power Agency in writing whether and to what extent it agrees with Power Agency's position as set forth in the Billing Dispute Notice (the "Response Notice"). DEP shall provide the Response Notice to Power Agency no later than forty-five (45) days after DEP's receipt of the Billing Dispute Notice.

8.3.3 If DEP agrees in whole or in part with Power Agency's position as set forth in the Billing Dispute Notice, DEP shall specify in the Response Notice the amount of any reimbursement that it believes in good faith is due Power Agency. Any such reimbursement shall be reflected as a credit on the next monthly invoice rendered by DEP, and shall include interest, calculated at the Interest Rate, from the date on which Power Agency paid the disputed invoice to the date on which Power Agency's payment of the invoice reflecting the reimbursement credit is due. If Power Agency disagrees with the amount of the reimbursement credit provided by DEP, Power Agency may pursue resolution of the matter in accordance with Article 17. Power Agency's acceptance of a reimbursement credit that is less than the amount it contends it is due shall not constitute a waiver of Power Agency's right to pursue additional reimbursement or other compensation, provided that Power Agency



provides DEP with notice of Power Agency's disagreement with the reimbursement credit within ninety (90) days of Power Agency's receipt of the Response Notice.

- 8.3.4 If DEP does not agree with Power Agency's position as set forth in the Billing Dispute Notice, either Party may submit the dispute for resolution in accordance with Article 17. Any reimbursement determined to be due Power Agency shall be furnished through the inclusion of a credit on the next monthly invoice rendered by DEP after completion of the applicable dispute resolution process, including interest. Except as provided in Section 8.3.1(ii)(b), no challenge, disagreement or dispute relating to the reasonableness or correctness of any such charge or fee shall permit Power Agency to delay or withhold any payment due hereunder. All adjustments made to invoices as a result of a challenge or initiation of a correction shall include interest calculated from the date of the payment of the invoice that was the subject of the challenge or the correction to the date of the invoice on which the charge or credit is reflected. If resolution of the dispute is obtained through the informal dispute resolution process or through arbitration, such interest shall be calculated at the Interest Rate from the date on which Power Agency paid the disputed invoice to the date on which Power Agency's payment of the invoice reflecting the reimbursement credit is due. If resolution of the dispute is obtained through submittal of the dispute to FERC, interest shall be

determined in accordance with FERC's regulations governing the payment of interest on refunds.

- 8.4 **Taxes.** DEP shall be liable for and shall pay, or cause to be paid, or reimburse Power Agency if Power Agency has paid, all Taxes imposed by a Governmental Authority on or with respect to the production, sale or transmission of energy provided hereunder arising prior to the Transfer Point. DEP shall indemnify, defend, and hold harmless Power Agency from any liability for such Taxes, including expenses related to audit and litigation of issues related to the Taxes described in the immediately preceding sentence. Power Agency shall be liable for and shall pay, or cause to be paid, or reimburse DEP if DEP has paid, all Taxes imposed by a Governmental Authority on or with respect to the transactions and services provided hereunder arising at and after the Transfer Point. Power Agency shall indemnify, defend, and hold harmless DEP from any liability for such Taxes, including expenses related to audit and litigation of issues related to the Taxes described in the immediately preceding sentence. The Parties agree that none of the Taxes described in this Section 8.4 are included in the charges under this Agreement and such Taxes shall be paid in addition to the charges under this Agreement.

**9. Renewable Portfolio Standards, Demand & Efficiency Programs**

- 9.1 **Renewable Standard.** The Parties agree that as of the Effective Date, DEP and Power Agency's Members have certain responsibilities under the Renewables Act. The Parties further acknowledge that additional legislation and/or regulations (state, federal and/or local) including, without limitation, a RPS, may be enacted after the Effective Date of

this Agreement and may apply to DEP and Power Agency's Members. The Parties agree that DEP shall be solely responsible, at its own cost, for satisfying the requirements of the Renewables Act, any RPS, or any other such legislation or regulation applicable to DEP, whether or not such requirements alter the Renewables Act or implement a RPS or other new or additional standards, and, that Power Agency and/or its Members shall be solely responsible, at their own cost, for satisfying the requirements of the Renewables Act, any RPS, or any other such legislation or regulation applicable to Power Agency and/or its Members, whether or not such requirements alter the Renewables Act or implement a RPS or other new or additional standards.

9.2 Renewable Resource Costs Incurred by DEP.

9.2.1 In calculating charges to Power Agency pursuant to the Capacity Rate Formula, the Energy Rate Formula and the Reserve Capacity Rate Formula, DEP may include a portion of the costs, as specified below, of renewable resources that are (i) generated or purchased by DEP to comply with the requirements of the Renewables Act or any RPS that may be applicable to DEP, and (ii) used to serve DEP's Firm Native Load.

9.2.1.1 The portion of the costs of renewable resources that DEP may include in charges to Power Agency shall be limited to the capacity and energy costs that DEP avoids through the generation of energy

from owned or purchased renewable resources that satisfy the criteria in Section 9.2.1.

9.2.1.2 Other than as provided for in Section 9.2.1.1, DEP shall not charge Power Agency for any costs that DEP incurs to comply with the requirements of the Renewables Act or any RPS that may be applicable to DEP, and Power Agency shall have no obligation to pay DEP for such compliance costs.

9.2.2 Notwithstanding any other provision of this Agreement, if DEP acquires power from a renewable resource (through purchase or ownership) that is not included in DEP's most recent compliance report filed with the NCUC pursuant to the NCUC's Rule R8-67(c)(1) as a source of renewable energy used to comply with requirements of the Renewables Act, then the cost of such purchase or resource may be included by DEP in calculating charges to Power Agency under the Capacity Rate Formula, the Energy Rate Formula and the Reserve Capacity Rate Formula.

9.2.3 Nothing in this Section 9.2 shall limit DEP's right to charge Power Agency for the cost of any purchase that DEP is required to make in accordance with PURPA or state or federal regulations or policies implementing PURPA.

9.3 Energy Efficiency Measures; Demand-Side Management; Demand Response. Nothing in this Agreement is intended to preclude Power Agency and/or its Members from implementing Energy Efficiency Measures, Demand-Side Management, or Demand

Response programs as defined in this Agreement. DEP shall have no responsibility and/or obligation relating to any Energy Efficiency Measures, Demand-Side Management, or Demand Response programs of Power Agency and/or its Members.

9.4 [Reserved].

9.5 [Reserved].

9.6 Energy Injection Devices. The use of Energy Injection Devices shall not qualify as Energy Efficiency, Demand-Side Management and/or Demand Response for purposes of this Agreement. Except as provided in Section 4.1.4.4 and Attachment XI, all Energy Injection Devices owned or operated by Power Agency, its Members, or by a retail or wholesale customer of a Member, or a retail customer of a wholesale customer of a Member shall be considered Qualified Resources. If Power Agency or its Members take any actions to aggregate, incent, or otherwise encourage the dispatch of batteries or other storage devices with a maximum capable injection capacity of less than 95 kW behind the Duke-owned wholesale revenue meter of a Member at the time of the Monthly Coincident Demand, DEP reserves the right to treat such devices as Energy Injection Devices and thus subject them to the cap on Qualified Resources in Section 4.1.4 of this Agreement, notwithstanding anything to the contrary in this Agreement.

9.7 Commercial and Industrial Customer Interruptible Service. Notwithstanding anything to the contrary in this Agreement, Power Agency shall be subject to additional charges for Interruptible Load of Commercial and Industrial Customers ("Interruptible Demand Charge") as provided in this Section 9.7. Effective January 1, 2023, Power Agency

shall notify DEP in writing at least 60 days before a Power Agency Member(s) commences service to: (a) any new Commercial and Industrial Customer with Interruptible Load in excess of one megawatt (1 MW) or, (b) any existing Commercial and Industrial Customer if that such Commercial and Industrial Customer has a new Interruptible Load in excess of one megawatt (1 MW). If the reported Interruptible Load is twenty-five megawatts (25 MW) or less, upon commencement of service to such Commercial and Industrial Customer for its Interruptible Load, DEP shall charge Power Agency, in addition to any other charges under this Agreement, an Interruptible Demand Charge equal to fifty percent (50%) of the Capacity Rate ("C&I Small Interruptible Rate") times the amount of Interruptible Load of such Commercial and Industrial Customer. For any Interruptible Load of a Commercial and Industrial Customer that exceeds twenty-five megawatts (25 MW), upon commencement of service to such Commercial and Industrial Customer for its Interruptible Load, DEP shall charge Power Agency, in addition to any other charges under this Agreement, an Interruptible Demand Charge equal to seventy percent (70%) of the Capacity Rate ("C&I Large Interruptible Rate") times the amount of Interruptible Load of such Commercial and Industrial Customer. For purposes of the Interruptible Demand Charge, the amount of Interruptible Load in any given Month shall be equal to (i) the maximum 60-minute integrated demand of such Commercial and Industrial Customer, less (ii) the 60-minute integrated demand of such Commercial and Industrial Customer as measured during the hour coincident with the hour of DEP's Monthly Peak Demand,

the resulting value adjusted to include an allowance for distribution system losses of five percent (5%) and Line Losses and GSU Losses. Interruptible Load shall not be less than zero in any Month. Power Agency shall be responsible for metering such Commercial and Industrial Customer, and the Parties shall develop procedures to address the timely exchange of metering data.

- 9.8 Future Compliance. Upon written notice from Power Agency to DEP, the Parties agree to engage in good faith discussions concerning Power Agency's desire to have DEP assume responsibility, and DEP's willingness to assume responsibility, on Power Agency's behalf, for satisfying the Members' obligations under the Renewables Act, any RPS, or any other such legislation or regulation. Neither Party, however, shall be under any obligation to agree to enter into any agreement to give effect to the provisions of this Section 9.6; provided however, that if the Parties do enter into such an agreement, DEP shall be under no obligation to assume such responsibilities sooner than three (3) years after the Parties enter into the definitive agreement setting forth each Party's respective obligations.

## **10. Transmission Organizations**

- 10.1 Implementation of Transmission Organization. If, at any time after the Effective Date, an ISO, RTO, ITC or other organization, agency or authority is approved by FERC to serve as Transmission Provider for the DEP Transmission System or as operator for any centralized wholesale electricity market in which DEP intends to participate (hereinafter referred to as a "Transmission Organization"), DEP and Power Agency, within thirty

(30) days after FERC issues an order approving such Transmission Organization, will meet to discuss the implementation of this Agreement with respect to the rules and procedures adopted by the Transmission Organization. The Parties expressly acknowledge and agree that neither the implementation of a Transmission Organization nor the failure of the Parties to enter into any additional arrangements with respect to such Transmission Organization shall relieve either Party of any obligations under this Agreement. To the extent that the Parties determine that the implementation of a Transmission Organization will result in other requirements and/or costs associated with DEP's provision of Requirements Service in accordance with this Agreement, the Parties will meet to discuss the appropriate way to allocate such costs in a manner that reflects the economic bargain originally contemplated by the Parties when entering into this Agreement. If the Parties are unable to reach such an agreement, either Party may submit the matter to FERC for resolution after completing the informal dispute resolution process set forth in Section 17.1.

## **11. Assurances and Related Provisions**

11.1 Creditworthiness. Either Party may review the creditworthiness of the other Party on an ongoing basis during the Term of this Agreement to ensure continued compliance with the other Party's credit requirements. For the duration of this Agreement, each Party will provide the other Party with complete audited financial statements within 180 days of the close of their fiscal year, except that, if such statements are available from



the Security and Exchange Commission's web site or other publicly available web site, this requirement will be deemed to be satisfied.

11.2 Material Adverse Change and Credit Protections.

11.2.1 If at any time both Parties are rated by Standard & Poor's Ratings Services or its successor ("S&P"), Fitch Ratings, Inc. or its successor ("Fitch") or Moody's Investors Service or its successor ("Moody's"), a Party shall be deemed to have experienced a material adverse change ("MAC") if it fails to maintain an issuer credit rating of either BBB- or better by S&P or Fitch or Baa3 or better by Moody's. In the event that a Party experiences a MAC (the "Providing Party"), then it shall provide to the other Party (the "Requesting Party") collateral in the amount of fifty million dollars (\$50,000,000.00) and in the form set forth below in Section 11.4 (such collateral the "Performance Assurance") within five (5) Business Days after the date on which the MAC occurs.

11.3 Performance Assurance. If at any time either of the Parties is not rated by either S&P, Fitch or Moody's, if the Requesting Party has reasonable grounds to believe that the Providing Party is unable to perform its obligations hereunder, the Requesting Party may make a written request of the Providing Party, stating the grounds for its belief, to provide Performance Assurance. If the Providing Party disputes the grounds for the request for Performance Assurance, appropriate representatives of the Parties will meet within five (5) Business Days of such request to discuss the request to provide

Performance Assurance. Within two (2) Business Days after such meeting, the Requesting Party shall give notice to the Providing Party that it either confirms or retracts its request for Performance Assurance. Unless the Requesting Party retracts its request, the Providing Party shall provide the Performance Assurance within ten (10) Business Days from the date of the Requesting Party's initial request to provide the Performance Assurance. If the Providing Party disagrees with the Requesting Party's position after providing Performance Assurance, the Parties shall submit the dispute for resolution in accordance with Article 17.

11.4 Posting of Performance Assurance. Performance Assurance shall be in the form of cash or a letter of credit from a financial institution reasonably acceptable to the Requesting Party. Any such letter of credit shall be in a form satisfactory to the Requesting Party in its reasonable discretion. A financial institution providing a letter of credit entered into for purposes of this Section 11.4 shall be deemed reasonably acceptable by the Requesting Party if such financial institution has and maintains a minimum long-term credit rating of A- or better from S&P or Fitch or A3 or better from Moody's.

11.5 Interest on Cash Used as Performance Assurance. If cash collateral is posted as Performance Assurance, the Requesting Party shall pay interest to the Providing Party at the Interest Rate, calculated as of the first day of the applicable month. Each month during which a Party has posted cash as Performance Assurance, such Party shall invoice the Party holding the cash collateral as the Performance Assurance for interest

accrued during the previous month and the Party holding the cash Performance Assurance shall pay such amount within ten (10) Days of receipt of such invoice.

11.6 Continuing Nature of Performance Assurance Requirement. The Providing Party must continue to post the Performance Assurance as long as the MAC or the Requesting Party's grounds for insecurity continue in effect. The Requesting Party shall have the right to draw upon, use, and dispose of all Performance Assurance that is posted under this Article 11, if the Providing Party fails to fulfill any of its payment or performance obligations under this Agreement and such failure constitutes an Event of Default. In the event any Performance Assurance is drawn upon by the Requesting Party in accordance with the provisions of this Section 11.6, the Party experiencing the MAC shall within three (3) Business Days fully replenish the Performance Assurance to the full amount of the required Performance Assurance.

11.7 Return of Performance Assurance. In the event the MAC is no longer in effect, or in the event the Requesting Party's stated grounds for believing that the Providing Party is unable to perform its obligations hereunder no longer exist, the Providing Party shall provide written notice thereof to the Requesting Party, together with documentation from S&P, Fitch or Moody's that verifies that the MAC is no longer in effect, or documentation establishing, to the reasonable satisfaction of Requesting Party, that the stated grounds for believing that the Providing Party is unable to perform its obligations hereunder no longer exist, as applicable, the Requesting Party shall return the

Performance Assurance to the Providing Party within three (3) Business Days after receipt of such written notice from the Providing Party.

- 11.8 Grant of Security Interest. The Providing Party hereby grants to the Requesting Party a present and continuing security interest in, and lien on (and right of netting and set-off against), and assignment of, all Performance Assurance, including, without limitation, cash Performance Assurance and cash equivalent Performance Assurance and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Requesting Party; and, furthermore the Providing Party agrees to take such action as the Requesting Party reasonably requires to perfect the Requesting Party's first-priority security interest in, and lien on (and right of netting and set-off against), such Performance Assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Requesting Party (if it is the Non-Defaulting Party) may do any one or more of the following with respect to the Providing Party (if it is the Defaulting Party): (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of netting and set-off against any and all property of the Providing Party in the possession of the Requesting Party or its agent; (iii) draw on any outstanding applicable forms of Performance Assurance issued for the benefit of the Requesting Party; and, (iv) liquidate all Performance Assurance then held by or for

the benefit of the Requesting Party free from any claim or right of any nature whatsoever of the Providing Party, including any equity or right of purchase or redemption by the Providing Party. The Requesting Party (if it is the Non-Defaulting Party) shall apply the proceeds of the Performance Assurance realized upon the exercise of any such rights or remedies to reduce the Providing Party's (if it is the Defaulting Party) obligations under the Agreement, with the Providing Party remaining liable for any amounts owing to the Requesting Party after such application, subject to the Requesting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

## **12. Confidentiality**

12.1 Protected Information. Subject to the provisions of this Section 12 and except as otherwise set forth in this Agreement, Power Agency, to the extent permitted by Law, shall not publish, disclose, or otherwise divulge any term or condition of this Agreement and, without limitation, any information relating to any transaction or documents exchanged between the Parties in connection with this Agreement (collectively, the "Protected Information") to a third person (other than the Party's employees, Affiliates, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential), at any time during the Term of this Agreement or for two (2) years after the expiration or early termination of this Agreement, without DEP's prior written consent; provided, however, Protected Information shall (i) constitute a trade secret (as defined below), and (ii) be designated

by DEP as “confidential” or “trade secret” at the time it is delivered to Power Agency or included in this Agreement. For purposes of this Article 12, “trade secret” means business or technical information, including, but not limited to, a formula, pattern, program, device, compilation of information, method, technique, or process that (a) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use, and (b) is subject to efforts by DEP that are reasonable under the circumstances to maintain its secrecy. DEP shall be entitled to all remedies available at Law or in equity (including, but not limited to, specific performance and/or injunctive relief) to enforce, or seek relief in connection with, this confidentiality obligation.

- 12.2 Non-Confidential Information. The following shall not be considered Protected Information, and Power Agency shall not be limited in its use or disclosure thereof: (a) information which is or becomes part of the public domain through no act or omission of Power Agency; (b) information which demonstrably was known or was in the possession of Power Agency without obligation to maintain confidentiality prior to the Effective Date of this Agreement; (c) information which is received by Power Agency from a third party who is not bound to maintain such information as confidential; and/or (d) information independently developed by Power Agency without reference to the Protected Information received under this Agreement.

12.3 Return of Confidential Information. Upon request of Disclosing Party, Receiving Party shall either (i) return the Protected Information, including all copies, or (ii) destroy the Protected Information, including all copies, and present written assurances of the destruction to Disclosing Party. Notwithstanding the foregoing, both Parties acknowledge that Protected Information transferred and maintained electronically (including e-mails) may be automatically archived and stored by Receiving Party on electronic devices, magnetic tape, or other media ("Back-Up Tapes"). Notwithstanding the terms of this Agreement, in no event shall Receiving Party be required to destroy Protected Information stored on Back-Up Tapes; provided, however, any Protected Information not returned or destroyed pursuant to this Article 12 shall be kept confidential during the Term of this Agreement and for two (2) years after the expiration or early termination of this Agreement. Furthermore, the Parties agree that receiving party may retain one (1) copy of such Protected Information in Receiving Party's files for audit and compliance purposes for the duration of its existence; provided, however, such Protected Information shall be kept confidential during the Term of this Agreement and for two (2) years after the expiration or early termination of this Agreement.

12.4 Required Disclosures. Notwithstanding the confidentiality requirements set forth herein, Power Agency may, subject to the limitations set forth herein, disclose Protected Information to satisfy compliance and/or regulatory obligations to which it is subject, any other applicable requirement of Law, any requirement imposed by NERC or SERC, any control area or independent system operator rule, in response to a court order, in

connection with any court or regulatory proceeding, or as otherwise required by any requirement of Law. Such disclosure shall not terminate the obligation of confidentiality unless the Protected Information thereafter falls within one of the exclusions provided herein. To the extent the disclosure of Protected Information is requested or compelled as set forth above, Power Agency agrees to give DEP reasonable notice of any discovery request or order, subpoena, or other legal process requiring disclosure of any Protected Information. Such notice by Power Agency shall give DEP an opportunity, at DEP's sole discretion and cost, to seek a protective order or similar relief. If such protective order or other appropriate remedy is not sought and obtained by DEP within at least thirty (30) days of Power Agency's notice, Power Agency shall disclose only that portion of the Protected Information that is required or necessary in the opinion of Power Agency's legal counsel; provided, however, Power Agency shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to any Protected Information so disclosed.

### **13. Representations & Warranties**

13.1 Power Agency's Representations, Warranties and Covenants. Power Agency hereby represents warrants and covenants to DEP as follows:

13.1.1 Each Member Power Sales Agreement is and shall be designed to provide Power Agency with funds sufficient to meet its obligations under this Agreement. In the event Power Agency shall enter into a Member Power Sales Agreement with a municipal system other than a Member of Power Agency as



of the Effective Date, Power Agency shall, forthwith upon execution of said agreement by both parties, notify DEP thereof and furnish DEP with a copy of such agreement. Power Agency covenants and agrees that it shall fix, charge and take all steps necessary to collect rents, rates, fees and charges for the sale of electric power and energy and other facilities and commodities sold, furnished or supplied to its Members pursuant to the Member Power Sales Agreements at a level sufficient to provide Power Agency with revenues adequate to meet its obligations under this Agreement and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues.

- 13.1.2 Each Member Power Sales Agreement provides and shall provide as follows:
- (a) that the signatory Member shall fix, charge and collect rents, rates, fees and charges for the sale of electric power and energy and other services, facilities and commodities sold, furnished or supplied through its electric system at a level sufficient to provide revenues adequate to meet its obligations under such Member Power Sales Agreement and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues; (b) that the signatory Member shall take no action the effect of which would be to prevent, hinder or delay Power Agency from the timely fulfillment of its obligations under this Agreement; (c) that Power Agency shall have the right to terminate such agreement as to the defaulting Member in accordance with the Member Power

Sales Agreement; and, (d) that upon failure of the Member to make any payment in full when due under the Member Power Sales Agreement or to perform any other obligation in such agreement, Power Agency shall make demand upon the Member for payment or performance and, if said failure is not cured in accordance with the terms and conditions of the Member Power Sales Agreement, it shall constitute a default by the Member. Each Member Power Sales Agreement shall further provide that it shall not be amended or rescinded with respect to the provisions specified in (a) through (d) of the preceding sentence without the prior written consent of DEP.

- 13.1.3 Power Agency shall continue each of such Member Power Sales Agreements in full force and effect and shall enforce all such Member Power Sales Agreements in accordance with their terms, as amended from time to time in accordance with their terms. Each Member Power Sales Agreement shall provide that the amounts payable by the Member for service by Power Agency under the Member Power Sales Agreement shall be set forth on a monthly bill and that the revenues received by Power Agency in any month as payment of a monthly bill, and of any monthly bill provided under a Member's Debt Service Support Contract (whether in full or partial payment of either hereof), shall be applied pro rata to each monthly bill in the ratio that each bears to the total of the monthly bills rendered by Power Agency to each Member.

- 13.1.4 Power Agency shall take no action the effect of which would be to pledge, assign, or otherwise create a right superior to DEP in any third party to any of the revenues it receives from any Member under the Member Power Sales Agreement or its obligations to make payments to DEP hereunder.
- 13.1.5 Power Agency shall promptly furnish DEP a copy of any notification to a Member of an event of default by such Member under the provisions of a Member Power Sales Agreement.
- 13.1.6 Power Agency's obligations to make payments hereunder are unsubordinated obligations and such payments are operating and maintenance costs (or similar designation); Power Agency's obligations to make payments hereunder do not constitute any kind of indebtedness or create any kind of lien on, or security interest in, any property or revenues of DEP.
- 13.1.7 With respect to its contractual obligations under this Agreement and performance of obligations under this Agreement, Power Agency will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from suit, jurisdiction of court (including a court located outside the jurisdiction of its organization), relief by way of injunction, order of specific performance or recovery of property, attachment of assets, or execution or enforcement of any judgment, or otherwise take, encourage, and/or support any efforts to cause the foregoing to cause to occur.

- 13.2 Mutual Representations, Warranties and Covenants. Each Party represents and warrants to the other that: (i) it is duly organized and validly existing under the laws of the jurisdiction of its organization; (ii) it has the power and authority to execute, enter into, and perform its obligations under this Agreement, and such action has been duly authorized; (iii) this Agreement constitutes a legal, valid, and binding obligation enforceable against it in accordance with the terms hereof; (iv) the person who executes this Agreement on behalf of such Party has the authority to do so, and that such Party will be bound by such execution; (v) it is a “forward contract merchant” and this Agreement constitutes a “forward contract” as such terms are defined in the United States Bankruptcy Code; and, (vi) that such Party is acting on its own behalf, has made its own independent decision to enter into this Agreement, has performed its own independent due diligence, is not relying upon the recommendations of the other Party, and understands and agrees to the provisions of this Agreement.
- 13.3 General Covenant by the Parties. Each Party hereto covenants and agrees that if any event shall occur or condition exists which constitutes, or which after notice, lapse of time, or both, would constitute an Event of Default on its part pursuant this Agreement, it shall immediately notify the other party thereof, specifying the nature thereof and any action taken or proposed to be taken with respect thereto.
- 13.4 Limitations. EXCEPT AS PROVIDED HEREIN, THE PARTIES MAKE NO OTHER REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATING TO THEIR

PERFORMANCE OR OBLIGATIONS UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**14. Events of Defaults**

14.1 Event of Default. For purposes of this Agreement, an Event of Default shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any one or more of the following:

14.1.1 The failure to make, when due, any payment, credit, or reimbursement required by this Agreement or to post or maintain collateral required by this Agreement, if such failure is not remedied within three (3) Business Days after written notice of such failure is given to the Defaulting Party by the other Party ("Non-Defaulting Party");

14.1.2 Failure by DEP to provide or deliver Requirements Service in accordance with the requirements of Sections 3.1 and 3.3.1, or failure by DEP to restore service in accordance with the requirements of Section 3.3.2;

14.1.3 The failure to perform any material covenant or material obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Section 14.1), if such failure is not remedied within three (3) Business Days after the provision of written notice thereof to the Defaulting Party;

- 14.1.4 A Party becomes Bankrupt;
- 14.1.5 The loss of any authorization from a governmental authority that is necessary for a Party to perform its obligations hereunder in accordance with the terms of this Agreement;
- 14.1.6 Any representation or warranty made by a Party is false or misleading in any material respect when made or when deemed made or repeated; and/or,
- 14.1.7 A Party transfers or assigns or otherwise conveys any of its rights or obligations under this Agreement to another person/entity in violation of the requirements of this Agreement.

14.2 Effect of Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party (the "Non-Defaulting Party") may do one or more of the following:

- 14.2.1 If an Event of Default (other than an Event of Default under Section 14.1.1, Section 14.1.2, or Section 14.1.4) persists for sixty (60) days or longer, terminate this Agreement by providing written notice to the Defaulting Party specifying the effective date of termination; provided, however, that if the Defaulting Party is diligently pursuing cure but such Event of Default is not capable of being cured within sixty (60) days, then the period for the Defaulting Party to cure such Event of Default shall be extended from sixty (60) days to one hundred eighty (180) days before the Non-Defaulting Party

may exercise its right to terminate this Agreement pursuant to this Section 14.2.1.

14.2.2 If an Event of Default under Section 14.1.1, Section 14.1.2, or Section 14.1.4 occurs, terminate this Agreement by providing written notice to the Defaulting Party specifying the effective date of termination.

14.3 DEP's Additional Rights Upon Default of Power Agency. In addition to any other right provided for under and in accordance with this Agreement, whenever any Event of Default by Power Agency shall have occurred and shall not have been fully cured, DEP shall have the right to demand that Power Agency enforce any Member Power Sales Agreement to which Power Agency is a party and, if DEP seeks a temporary or permanent injunction specifically to enforce this obligation of Power Agency, Power Agency agrees that DEP need not prove the inadequacy of legal remedies. The enforcement of any such Member Power Sales Agreement, whether upon demand by DEP or pursuant to a court directive, shall not affect any rights of DEP against Power Agency whether arising under and in accordance with this Agreement, at law, in equity, provided by statute, or otherwise.

14.4 Disputes Concerning Default. If either Party shall dispute an asserted default by it, the following provisions shall apply:

14.4.1 If the asserted default involves a Party's failure to perform a disputed obligation, then such Party shall perform the disputed obligation but may do so under protest. The protest shall be in writing, shall precede or accompany

performance of the disputed obligation, and shall specify the reasons upon which the protest is based. In the event it is determined that the protesting Party is entitled to reimbursement of the cost of performing a disputed obligation theretofore made or performed, then the protesting Party shall be reimbursed such amount promptly with simple interest calculated at the Interest Rate from the date the protesting Party incurred the costs of performance to the date on which such payment or credit is made.

14.4.2 If the asserted default involves Power Agency's failure to pay all or a portion of a disputed invoice, Power Agency shall comply with the requirements and procedures set forth in Section 8.3 regarding resolution of billing disputes.

14.5 Additional Obligations Upon Default. With respect to any Party that has committed an Event of Default, such Defaulting Party shall make all reasonable efforts to take any and all such further actions and shall execute, and file where appropriate, any and all such further legal documents and papers as may be reasonable under the circumstances in order to facilitate the carrying out of this Agreement or otherwise effectuate its purposes including, but not limited to, action to seek any required governmental or regulatory approval and to obtain any other required consent, release, amendment or other similar documents. The Parties hereto agree not to take any action, or otherwise consent to any agreement or amendments to any agreement, which would prohibit, or the purpose of which is to make illegal or to prevent, hinder or delay, the taking of any action contemplated by this Agreement in the event of a Default.



- 14.6 No Remedy Exclusive. No remedy conferred upon or reserved to the Parties hereunder is intended to be exclusive of any other remedy or remedies available hereunder or now or hereafter existing at law, in equity, or by statute or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other such remedy. The pursuit by either Party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or by law, equity, statute or otherwise. The pursuit by either Party of an action for recovery of damages in the event of any breach of this Agreement shall be subject to the limitation of liability set forth in Section 14.8.
- 14.7 Waivers. No waiver of any default or Event of Default hereunder shall extend to or affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon. No delay or omission to exercise any remedy available hereunder, including, without limitation, upon the occurrence of any Event of Default, shall impair either Party's right to exercise any right or remedy or shall be construed to be a waiver thereof, but any such right or remedy may be exercised from time to time and as often as may be deemed expedient. Any waiver of a default, Event of Default, or remedy hereunder shall be in writing signed by the waiving Party. In order to entitle a Party to exercise any remedy conferred upon or reserved to it hereunder, it shall not be necessary for such Party to give any notice, other than such notice as may be expressly required by this Agreement.

14.8 Limitation of Liability. IN THE EVENT OF ANY BREACH OF THIS AGREEMENT, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. NEITHER PARTY NOR ITS AFFILIATES, SUBSIDIARIES, OR PARENT SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, EVEN IF SUCH DAMAGES ARE ALLOWED OR PROVIDED BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE.

14.9 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages, and each covenants that it shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or nonperformance of this Agreement.

## 15. Notices

15.1 Process. All notices, requests, or communications permitted or required to be given hereunder shall be in writing and shall be sent to the address of the applicable Party as specified below. A Party may change its information related to receiving notices by sending written notice to the other Party. Notices shall be delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by overnight mail or courier. Hand delivered notices shall be deemed delivered by the close of the Business Day on which it was hand delivered. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed to

have been received on the date noted as delivered on the receipt or tracking registry, as applicable. Notwithstanding the foregoing, if the day on which any notice is delivered or received is not a Business Day or is after 5:00 p.m. Eastern Prevailing Time on a Business Day, then it shall be deemed to have been received on the next following Business Day.

If to DEP:

Duke Energy Progress, LLC  
411 Fayetteville Street  
Raleigh, N.C. 27601  
Mail Code: 12  
Attn: VP – Wholesale Power Sales  
Phone: (919) 546-6228  
Email: Harold.James@duke-energy.com

With a copy to:

Duke Energy Progress, LLC  
550 South Tryon Street  
Charlotte, N.C. 28202  
Attn: General Counsel

If to Power Agency:

North Carolina Eastern Municipal Power Agency  
1427 Meadow Wood Blvd  
Raleigh, North Carolina 27604  
Attn: Kathy Moyer – Chief Operating Officer  
Email: kmoyer@electricities.org

With a copy to:

North Carolina Eastern Municipal Power Agency  
1427 Meadow Wood Blvd  
Raleigh, North Carolina 27604  
Attn: Jay Morrison – Chief Legal and Ethics Officer  
Email: jmorriso@electricities.org

**16. Proposed Changes in Rates, Terms and Conditions**

16.1 Unilateral Filing Rights Preserved. Except as otherwise provided in this Article 16 and in Section 2.4.5, each Party expressly retains its right to make unilateral filings with FERC at any time, pursuant to Section 205 or 206 of the Federal Power Act (as applicable) for a change in the rates, terms and conditions of this Agreement (including, without limitation, a change in any formula, or a change in the components of any formula, used to calculate rates and charges hereunder). Each Party also reserves its rights with respect to any rate change submitted unilaterally by the other Party, including the right to oppose, or to seek rejection, modification, suspension or refunds, with respect to any such unilateral filing. Except as provided in Section 16.2, the standard of review for changes to any of the rates, terms and conditions of this Agreement, whether proposed by a Party, a non-Party or FERC acting *sua sponte*, shall be the “just and reasonable” standard of review.

16.2 Other Modifications. The Parties specifically intend and acknowledge and agree that this Section 16.2 and the items set out in Section 16.2.1 (“Excepted Provisions”) shall not be subject to amendment or other modification, absent the written agreement of both Parties and that neither Party shall be permitted to make a filing with FERC under any provision of the Federal Power Act or the regulations promulgated thereunder that seeks to amend or otherwise modify, or requests FERC to amend or otherwise modify, the Exception Provisions at any time during the Term, except to implement an amendment or other modification to an Excepted Provision that has been reduced to writing and

signed by both Parties. In addition, to the extent a Party, any third party, or FERC acting *sua sponte* seeks to amend or otherwise modify, or requests FERC to amend or otherwise modify an Excepted Provision, the standard of review for any such proposed amendment or other modification 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), and as further defined in *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), and *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010).

16.2.1 Excepted Provisions.

16.2.1.1 Agreement. The Excepted Provisions in the Agreement are as follows: (a) Section 2.7.7 addressing the Compensation Payment; and (b) Section 16.2, including all subsections thereof, addressing Excepted Provisions.

16.2.1.2 Capacity Formula Rate. The Excepted Provisions of the Capacity Formula Rate are as follows: (a) the inclusion in rate base of the unamortized balance of the acquisition adjustment that DEP paid to Power Agency under the Asset Purchase Agreement for Power Agency’s undivided ownership interests in the nuclear-fueled generation facilities known as the Shearon Harris Nuclear Plant, located in Wake County, North Carolina, and Brunswick Unit 1 and

Brunswick Unit 2, each located in Brunswick County, North Carolina, and the coal-fueled generation facilities known as the Mayo Plant and Roxboro Unit 4, each of which is located in Person County, North Carolina, (b) the amortization of such acquisition adjustment commencing at the start of the Delivery Period, and (c) the inclusion of the annual amortization of such acquisition adjustment as an expense.

- 16.3 Construction Work in Progress. Construction Work in Progress ("CWIP") associated with a specific production plant construction project ("Construction Project") may be included in calculating the Capacity Rate and the Reserve Capacity Rate if and only to the extent (i) DEP and Power Agency have agreed in writing that CWIP associated with such Construction Project may be included in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula, and (ii) FERC has issued an order approving the inclusion of CWIP associated with such Construction Project in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula. In accordance with FERC's Regulations, DEP will cease the accrual of AFUDC on expenditures related to any Construction Project permitted to be included as CWIP in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula. The CWIP balance for any Construction Project that is used as an input to the Capacity Rate Formula or the Reserve Capacity Rate Formula may not be changed by DEP except through a filing pursuant to

Section 205 of the Federal Power Act or by Power Agency except pursuant to an order of FERC issued under Section 206 of the Federal Power Act.

- 16.4 Modification Process. A Party which seeks a modification under this Agreement in accordance with the provisions of this Article 16 will first provide the other Party with a written proposal that sets forth the proposed modification and the bases therefor. Thereafter, the Parties shall negotiate in an attempt to agree upon an amendment to the Agreement to implement such proposed modification and, if the Parties reach agreement on such amendment, shall execute and deliver such amendment contingent on acceptance by FERC, and DEP shall file such amendment with FERC under Section 205 of the Federal Power Act. If the Parties fail to reach agreement within sixty (60) days of the date that the written proposal is provided, then the Parties will first attempt to resolve the disagreement pursuant to Section 17.1. Except as provided in Section 16.2, in the event the Parties are unable to reach agreement pursuant to Section 17.1, then either Party may proceed to file an application with FERC under Section 205 or 206 of the Federal Power Act, as applicable, for the limited purpose of obtaining FERC acceptance or approval of the amendment proposed by such Party. In the event a Party files an application under Section 205 or 206, the other Party shall have all rights afforded by the Federal Power Act to intervene, comment, protest and oppose such filing.

## 17. Dispute Resolution

17.1 Informal Dispute Resolution Process. In the event of (i) a dispute arising from an inability by the Parties to reach agreement with respect to any issue arising in connection with the terms and conditions of this Agreement, including, but not limited to, an inability to reach agreement on operating procedures contemplated by the provisions of this Agreement, or (ii) any dispute under this Agreement, including, but not limited to, a challenge or correction to an invoice, the Parties shall make a good faith attempt to informally resolve the dispute. To aid in this resolution process, each Party shall provide, in a timely manner, all information and data reasonably requested by the other Party regarding the dispute raised, subject to confidentiality and the settlement privilege.

The Parties shall use all commercially reasonable efforts to attempt to resolve the matter within sixty (60) days.

17.2 Formal Dispute Resolution Process. If the Parties are unable to reach agreement on the resolution of any dispute through the informal dispute resolution process set forth in Section 17.1, the following procedures shall apply:

17.2.1 No later than six (6) months after the end of the 60-day period set forth in Section 17.1, either Party may initiate the formal dispute resolution process by informing the other Party in writing that a formal dispute exists. If neither Party provides such notice that a formal dispute exists within such six (6) month period, then the dispute shall be waived and conclusively terminated



without any further effect or liability to either Party. If a formal dispute exists, either Party shall have the right to submit the dispute to FERC or the Parties may agree in writing to submit the dispute for arbitration pursuant to Section 17.3. If the Parties agree in writing that the dispute will be submitted for arbitration, then the procedures set forth in Sections 17.3 through 17.9 shall govern.

17.3 Arbitration. Except for the matters described in Sections 16.1 and 16.2 and except for the process described in Sections 16.4, if the Parties mutually agree in writing, any dispute arising out of or relating to this Agreement or the breach thereof (collectively “Disputes”) that the Parties are unable to resolve pursuant to Section 17.1, shall be settled by arbitration between the Parties in accordance with the provisions of this Section 17.3; provided, however, if the Parties do not mutually agree in writing to pursue arbitration in accordance with this Section 17.3, either Party may seek to resolve the dispute by commencing an action before FERC. It is expressly acknowledged and agreed that neither Party will be required to agree to pursue binding arbitration of any dispute.

17.3.1 Arbitration Process. If the Parties agree to pursue arbitration as provided in Section 17.3, after the expiration of the time periods for informal dispute resolution provided for in Section 17.1, a Party may serve a demand for arbitration on the other Party by giving the other Party written notice of a Dispute that has not been resolved, which written notice shall include: (i) a

demand for arbitration, (ii) a statement of that Party's position, and (iii) a summary of that Party's arguments supporting such position. Within ten (10) Business Days after delivery of the notice demanding arbitration, the receiving Party shall give to the other Party (a) a statement of the receiving Party's position, and (b) a summary of the receiving Party's arguments supporting such position. Within fifteen (15) days after a Party serves a demand for arbitration on the other Party, each Party shall provide the other party with the names of the proposed arbitrator(s), each of whom shall have a favorable reputation, either nationally or in the Southeast region of the United States, for special skill, knowledge and experience in the electric utility industry (who shall not be a current or former officer, director, employee or agent of a Party or any of its Affiliates). Upon receipt of the lists of proposed arbitrators, each Party, within fifteen (15) days of receipt thereof, shall rank the arbitrators provided by the other Party in order of preference, with number 1 representing the most preferred and number 3 representing the least preferred. If the Parties' rankings identify one or more arbitrators with a ranking that is common to both Parties, the Parties shall select the arbitrator having the most preferred, common ranking. If the Parties' rankings do not identify an arbitrator with a ranking common to both, each Party shall select one arbitrator from the other Party's list of proposed arbitrators and the two arbitrators so selected shall select a third arbitrator. Upon selection of the arbitrator(s), as

the case may be, the Parties jointly shall submit the issue to the arbitrator(s), together with a copy of this Agreement and the joint request that the arbitrator(s) provide a ruling on the issue submitted as expeditiously as possible. The Parties may submit additional written documentation to the arbitrator(s) and/or present oral arguments and/or live testimony before the arbitrator(s), in each case only upon a request from the arbitrator(s). The ruling of the arbitrator(s) shall be binding on the Parties, unless otherwise mutually agreed upon by the Parties.

17.3.2 The arbitration shall be conducted in accordance with the AAA Commercial Arbitration Rules ("AAA CA Rules") then in effect. To the extent the AAA CA Rules conflict with any provision of Section 17.3 of this Agreement, the terms of this Agreement shall govern and control. All arbitration proceedings shall take place in Raleigh, North Carolina.

17.3.3 A single arbitrator selected by the Parties will arbitrate all Disputes where the amount in controversy is less than \$500,000. A panel of three (3) arbitrators, selected as provided in Section 17.3.1, above, will conduct the proceeding when the amount in controversy is equal to or more than \$500,000. In the event the Parties are unable to agree on a single arbitrator, either Party may apply to the Superior Court Division, General Court of Justice, Wake County, North Carolina, for the appointment of an arbitrator in accordance with the provisions of Section 1-569.11 of the General Statutes of North Carolina.

- 17.3.4 In rendering the decision, the arbitrator(s) shall interpret and apply the terms and conditions of this Agreement, and consider any relevant evidence and testimony, but the arbitrator(s) shall not have the power to add to or modify any provision of this Agreement or recommend any additions or modifications to this Agreement, including, without limitation, any rates or charges provided for and determined in accordance with this Agreement.
- 17.3.5 No demand for arbitration shall be made or permitted after the date when the institution of a civil action based on the Dispute would be barred by the applicable statute of limitations or repose.
- 17.3.6 If any arbitrator resigns, becomes incapacitated or otherwise refuses or fails to serve or to continue to serve as an arbitrator, the Party entitled to designate such arbitrator or the two arbitrators who selected such arbitrator, as the case may be, shall designate a successor arbitrator.
- 17.4 Discovery. Either Party may apply to the arbitrators for the privilege of conducting discovery. The right to conduct discovery shall be granted by the arbitrators in their sole discretion with a view to avoiding surprise and providing reasonable access to necessary information or to information likely to be presented during the course of the arbitration, provided that such discovery period shall not exceed sixty (60) Business Days.
- 17.5 Binding Nature. The arbitrator(s)' decision shall be by majority vote (or by the single arbitrator if a single arbitrator is used) and shall be issued in a writing that sets forth in

separately numbered paragraphs all of the findings of fact and conclusions of law necessary for the decision. Findings of fact and conclusions of law shall be separately designated as such. The arbitrator(s) shall not be entitled to deviate from the construct, procedures or requirements of this Agreement. The award rendered by the arbitrator(s) in any arbitration shall be final and binding upon the Parties, unless otherwise mutually agreed by the Parties in writing, and judgment may be entered on the award in accordance with applicable law in any court having jurisdiction over the Parties.

17.6 Consolidation. No arbitration arising under the Agreement shall include, by consolidation, joinder, or any other manner, any person not a party to the Agreement.

17.7 Mediation. At any time prior or subsequent to a Party initiating arbitration, the Parties may mutually agree to (but are not obligated to) attempt to resolve their Dispute by non-binding mediation, using a mediator selected by mutual agreement. Any such mediation shall be completed within thirty (30) Business Days from the date on which the Parties agree to mediate. Unless mutually agreed by the Parties, any mediation agreed to by the Parties shall not delay arbitration. The Parties shall pay their own costs associated with mediation and shall share any mediator's fee equally. The mediation shall be held in Raleigh, North Carolina, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction over the Parties.

17.8 Preservation of Remedies. Either Party may file a judicial claim or action on issues of statute of limitations or repose, subject to and in accordance with the provisions of

Section 18.12 (Venue/Consent to Jurisdiction). Preservation of these remedies does not limit each Party's obligation to be bound by the dispute resolution procedures set forth in this Article 17, and notwithstanding the initiation of such aforementioned judicial claim or action, but subject to such judicial claim or action, the Parties will continue to participate in and be bound by the applicable dispute resolution procedures set forth in this Article 17.

17.9 Settlement Discussions. The Parties at any time may engage in discussions aimed at reaching a consensual resolution of any matter arising under this Agreement that is in dispute. Any such negotiations and discussions between the Parties shall be confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and procedure. No statement of position or offer of settlement made in the course of such settlement discussions will be admissible into evidence for any purpose (except to enforce the terms of a settlement agreement resulting from such discussions), nor will any such statements of positions or offers of settlement be used in any manner against either Party. Further, no statement of position or offer of settlement will constitute an admission or a waiver of rights by either Party.

17.10 Survival. This Article 17 will survive any expiration or termination of this Agreement to the extent applicable to any dispute that arose, or the basis for which occurred, while this Agreement was in effect.

**18. Other Provisions**

- 18.1 Combined System Load Signal. During the Delivery Period, and for so long as Power Agency's billing demands for Supplemental Load are determined at the time of DEP's Monthly Peak Demand or DEP's Annual Peak Demand and a load signal for the Combined System exists, DEP will furnish to Power Agency the Combined System load signal, and waives its right to terminate the Combined System load signal during the Term of this Agreement. Power Agency may share the Combined System load signal with its Members. Power Agency and its Members shall not share or disclose the Combined System load signal with other parties including, but not limited to, power marketers, investor owned utilities, independent power producers, consultants or other entities engaged in the business of generating, marketing and trading energy and energy related products. DEP does not guarantee the accuracy of the Combined System load signal or any associated data or information.
- 18.2 New Industrial Customers. To the extent a Member of Power Agency attracts a new industrial load customer requiring electric service that (i) does not have a choice, under North Carolina law, to select DEP as its electric provider, and (ii) such Member has the authority to legally offer and provide retail service to such customer, then, at the written request of Power Agency, such Member, Power Agency, and DEP will engage in good faith discussions to explore whether DEP could provide an economic development rate or other incentive under this Agreement in connection with Power Agency's Member

providing service to such potential industrial load customer; provided, however, DEP will have no obligation to provide any economic development rate or incentive.

- 18.3 Reasonableness. Each Party agrees that it shall use commercially reasonable efforts or exercise reasonable diligence consistent with Prudent Utility Practices, as applicable, to implement and administer the provisions of this Agreement, including without limitation for the purpose of minimizing any applicable damages and Taxes associated with the transactions contemplated by this Agreement. Neither Party guarantees the correctness of any estimated or projected information that is made available pursuant to this Agreement, and each Party expressly acknowledges and agrees that the Party providing such estimated or projected information shall have no liability to the other Party should any of the estimated or projected information turn out to be different from the actual information once such actual information is known.
- 18.4 Permitted Assignment. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto. Neither Party shall assign its interest in this Agreement, in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, DEP may assign this Agreement without the prior written consent of Power Agency to its parent, or to any direct or indirect wholly-owned subsidiary of such parent, if such parent or subsidiary shall have (i) sources of generation capacity that will enable it to perform hereunder with at least the same degree of firmness as DEP, and (ii) a creditworthiness that provides reasonable assurance of its ability to fulfill DEP's



responsibilities under this Agreement. Any assignment made without fulfilling the requirements of this Agreement shall be null and void.

- 18.5 Safe Harbor. The Parties acknowledge, agree, and intend that, as applicable: (a) all transactions under this Agreement constitute “forward contracts” as defined in 11 U.S.C. §101(25); (b) the electric energy supplied under this Agreement is a “commodity” as that term is used in 11 U.S.C. §101(25)(A); (c) all payments made or to be made by Power Agency to DEP under this Agreement with respect to the supply of electric energy constitute “settlement payments” as used in 11 U.S.C. §546(e); (d) Power Agency is a “forward contract merchant” as defined in 11 U.S.C. §101(26); (e) all transfers of credit assurances, if any, by one Party to the other Party under this Agreement constitute “margin payments” as used in 11 U.S.C. §546(e); and, (f) without limitation, each Party’s rights under this Agreement constitute contractual rights “to liquidate, terminate, or accelerate.” Further, each Party agrees that it will not assert, and hereby waives any right to assert, that the other Party in performing hereunder is not doing so as a “utility” as such term is used in 11 U.S.C. § 366. Further each Party hereby waives and agrees not to assert that 11 U.S.C. § 366 applies to this Agreement or any transaction hereunder in any bankruptcy proceeding. In any such proceeding, each Party further waives the right to assert and agrees that it will not assert that the other Party is a provider of last resort with respect to this Agreement or any transaction hereunder or otherwise limit contractual rights to liquidate, terminate, or accelerate. Without limiting the binding nature of any other provision of this Agreement on permitted successors and

assigns, this provision is intended to be binding upon all successors and assigns of the Parties, including judgment lien creditors, receivers, estates in possession, and trustees thereof.

- 18.6 Amendments. No amendment or change to this Agreement shall be valid, binding or enforceable unless agreed upon in writing executed by both Parties, and to the extent applicable, approved or accepted by FERC.
- 18.7 Drafting. Each Party agrees that it has completely read, fully understands, and agrees to every provision hereof. Each Party agrees that this Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties, and no Party shall have any provision hereof construed against such Party by reason of such Party drafting, negotiating, or proposing any provision hereof, or execution of this Agreement. Each Party irrevocably waives the benefit of any rule of contract construction that disfavors the drafter of a contract or the drafter of specific language in a contract. All section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
- 18.8 Waiver. No waiver by any Party of any of its rights with respect to the other Party or with respect to any matter or default arising in connection with this Agreement shall be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver as between the Parties shall be in writing signed by the waiving Party.

- 18.9 Severability of Provisions. Except as provided for in Section 2.2.1, if FERC or any other Governmental Authority or court having jurisdiction over the Parties or arbitrator holds that any provision of this Agreement is invalid, and if no Party withdraws from this Agreement as provided for hereunder, then the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.
- 18.10 Partnership. Nothing contained in this Agreement shall be construed or constitute any Party as the employee, agent, partner, or contractor of any other Party, or as being in a joint venture with the other Party.
- 18.11 Third Parties. This Agreement is made and entered into for the sole protection and legal benefit of the Parties hereto, and each Party's permitted successors and assigns, and no other person or entity shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with or under this Agreement. This Agreement shall not be construed to create any third-party beneficiary rights of any sort.
- 18.12 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THAT WOULD REQUIRE THE APPLICATION OF ANY OTHER LAW EXCEPT AS EXPRESSLY PROVIDED HEREIN, AND, TO THE EXTENT APPLICABLE, BY THE FEDERAL LAW OF THE UNITED STATES OF AMERICA.
- 18.13 Venue/Consent to Jurisdiction. To the extent that FERC does not have exclusive jurisdiction or does not assert its concurrent jurisdiction with respect to the subject

matter of any action arising out of, resulting from, or in any way relating to, this Agreement, any judicial action, suit, or proceedings pertaining to such subject matter or to any alleged breach or default under this Agreement or the representations and warranties contained herein, shall be brought only in a state or federal court having jurisdiction over the Parties located in Wake County, North Carolina. The Parties hereby irrevocably consent to the jurisdiction of any federal or state court within Wake County, North Carolina and hereby submit to venue in such courts. Without limiting the generality of the foregoing, the Parties waive and agree not to assert by way of motion, defense, or otherwise in such suit, action, or proceeding, any claim that (i) such Party is not subject to the jurisdiction of the state or federal Courts within Wake County, North Carolina; or (ii) such suit, action, or proceeding is brought in an inconvenient forum; or (iii) the venue of such suit, action, or proceeding is improper. The Parties further agree that the exclusive forum for the resolution of any dispute arising under this Agreement that is not subject to FERC's jurisdiction or Arbitration shall occur in federal or state court within Wake County.

18.14 Costs. Each Party shall be responsible for its own costs and fees associated with negotiating or disputing or taking any other action with respect to this Agreement.

18.15 Computation of Time. In computing any period of time under this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall be included. If the last day of the period so computed is a Saturday, a Sunday or a legal

holiday in North Carolina, then the period will run until the end of the next day which is not a Saturday, a Sunday or a legal holiday in North Carolina.

18.16 Further Documentation. From time to time after the execution of this Agreement, the Parties hereto shall within their legal authority execute any other documents as may be necessary, helpful or appropriate to carry out the terms of this Agreement.

18.17 Survivorship of Obligations. The termination of this Agreement shall not discharge any Party from any obligation it owes to the other Party under this Agreement by reason of any transaction, loss, cost, damage, expense or liability which shall occur or arise (or the circumstances, events or bases which shall occur or arise) prior to such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events or bases of the same shall be known or unknown at the termination of this Agreement) will survive the termination of this Agreement. Notwithstanding the foregoing, Duke shall remain obligated to pay Buyer an amount equal to Buyer's Allocable Share of CCR Disallowances and/or CCR Insurance Proceeds, if any, that arise after the expiration or termination of this Agreement; provided, however that Duke's obligation to pay such CCR Disallowance shall be strictly limited to CCR Costs that were incurred by Duke during years in which Duke provided service to Buyer under this Agreement.

18.18 Entire Agreement. This Agreement shall constitute the entire understanding between the Parties hereto, superseding any and all previous understandings, oral or written,

pertaining to the subject matter contained herein. The Parties hereto have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representation or information provided to one Party by any representative of the other Party.

- 18.19 Force Majeure. Unless otherwise provided in this Agreement, to the extent that the Party claiming a Force Majeure event ("Claiming Party") is prevented by Force Majeure from carrying out, in whole or in part, its obligations under this Agreement and the Claiming Party gives notice and details of the Force Majeure to the other Party ("Non-Claiming Party") as soon as reasonably practicable under the circumstances, then the Claiming Party shall be excused from the performance of its obligations other than the obligation to make payments then due or becoming due in respect to performance prior to the Force Majeure. The Claiming Party shall make reasonable efforts to remove such inability within a reasonable time.
- 18.20 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which constitute one and the same instrument.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, DEP and Power Agency have caused this Agreement to be executed by their respective duly authorized officers as of the Execution Date.

DUKE ENERGY PROGRESS, LLC

BY: 

NAME: Harold L. James, Jr.

TITLE: Vice President – Utility and Large Commercial & Industrial Sales

DATE: June 8, 2023

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

BY: \_\_\_\_\_

NAME: Roy L. Jones

TITLE: Chief Executive Officer

DATE: \_\_\_\_\_

IN WITNESS WHEREOF, DEP and Power Agency have caused this Agreement to be executed by their respective duly authorized officers as of the Execution Date.

DUKE ENERGY PROGRESS, LLC

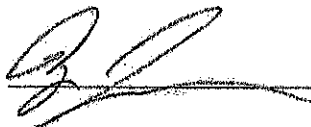
BY: \_\_\_\_\_

NAME: Harold James, Jr.

TITLE: Vice President – Utility and Large Commercial & Industrial Sales

DATE: \_\_\_\_\_

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

BY:  \_\_\_\_\_

NAME: Roy Jones

TITLE: Chief Executive Officer

DATE: June 27, 2023



Exhibit I

Capacity Rate Formula

(Exhibit Follows)

NCEMPA

Exhibit I  
Page 1 of 21  
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Summary of Rates

Line	Reference	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1	Gross Revenue Requirement <i>Page 3</i>			
	Less: Revenue Credits			
	Sales for Resale (G.L. 447)			
2	Demand Charges- Non-RQ <i>311.*NonRQ.h</i>			
3	Energy Charges- Non-RQ <i>311.*NonRQ.i</i>			
4	Other Charges - Non-RQ <i>311.*NonRQ.j</i>			
5	Less: Energy Cost of Sales <i>EC 1.6</i>			
6	Sales for Resale- Net			
7	NCEMPA Backstand <i>Note A</i>			
8	Rental Revenues (GL 454)- Allocated <i>Page 6</i>			
9	Other Electric Revenues (GL 456)- Allocated <i>Page 7</i>			
9A	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9) <i>114.22+23 (c)</i>			
9B	[1] Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2) <i>Note A, Page 10</i>			
10	Other Revenue Credits			
11	Total Revenue Credits		D/A	
12	Net Revenue Requirements (Line 1 - Line 11)			
13	Sum of Monthly kW System Peaks <i>Page 16</i>			
14	Monthly Capacity Rate: \$/kW-month <i>Line 12 / 13</i>			
15	Annual Capacity Rate: \$/kW-year <i>Line 14 * 12</i>			

Notes:

It is the intent of this Production Capacity Rate Formula ("Formula Rate"), including the supporting explanations and allocations described herein, that each input to the Formula Rate either will be (i) taken directly from the FERC Form No. 1 or (ii) reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information. State and federal tax rates are inputs to the Formula Rate that are not covered by these two conditions, as the Formula Rate template has separate lines for state and federal tax rates inputs and then a calculation of the overall tax rate. Adjustments to FERC Form 1 inputs will be set forth in the "Adjustment" columns of this Formula Rate template and will be those amounts necessary to (i) maintain all applicable DEP hold harmless commitments to FERC, (ii) remove the effect of certain retail ratemaking orders on DEP's FERC Form 1 inputs so that the Formula Rate calculates DEP's production cost of service on a wholesale basis, and (iii) comply with the provisions of the formula rate (e.g., Note K). This note is applicable to all pages of the Formula Rate template included herein.

[1] Account reviewed to identify production related items.

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

LINE REFERENCES MAY CHANGE BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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 Exhibit 1  
 Page 2 of 21  
 Year Ending 12/31/XX

 DUKE ENERGY PROGRESS, LLC  
 Production Capacity Rate Formula Template Using Form-1 Data

## Rate Base

Line	Reference	Beginning Balance (with adjustments)	Ending Balance (with adjustments)	Average	Allocation Factor	Production Capacity Allocation
<b>Gross Plant in Service:</b>						
1	Production Plant in Service-Total	205.48.g				
2	GWIP	Page 15				
2A	Acquisition Adjustments (114) Adjustments:	Note K				
3	Asset Retirement Costs- Steam	205.15.g				
4	Asset Retirement Costs- Nuclear	205.24.g				
4A	Asset Retirement Costs- Hydro	205.34.g				
5	Clean Smokstack Compliance	Note I				
6	Loss: Premium on Renewable Energy	Note J				
7	Production Plant - Adjusted				PP	
8	Transmission Plant	207.58.g			Other	
9	Distribution Plant	207.75.g			Other	
10	General Plant - Net of Asset Retirement	207.99-99.g			LABOR	
11	Intangible Plant	205.5.g			LABOR	
12	Total Gross Plant				GP "	
<b>Accumulated Depreciation:</b>						
13	Production Depreciation Reserve	219.20-24.o				
14	Adjustment: Harris Accelerated Depreciation	Note A	[1]			
15	Adjustment: Decommissioning (AFD)	Note B, Page 10				
16	Clean Smokstack Compliance	Note I				
16A	Amort of Plant Acquisition Adj (115)	Note K				
17	Production Reserve- Adjusted				PP	
18	Transmission Depreciation Reserve	219.25.o			Other	
19	Distribution Depreciation Reserve	219.28.o			Other	
20	General Depreciation Reserve	219.28.o			LABOR	
21	Intangible Amortization Reserve	200.21.o			LABOR	
22	Total Accumulated Depreciation					
<b>Net Plant in Service</b>						
23	Net Production Plant	Line 7 - Line 17				
24	Net Transmission Plant	Line 8 - Line 18				
25	Net Distribution Plant	Line 9 - Line 19				
26	Net General Plant	Line 10 - Line 20				
27	Net Intangible Plant	Line 11 - Line 21				
28	Total Net Plant				NP "	
<b>Adjustments to Rate Base - Deferred Taxes</b>						
29	ADIT - 190	234.5.o			Page 11	
30	ADIT - 282 (Negative)	275.2.k			Page 12	
31	ADIT - 283 (Negative)	277.8.k			Page 13	
32						
33	Adjustment: Harris AD ADIT	Note A	[1]		PP	
34	Total Deferred Tax Adjustments					
35	Plant Held for Future Use - Prod. Rel.	214.74+10.d			Note G	
36	Prelim. Survey and Investigation Charges	111.73.o			Note A	
<b>Fuel Inventories</b>						
37	Nuclear Fuel Stock	203.14.f				
38	Fuel Stock	227.1.o				
39	Allowances (158.1, 158.2)	228.29.m				
40	Adjustment: Nuclear Fuel In Process	203.6.f				
41	Total Fuel Inventories				D/A	
<b>Other Rate Base Adjustments</b>						
42	Labor Related Net Deferred Credits	Page 14				
43	Other Regulatory Assets	232.19.f			NP	
43A	Unrecovered Plant & Regulatory Study Costs	Page 10			D/A	
44	Other Regulatory Liabilities (204)	Note A			NP	
45	Decommissioning Interest Reserve	Note B			D/A	
46	Net Deferred Excess ADIT Rate Base	Page 10			Page 10	
47	Other Rate Base Adjustments					
<b>Working Capital:</b>						
48	Capacity Related O&M	Page 3				
49	Energy Related Production O&M	EC 1.7				
50	Cash Working Capital (1/8 O&M)				1/8	
51	M&S - Production	227.5(assigned)&7.o			PP	
52	M&S - Stores Expense	227.16.o			LABOR	
53	Prepayments	111.87.o			GP	
54	Total Working Capital					
55	Total Rate Base (Sum of Lines 28, 34, 35, 36, 41, 47 and 54)					\$ -

## Notes:

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

[1] The adjustments for Harris Accelerated Depreciation consist of the unamortized balance of \$491,774,695 of accelerated depreciation charges and associated unamortized balance of accumulated deferred income tax in accordance with Attachment 4 of the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Exhibit I  
Page 3 of 21  
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Development of Revenue Requirements

Line	Expenses	Reference	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
<b>O&amp;M Expense (Capacity Related)</b>					
1	TOTAL Production Expenses	321.80.b			
2	Less Total Fuel Burned	EC 1.4			
3	Less Energy Related Production O&M	EC 1.7			
4	Less Other Power Supply Expense (555 + 557)	321.76 + 78.b			
5	Net Production O&M (Capacity Related)			D/A	
6	OM Adjustment (Re-classified Transmission)	Page 4			
7	Net Production O&M After Adjustment (Capacity Related)				
<b>Total Admin &amp; General Expenses</b>					
8	Total Admin & General Expenses	323.197.b			
9	Less Property Insurance (924)	323.185.b			
10	Less Regulatory Commission Expenses (928)	323.189.b			
11	Less General Advertising Expenses (930.1)	323.191.b			
12	Less Industry Dues, R&D and Nuc Assoc Exp	335.1-3.b			
13	Net Labor Related A&G			LABOR	
14	Property Insurance (924)	323.185.b		GP	
15	Production Related Regulatory Expense	350.5-6.h		D/A	
16	Transmission of Electricity by others (555)	332.Total.h		D/A	
17	<b>Total Capacity O&amp;M (Sum of Lines 7, 13, and 14 thru 16)</b>				
<b>Depreciation (Net of Decommissioning)</b>					
18	Production Depreciation Expense	338.2-8.b	Note L	PP	
19	Adjustment: Harris Accelerated Depreciation	Note A	[1]	PP	
20	Adjustment: ARO Impacts In Depreciation Expense	336 Footnote and Note A Footnote to line 2 on FF1		D/A	
21	Adjustment: Clean Smokeslack Compliance	p. 336		PP	
22	General Depreciation Expense	336.10.b	Note L	LABOR	
22A	Amortization of Unrecovered Plant & Reg. Costs	Page 10		D/A	
23	Intangible Amortization	336.1.f	Note L	LABOR	
23A	Amort of Utility Plant Acq. Adj. (406)	Note K		PP	
24	<b>Total Depreciation</b>				
25	<b>Decommissioning</b>	Note H		D/A	
26	<b>Purchased Power Capacity Expense</b>	327*.Total.j		D/A	
<b>Taxes Other Than Income</b>					
27	Labor Related	Note C 283.i		LABOR	
28	Property Related	283.i		GP	
29	<b>Total Other Taxes</b>				
30	<b>Return:</b> Rate Base (Page 2, Line 64) * Rate of Return (Page 4, Line 43)				
<b>Income Taxes:</b>					
31	NC/SC Composite	Note D			
32	Federal	Note D			
33	Composite T = State + Federal * (1 - State)				
34	Tax Rev.Req't Factor = T / (1 - T) * (1 - Wtd.Debt.Cost/R)				
35	Tax Gross Up Factor = 1 / (1 - T)				
36	Amortized ITC (Negative)	266.8.f			
37	ITC Adjustment (Line 35 * Line 36)			NP	
37a	Net Excess/Deficient Deferred Tax Expense	Page 10			
37b	Deferred Tax Adjustment (Line 35 * Line 37a)				
38	Income Taxes Calculated (Line 30 * Line 34)				
39	<b>Total Income Taxes (Sum of Lines 37, 37b, and 38)</b>				
40	<b>TOTAL REVENUE REQUIREMENT (Sum of Lines 17, 24, 25, 26, 29, 30, and 39)</b>				

**Notes:**

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

[1] The adjustment for Harris Accelerated Depreciation expense consists of the annual amortization of the \$491,774,665 of accumulated Harris Accelerated depreciation. All items related to Harris Accelerated Depreciation will be included in the formula rate in accordance with Attachment 4 of the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Exhibit I  
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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Supporting Allocation Factor and Return Calculations

Line	Reference	Total (with adjustments)
<b>Production Plant Adjustment:</b>		
1	Production Plant - Adjusted Allocation Adjustments:	Page 2, Line 7 Average
2	Generation Step-up Transformers in 353	Note A
3	Interconnection Facilities (Order 2003)	Page 8
4	Production Plant- with Allocation Adjustments	
5	PP Allocation Factor (Line 4 / Line 1)	Note E PP =
<b>Production OM Adjustment</b>		
6	Transmission Plant	Page 2, Line 8 Average
7	Allocation Adjustments:	
8	Generation Step-up Transformers in 353	Note A
9	Interconnection Facilities (Order 2003)	Page 8
9A	Mitigation Projects prior to 7/2/17	Note A
10	Transmission Plant- with Allocation Adjustments	
11	Transmission OM Allocation Factor (1 - Line 10 / Line 6)	
12	Transmission OM	321.112.b
13	Less Account 561-561.4	321.84-88.b
14	Less Account 566	332.Total.h
15	Net Transmission OM	
16	Transmission OM Adjustment	Line 15 x Line 11
<b>Labor Allocation Factor</b>		
17	Total Direct Payroll - O&M Labor	354.28.b
18	Less: A&G Labor	354.27.b
18A	Adj. - Production related RCO Marketing Labor in A&G Labor	Note A
19	Adjusted Labor w/o A&G (Line 17 - Line 18 + Line 18A)	
20	Production O&M Labor plus RCO Marketing labor in A&G	354.20.b + Line 18A
21	Production Labor Factor (Line 20 / Line 19)	
22	Adjusted Production Labor Factor (Line 5 * Line 21)	LABOR =
<b>Return and Capitalization</b>		
23	Net Interest on Long Term Debt	
24	Long Term Interest Expense	257.33.i
25	Other Long Term Interest Expense	117.63-67.c
26	Less: Short-term Interest on Debt to Assoc. Companies (430)	117.67.c
27	Less Interest on Securitization Bonds	Note F
28	Net Long Term Interest Expense	Line 23+24-25-26
29	Preferred Dividends (positive)	118.29.c
		Beginning Balance (with adjustments)
		Ending Balance (with adjustments)
		Average / Total
29	Long Term Debt	112.24.c
30	Less Loss on Recquired Debt	111.81.c
31	Plus Gain on Recquired Debt	113.81.c
32	Less Securitization Bonds	Note F
33	Net Long Term Debt	Line 29-30+31-32
34	Preferred Stock	112.3.c
<b>Common Stock</b>		
35	Proprietary Capital	112.16.c
36	Less Preferred Stock	112.3.c
37	Less Account 218.1	112.12.c
38	Total Common Stock	
39	Total Capitalization (Sum Lines 33, 34, 38)	
<b>Cost of Capital</b>		
	Weight	Cost
40	Long term Debt	
41	Preferred Stock	
42	Common Equity	9.85% [1]
43	Weighted Cost of Capital:	R <sub>0</sub> =

**Notes:**

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

**Additional Allocation Factors**

"Other" indicates a non-production related item, such as transmission or distribution. Allocation within the formula rate computation for "Other" will equal 0.  
"GP" is the Gross Plant allocation factor and it is determined on Page 2 by taking the "Production Capacity Allocation" column divided by the "Average" column.  
"NP" is the Net Plant allocation factor and it is determined on Page 2 by taking the "Production Capacity Allocation" column divided by the "Average" column.  
"DA" is Direct Assignment. See associated Reference for additional information.

[1] - The Cost of Common Equity is fixed at 9.85% per the provisions of the contract.

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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Notes

- Note A:** Analysis of Company books.
- Note B:** Annual Reconciliation of FERC Form 1 to Cost of Service Study (NCUC Docket E-2, Sub 826) and analysis of Company books.
- Note C:** Excludes all income and gross receipts taxes. Labor related other taxes include FICA and unemployment taxes. Property related taxes include county and local property taxes, highway use, and intangible taxes.
- Note D:** Determined by annual apportionment factors provided by Tax Department.
- Note E:** The "PP" factor is the percent of gross production plant after inclusion of interconnections and generator step-up transformer investment. Factor used to adjust production-related labor expenses and other amounts.
- Note F:** To the extent DEP is authorized by state utility commission(s) and issues bonds to securitize retail recovery of extraordinary property losses, associated principal and interest expense are excluded in capitalization and return basis.
- Note G:** Include FERC Form 1 Schedule 214 Production related amounts of Plant Held for Future Use.
- Note H:** In accordance with the decommissioning study on file as FERC Rate Schedule No. 381.
- Note I:** Analysis of Company books. The adjustments are limited to the amount direct assigned to NC Retail.
- Note J:** The purpose of this item is to adjust out any premium included in formula for DEP owned renewable generation. Customer will only be required to pay the avoided cost for these resources, so any premium needs to be adjusted from the formula. The balance for this item is from Page 15 of the formula rate.
- Note K:** These acquisition adjustments are limited to the acquisition of NCEMPA generating assets pursuant to the Asset Purchase Agreement by and between DEP and NCEMPA dated September 5, 2014.
- Note L:** Depreciation and amortization expense on page 3, on the lines for which Note L is inserted, shall be determined using the depreciation and amortization rates set forth in FERC Rate Schedule No. 189 and such rates will only be subject to change for ratemaking purposes pursuant to a filing under sections 205 or 206 of the Federal Power Act.
- Note M:** This line includes amounts recorded in Account Nos. 182.2 and 407 for the Early-Retired Plants, as defined by Note N, in accordance with the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14, and additional amounts recorded in Account Nos. 182.2 and 407 if accepted or approved by FERC in a Section 205 proceeding. With respect to the Early-Retired Plants, the amounts included in Account No. 182.2 shall be amortized to Account No. 407 in accordance with the amortization schedule set forth in Attachment 6 to the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14. Unless otherwise agreed by DEP and the Customer, DEP may seek to include in this line item amounts recorded to Account Nos. 182.2 and 407 that are in addition to the amounts recorded for the Early-Retired Plants (or otherwise currently included in the Formula Rate PPAs), only by submitting a Section 205 filing to FERC in which the sole issue that can be addressed is whether DEP's inclusion of such costs in rates is just and reasonable; provided that such single issue filing will not limit any party's right to challenge the request for regulatory treatment, including, but not limited to the amount included in the request, the amortization period of the assets included in the request, and the proposed fixed carrying charges applicable to the assets included in the request (including the cost of debt and the ROE applicable to the assets in the request). The proceeding commenced in response to such a single issue Section 205 filing shall not include or allow for consideration or examination of any other aspects of the Formula Rate or other issues associated with the Formula Rate. The standard of review in such proceeding shall be the just and reasonable standard as opposed to the "public interest" standard.
- Note N:** The "Early-Retired Plants", as used in this Formula Rate, are DEP's Cape Fear Fossil (Units #1-6), Cape Fear Internal Combustion (Unit #4), Lee Fossil (Units #1-3), Lee Internal Combustion (Units #1-4), Robinson Fossil (Unit #1), Weatherspoon Fossil (Units #1-3), Morehead City Combustion Turbine (Unit #1), and Sutton Fossil (Units #1-3 and Fossil Common) as approved in Docket No. ER13-1313. "Early-Retired Plants" shall also include Asheville Fossil (Units #1-2), as accepted in Docket No. ER20-931, and Roxboro Wastewater Treatment System, as accepted in Docket No. ER22-2255.

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Exhibit I  
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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Account 454 Reconciliation - Rents

	Total (before adjustments)	Adjustments	Note	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1 <u>NORTH CAROLINA</u>						
2 FACILITY CHARGES						
3 RESIDENCES - COMPANY EMPLOYEES						
4 POLE RENTAL						
5 BUILDING & LAND RENTAL					LABOR	
6 OTHER						
7 PT HOLDINGS IRU/REVENUE SHARING						
8 4543001 - NCEMC LEASED FACILITIES						
9 454300A - LEASED FACILITIES - PA3						
10 4543100 - TELEMETRY CHARGES - PA3					PROD	
11 4549000 - CO-GENERATION - TRANSMISSION						
12 4549000 - CO-GENERATION - DISTRIBUTION						
13 <u>TOTAL NORTH CAROLINA</u>						
14 <u>SOUTH CAROLINA</u>						
15 FACILITY CHARGES						
16 POLE RENTAL						
17 4549000 - CO-GENERATION - TRANSMISSION						
18 4549000 - CO-GENERATION - DISTRIBUTION						
19 <u>TOTAL SOUTH CAROLINA</u>						
20 <u>TOTAL</u>						

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I  
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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Other Electric Revenues (G.L. 456)

Reference	Total (before adjustments)	Adjustments	Note	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1 Other Electric Revenues	300.21.b					
2 BUILDING & LAND LEASE					LABOR	
3 POLE RENT					OTHER	
4 GYPSUM FEES					PROD	
5 SALE OF TIMBER					PROD	
6 PIEDMOND/HAYWOOD SCHEDULING FEE					PROD	
7 REPS - PENALTY REVENUE					OTHER	
8 DEMAND PROFILE PLOT					OTHER	
9 SOUTH CAROLINA SALES TAX REFUND					OTHER	
10 MAGNETIC PULSE DATA					OTHER	
11 CO-GENERATION					PROD	
12 RENEWABLE ENERGY INTERCONNECTION FEE					OTHER	
13 NCEMPA INVENTORY CARRY					PROD	
14 NCEMPA ADMINISTRATIVE CHARGE					PROD	
15 NCEMPA - RETURN ON GENERAL PLANT					LABOR	
16 NCEMPA DISPATCH FEE					PROD	
17 NCEMPA SITE REP					PROD	
18 OTHER ELEC REVENUE-BY-PRODUCTS (GYPSUM)					ENERGY	
19 NCEMC ADMINISTRATIVE CHARGES					PROD	
20 EPRI Royalties					OTHER	
21 1101 (Billed Rev other)					OTHER	
22 INTERCOMPANY COAL BLENDING SAVINGS - DEC					ENERGY	
23 OTHER					OTHER	
24 Buy for Resale Transmission					TP	
25 Other Electric Revenues (GL 456)						

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.



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Exhibit I  
Page 8 of 21  
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

Interconnection Facilities for Generation In-Service After March 15, 2000 per FERC Order 2003

Project	Balance		B/E Average
	Beginning	Ending	
1 Wayne County 1 - 4			
2 Asheville Unit 4			
3 Richmond - Phase 1			
4 Richmond - Phase 2			
5 Brunswick #1 Uprate			
6 Brunswick #2 Uprate			
7 Wayne County / Lee CC			
8 Richmond County			
9 Sutton CC			
10 Total Interconnection Facilities			

Note: Excludes Step-up Transformers accounted for on Exhibit A, page 4, line 2.

NOTE: PROJECTS AND AMOUNTS LISTED ABOVE ARE SUBJECT TO CHANGE BASED ON ADDITIONS YOY

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Exhibit I  
Page 9 of 21  
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data  
FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Previous Year/ Year End (before adjustments)	Current Year/ Year End (before adjustments)
111	57	c	Prepayments	111.57.c		
111	73	c	Prelim. Survey and Investigation Charges	111.73.c		
111	81	c	Loss on Reacquired Debt	111.81.c		
112	3	c	Preferred Stock Issued	112.3.c		
112	12	c	Account 218.f	112.12.c		
112	16	c	Proprietary Capital	112.16.c		
112	24	c	Long Term Debt	112.24.c		
112	27	c	Accum. Prov. for Property Insurance (GL 228.1)	112.27.c		
112	28	c	Accum. Prov. for Injuries & Damages (GL 228.2)	112.28.c		
112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c		
113	61	c	Gain on Reacquired Debt	113.61.c		
114	9	c	Amort of Utility Plant Acq. Adj. (405)	114.9.c and Note K		
117	63-67	c	Other Long Term Interest Expense	117.63-67.c		
118	29	c	Preferred Dividends (positive)	118.29.c		
200	12	c	Acquisition Adjustments (114)	200.12.c and Note K		
200	21	c	Intangible Amortization Reserve	200.21.c		
200	32	c	Amort of Plant Acquisition Adj (115)	200.32.c and Note K		
203	14	f	Nuclear Fuel Stock	203.14.f		
203	6	f	Nuclear Fuel In Process	203.6.f		
205	6	g	Intangible Plant	205.6.g		
205	46	g	Production Plant	205.46.g		
205	15	g	Asset Retirement Costs- Steam	205.15.g		
205	24	g	Asset Retirement Costs- Nuclear	205.24.g		
205	34	g	Asset Retirement Costs- Hydro	205.34.g		
207	58	g	Transmission Plant	207.58.g		
207	75	g	Distribution Plant	207.75.g		
207	99-98	g	General Plant - Net of Asset Retirement	207.99-98.g		
214	7+10	d	Plant Held for Future Use- Production	214.7+10.d		
219	20-24	c	Production Depreciation Reserve	219.20-24.c		
219	26	c	Transmission Depreciation Reserve	219.26.c		
219	26	c	Distribution Depreciation Reserve	219.26.c		
219	28	c	General Depreciation Reserve	219.28.c		
227	1	c	Fuel Stock	227.1.c		
227	4	c	Plant Materials and Operating Supplies (154) net of M&S - Production	227.4.c		
227	5(assigned)&7	c	M&S - Production	227.5(assigned)&7.c		
227	16	c	M&S - Stores Expense	227.16.c		
229	29	m	Allowances (158.1, 158.2)	229.29.m		
232	18	f	Other Regulatory Assets	232.18.f		
232	3	f	SFAS 158 Regulatory Assets	232.3.f		
234	8	c	ADIT - 190	234.8.c		
257	33	l	Long Term Interest Expense	257.33.l		
263	3	l	Other Taxes - FICA / Unemployment	263.3.l		
263	4	l	Other Taxes - Highway Use	263.4.l		
263	11&22	l	Other Taxes - Real & Personal Property	263.11&22.l		
263	13&24	l	Other Taxes - State Unemployment	263.13&24.l		
266	8	f	Amortized ITC (Negative)	266.8.f		
273	8	k	ADIT - 281 (Negative)	273.8.k		
276	2	k	ADIT - 282 (Negative)	276.2.k		
277	9	k	ADIT - 283 (Negative)	277.9.k		
278		f	Other Regulatory Liabilities (264)	Page 278 and Note A		
311.*	NonRQ	h	Demand Charges- Non-RQ	311.*.NonRQ.h		
311.*	NonRQ	i	Energy Charges- Non-RQ	311.*.NonRQ.i		
311.*	NonRQ	j	Other Charges-Non-RQ	311.*.NonRQ.j		
321	76 + 78	b	Other Power Supply Expense (555 + 567)	321.76 + 78.b		
321	80	b	TOTAL Production Expenses	321.80.b		
321	84-88	b	Account 561-581.4	321.84-88.b		
321	112	b	TOTAL Transmission OM	321.112.b		
323	185	b	Property Insurance (924)	323.185.b		
323	189	b	Regulatory Commission Expenses (928)	323.189.b		
323	191	b	General Advertising Expenses (930.1)	323.191.b		
323	197	b	Total Admin & General Expenses	323.197.b		
327.*	Total	j	Purchased Power Demand Charges	327.*.Total.j		
332	Total	h	Transmission of Electricity by Others (585)	332.Total.h		
335	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	335.1-3.b		
336	1	f	Intangible Amortization	336.1.f		
336	2-6	b	Production Depreciation Expense	336.2-6.b		
336	10	b	General Depreciation Expense	336.10.b		
336	3		Footnote and Note A ARO Impacts in depreciation expense	336 Footnote and Note A		
350	5-6	h	Production Related Regulatory Commis. Exp.	350.5-6.h		
354	20	b	Production O&M Labor	354.20.b		
354	27	b	A&G Labor	354.27.b		
354	28	b	Total Direct Payroll - O&M Labor	354.28.b		

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Exhibit I

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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Previous Year/ Year End (before adjustments)	Adjustments	Note	Previous Year/ Year End (with adjustments)
111	57	c	Prepayments	111.57.c				
111	73	c	Prelim. Survey and Investigation Charges	111.73.c				
111	81	a	Loss on Recquired Debt	111.81.c				
112	3	c	Preferred Stock Issued	112.3.c				
112	12	c	Account 216.1	112.12.c				
112	16	c	Proprietary Capital	112.16.c				
112	24	c	Long Term Debt	112.24.c				
112	27	c	Accum. Prov. for Property Insurance (GL 228.1)	112.27.c				
112	28	c	Accum. Prov. for Injuries & Damages (GL 228.2)	112.28.c				
112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c				
113	61	c	Gain on Recquired Debt	113.61.c				
114	9	c	Amort of Utility Plant Acc. Adj. (406)	114.9.c and Note K				
117	63-67	c	Other Long Term Interest Expense	117.63-67.c				
118	29	c	Preferred Dividends (positive)	118.29.c				
200	12	c	Acquisition Adjustments (114)	200.12.c and Note K				
200	21	c	Intangible Amortization Reserve	200.21.c				
200	32	c	Amort of Plant Acquisition Adj (115)	200.32.c and Note K				
203	14	f	Nuclear Fuel Stock	203.14.f				
203	6	f	Nuclear Fuel In Process	203.6.f				
205	5	g	Intangible Plant	205.5.g				
205	46	g	Production Plant	205.46.g				
205	15	g	Asset Retirement Costs- Steam	205.15.g				
205	24	g	Asset Retirement Costs- Nuclear	205.24.g				
205	34	g	Asset Retirement Costs- Hydro	205.34.g				
207	58	g	Transmission Plant	207.58.g				
207	75	g	Distribution Plant	207.75.g				
207	99-98	g	General Plant - Net of Asset Retirement	207.99-98.g				
214	7+10	d	Plant Held for Future Use- Production	214.7+10.d				
219	20-24	c	Production Depreciation Reserve	219.20-24.c				
219	25	c	Transmission Depreciation Reserve	219.25.c				
219	26	c	Distribution Depreciation Reserve	219.26.c				
219	28	c	General Depreciation Reserve	219.28.c				
227	1	c	Fuel Stock	227.1.c				
227	4	c	Plant Materials and Operating Supplies (154) net of M&S - Production	227.4.c				
227	5(assigne)d&7	c	M&S - Production	227.5(assigne)d&7.c				
227	16	c	M&S - Stores Expense	227.16.c				
229	29	m	Allowances (158.1, 159.2)	229.29.m				
232	18	f	Other Regulatory Assets	232.18.f				
232	3	f	SFAS 158 Regulatory Assets	232.3.f				
234	6	c	ADIT - 190	234.6.c				
257	33	l	Long Term Interest Expense	257.33.l				
263	3	l	Other Taxes - FICA / Unemployment	263.3.l				
263	4	l	Other Taxes - Highway Use	263.4.l				
263	11&21	l	Other Taxes - Real & Personal Property	263.11&21.l				
263	13&23	l	Other Taxes - State Unemployment	263.13&23.l				
266	6	f	Amortized ITC (Negative)	266.6.f				
273	6	k	ADIT - 281 (Negative)	273.6.k				
275	2	k	ADIT - 282 (Negative)	275.2.k				
277	9	k	ADIT - 283 (Negative)	277.9.k				
278		f	Other Regulatory Liabilities (254)	Page 278 and Note A				
311.*	NonRQ	h	Demand Charges- Non-RQ	311.*.NonRQ.h				
311.*	NonRQ	l	Energy Charges- Non-RQ	311.*.NonRQ.l				
311.*	NonRQ	j	Energy Charges- Other Charges	311.*.NonRQ.j				
321	76 + 78	b	Other Power Supply Expense (555 + 557)	321.76 + 78.b				
321	80	b	TOTAL Production Expenses	321.80.b				
321	84-88	b	Account 561-561.4	321.84-88.b				
321	112	b	TOTAL Transmission OM	321.112.b				
323	195	b	Property Insurance (924)	323.195.b				
323	199	b	Regulatory Commission Expenses (928)	323.199.b				
323	191	b	General Advertising Expenses (930.1)	323.191.b				
323	197	b	Total Admin & General Expenses	323.197.b				
327.*	Total	j	Purchased Power Demand Charges	327.*.Total.j				
332	Total	h	Transmission of Electricity by Others (565)	332.Total.h				
335	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	335.1-3.b				
336	1	f	Intangible Amortization	336.1.f				
336	2-6	b	Production Depreciation Expense	336.2-6.b				
336	10	b	General Depreciation Expense	336.10.b				
336	3	Footnote and Note A	Nuclear Decommissioning Amortization	336 Footnote and Note A				
350	5-6	h	Production Related Regulatory Commis. Exp.	350.5-6.h				
354	20	b	Production O&M Labor	354.20.b				
354	27	b	A&G Labor	354.27.b				
354	28	b	Total Direct Payroll - O&M Labor	354.28.b				

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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 Exhibit I  
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 Year Ending 12/31/

 DUKE ENERGY PROGRESS, LLC  
 Production Capacity Rate Formula Template Using Form-1 Data

## FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
111	57	c	Prepayments	111.57.c				
111	73	c	Prelim. Survey and Investigation Charges	111.73.c				
111	81	c	Loss on Rescquired Debt	111.81.c				
112	3	c	Preferred Stock Issued	112.3.c				
112	12	c	Account 216.1	112.12.c				
112	16	c	Proprietary Capital	112.16.c				
112	24	c	Long Term Debt	112.24.c				
112	27	c	Accum. Prov. for Property Insurance (GL 228.1)	112.27.c				
112	28	c	Accum. Prov. for Injuries & Damages (GL 228.2)	112.28.c				
112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c				
113	61	c	Gain on Rescquired Debt	113.61.c				
114	9	c	Amort of Utility Plant Acq. Adj. (406)	114.9.c and Note K				
117	63-67	c	Other Long Term Interest Expense	117.63-67.c				
118	29	c	Preferred Dividends (positive)	118.29.c				
200	12	c	Acquisition Adjustments (114)	200.12.c and Note K				
200	21	c	Intangible Amortization Reserve	200.21.c				
200	32	c	Amort of Plant Acquisition Adj (116)	200.32.c and Note K				
203	14	f	Nuclear Fuel Stock	203.14.f				
203	6	f	Nuclear Fuel In Process	203.6.f				
205	5	g	Intangible Plant	205.5.g				
205	46	g	Production Plant	205.46.g				
205	16	g	Asset Retirement Costs- Steam	205.16.g				
205	24	g	Asset Retirement Costs- Nuclear	205.24.g				
205	34	g	Asset Retirement Costs- Hydro	205.34.g				
207	68	g	Transmission Plant	207.68.g				
207	75	g	Distribution Plant	207.75.g				
207	99-98	g	General Plant - Net of Asset Retirement	207.99-98.g				
214	7-10	d	Plant Held for Future Use- Production	214.7-10.d				
219	20-24	c	Production Depreciation Reserve	219.20-24.c				
219	25	c	Transmission Depreciation Reserve	219.25.c				
219	26	c	Distribution Depreciation Reserve	219.26.c				
219	28	c	General Depreciation Reserve	219.28.c				
227	1	c	Fuel Stock	227.1.c				
227	4	c	Plant Materials and Operating Supplies (154) net of M&S - Production	227.4.c				
227	5(assigned)&7	c	M&S - Production	227.5(assigned)&7.c				
227	16	c	M&S - Stores Expense	227.16.c				
229	29	m	Allowances (158.1, 163.2)	229.29.m				
232	18	f	Other Regulatory Assets	232.18.f				
232	3	f	6FAS 165 Regulatory Assets	232.3.f				
234	8	c	ADIT - 190	234.8.c				
267	33	c	Long Term Interest Expense	267.33.c				
263	3	l	Other Taxes - FICA / Unemployment	263.3.l				
263	4	l	Other Taxes - Highway Use	263.4.l				
263	11&22	l	Other Taxes - Real & Personal Property	263.11&22.l				
263	13&24	l	Other Taxes - State Unemployment	263.13&24.l				
266	8	f	Amortized ITC (Negative)	266.8.f				
273	8	k	ADIT - 281 (Negative)	273.8.k				
276	2	k	ADIT - 282 (Negative)	276.2.k				
277	9	k	ADIT - 283 (Negative)	277.9.k				
278		f	Other Regulatory Liabilities (264)	Page 278 and Note A				
311,*	NonRQ	h	Demand Charges- Non-RQ	311,*NonRQ.h				
311,*	NonRQ	i	Energy Charges- Non-RQ	311,*NonRQ.i				
311,*	NonRQ	j	Other Charges-Non-RQ	311,*NonRQ.j				
321	76 + 78	b	Other Power Supply Expense (555 + 557)	321.76 + 78.b				
321	80	b	TOTAL Production Expenses	321.80.b				
321	84-88	b	Account 561-561.4	321.84-88.b				
321	112	b	TOTAL Transmission OM	321.112.b				
323	185	b	Property Insurance (924)	323.185.b				
323	189	b	Regulatory Commission Expenses (926)	323.189.b				
323	191	b	General Advertising Expenses (930.1)	323.191.b				
323	197	b	Total Admin & General Expenses	323.197.b				
327,*	Total	j	Purchased Power Demand Charges	327,*Total.j				
332	Total	h	Transmission of Electricity by Others (665)	332.Total.h				
336	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	336.1-3.b				
336	1	f	Intangible Amortization	336.1.f				
336	2-6	b	Production Depreciation Expense	336.2-6.b				
336	10	b	General Depreciation Expense	336.10.b				
336	3		Footnote and Note A ARO Impacts In depreciation expense	336 Footnote and Note A				
350	5-6	h	Production Related Regulatory Commiss. Exp.	350.5-6.h				
354	20	b	Production O&M Labor	354.20.b				
354	27	b	A&G Labor	354.27.b				
354	28	b	Total Direct Payroll - O&M Labor	354.28.b				

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Exhibit I

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Sheet 1 of 2

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Other Inputs

Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)	Average	Alloc Factor	Allocated Total
EC 1	4		Total Fuel Burned	EC 1.4					
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6					
EC 1	7		Energy Related Production O&M	EC 1.7					
Note A			NCEMPA Backland						
Note A			Allowance for Decommissioning Expense						
Note B			Internal Decommissioning						
Note B			Less: ADIT asset on Internal Decommissioning Reserve						
			Internal Decommissioning net of ADIT adjustment						
Note B			External Decommissioning (ARO)						
Note B			External Decommissioning (ARO)	GL 108.0150					
Note B			External Decommissioning (ARO)	GL 108.165					
Note B			External Decommissioning (ARO)	GL 108.40TB					
Note A			Clean Smokestack Compliance						
Note A			Accoun. Dep. Adjst.: Harris Accot. Dep.						
Note A			Adjustment: Harris AD ADIT						
Note A			Generation Step Up Transformers						
Note A			Securitization Bonds						
			<u>Deferred Credits (GL 228.4):</u>						
Note A			Cost Mines						
Note A			Est. PA Scrubber Charge						
Note A			Deferred Compensation						
Note A			Environmental						
FERC Form 1			<u>Unrecovered Plant &amp; Regulatory Study Costs</u>						
			<u>Rate Base Adjustment</u>						
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)						
			Wholesale load allocation factor						
			Grossed up to System equivalent cost						
230 (b)	24	(f)	Robinson Nuclear Plant						
230 (b)	26	(f)	Brunswick Nuclear Plant						
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M					
			Total Unrecovered Plant & Regulatory Study Costs						
230 (b)	21	(e)	<u>Associated Amortization Adjustment</u>						
			Mayo 2 Abandonment Loss (wholesale specific)						
			Wholesale load allocation factor						
			Grossed up to System equivalent cost						
230 (b)	24	(e)	Robinson Nuclear Plant						
230 (b)	26	(e)	Brunswick Nuclear Plant						
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M					
			Total Unrecovered Plant & Regulatory Study Costs						
			<u>Sum of Monthly Peaks net of SEPA &amp; PA Entitlement</u>						
Note A			Wholesale Load net of SEPA						
Page 16			System						
			Wholesale Load Allocation Factor						
Note A			Wholesale marketing labor included in A&G labor						
Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)	Average	Alloc Factor	Allocated Total
			<u>Excess and Deficient Accumulated Deferred Income Taxes</u>						
(2), (3)			Regulatory Asset for Deficient ADIT - Protected					Note (3)	See Note (3)
(2), (3)			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)					Note (3)	See Note (3)
(2), (3)			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Protected					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Unprotected Non-PPE					Note (3)	See Note (3)
			Net Deficient/Excess ADIT Rate Base						
(2), (3)			Collection of Deficient Deferred Tax Expenses - Protected					Note (3)	See Note (3)
(2), (3)			Collection of Deficient Deferred Tax Expenses - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Protected					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE					Note (3)	See Note (3)
			Net Excess/Deficient Deferred Tax Expense						

## Footnotes:

- (1) Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.
- (2) Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.
- (3) The allocation factor to be applied to TCJA balances is 0.73226 and is based on historic 2019 system-wide deferred income tax balances that were allocated to Production. Excess/Deficient Deferred Income Tax balances due to future tax rate changes will be allocated using an allocation factor determined at the time of the tax rate change.

## Exhibit I

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Year Ending 12/31/XX

Sheet 2 of 2

Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)
Note A			Applicable adjustments for Merger related costs			
			<u>FERC Mitigation Sales Included in Off System Sales to Other Utilities</u>			Dr (Cr)
Note A			Demand Revenue (a/c 447)			
Note A			Energy Revenue + loss sharing adjustment with DEC (a/c 447)			
			Net Adjusted Revenues			
Note A			Incremental Fuel Costs to Serve (a/c 5473000)			
Note A			Incremental Purchase Power Costs (a/c 555)			
Note A			Non- Fuel Energy O&M on Sales to Other Utilities			
			Energy Cost of Sales			
			Off- System Sales Loss			
			<u>Other Merger Related Costs</u>			
Note A			Prepayments to Dominion in a/c 185			
Note A			Payroll Tax expense in a/c 408			
Note A			Deferred Debt Amortization exp. in a/c 428			
Note A			Mitigation sale loss sharing adjustment with DEC (502 a/c)			
Note A			A&G (920 - 930 a/cs)			
Note A			Transmission O&M (566 - 571 a/cs)			
Note A			<u>Other applicable adjustments</u>			
			<u>Adjustments to Remove RECs/ DSM / DSDR / EE Costs</u>			
Note A			Unexpensed REC premium in M&S a/c 1549132			
Note A			REC prepayments in a/c 185			
Note A			RECS Expense in a/c 5090004			
Note A			Gross Intangible Plant (101 a/c)			
Note A			Gross General Plant (101 a/c)			
Note A			Accumulated Amortization on Intangible Plant (108 a/c)			
Note A			Accumulated Depreciation on General Plant (108 a/c)			
Note A			Amortization Expense on Intangible Plant			
Note A			Depreciation Expense on General Plant			
Note A			Property Tax Expense (408 a/c)			
Note A			Insurance Expense			
Note A			A&G Expense			
Note A			Payroll Tax expense in a/c 408			
			<u>Adjustments to remove impacts of NC Retail specific treatment of DOE refunds</u>			
Note A			Labor related taxes			
Note A			Production O&M, demand related			
Note A			A&G			
FERC Form 1						
114	22+23	(c)	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9)			
Note A			Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2); Production Related			
			Gains on Disposition of Property (G.L. 421.1)			
			Loss on Disposition of Property (G.L. 421.2)			

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Exhibit I  
Page 10(a) of 21  
Year Ending 12/31/  
Sheet 1 of 1

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Other Inputs

Source	Row	Column	Description	Reference	Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
EC 1	4		Total Fuel Burned	EC 1.4				
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6				
EC 1	7		Energy Related Production O&M	EC 1.7				
Note A			NCEMPA Backstand					
Note A			Allowance for Decommissioning Expense					
Note B			Internal Decommissioning					
Note B			Less: ADIT asset on Internal Decommissioning Reserve					
			Internal Decommissioning net of ADIT adjustment					
Note B			External Decommissioning (ARO)					
Note B			External Decommissioning (ARO)	GL 108.0150				
Note B			External Decommissioning (ARO)	GL 108.165				
Note B			External Decommissioning (ARO)	GL 108.40TB				
Note A			Clean Smokestack Compliance					
Note A			Accum. Dep. Adj.: Harris Accel. Dep.					
Note A			Adjustment: Harris AD ADIT					
Note A			Generation Step Up Transformers					
Note A			Securitization Bonds					
			<u>Deferred Credits (GL 226.4):</u>					
Note A			Coal Mines					
Note A			Est. PA Scrubber Charge					
Note A			Deferred Compensation					
Note A			Environmental					
			<u>Unrecovered Plant &amp; Regulatory Study Costs</u>					
FERC Form 1			<u>Rate Base Adjustment</u>					
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(f)	Robinson Nuclear Plant					
230 (b)	26	(f)	Brunswick Nuclear Plant					
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M				
			<u>Annual Amortization</u>					
230 (b)	21	(e)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(e)	Robinson Nuclear Plant					
230 (b)	26	(e)	Brunswick Nuclear Plant					
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M				
Note A			Adjustments for Marger Related Costs					
			A&G Costs					
Note A			Other applicable adjustments					
			<u>Adjustments to Remove RECs/ DSM / DSDR / EE Costs assigned to Retail</u>					
Note A			Unexpensed REC premium in M&S a/c 1649132					
Note A			REC prepayments in a/c 165					
Note A			RECS Expense in a/c 6090004					
Note A			Gross Intangible Plant					
Note A			Gross General Plant					
Note A			Accumulated Amortization on Intangible Plant					
Note A			Accumulated Depreciation on General Plant					
			<u>Excess and Deficient Accumulated Deferred Income Taxes</u>					
[2]			Regulatory Asset for Deficient ADIT - Protected		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Protected		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected Non-PPE		See Note [2]			
			Net Deficient/Excess ADIT Rate Base					
[2]			Collection of Deficient Deferred Tax Expenses - Protected		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Protected		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
			Net Excess/Deficient Deferred Tax Expense					

## Notes for adjustments:

- [1] Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.
- [2] Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Other Inputs

Source	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
EC 1	4		Total Fuel Burned	EC 1.4				
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6				
EC 1	7		Energy Related Production O&M	EC 1.7				
Note A			NCEMPA Backstand					
Note A			Allowance for Decommissioning Expense					
Note B			Internal Decommissioning					
Note B			Less: ADIT asset on Internal Decommissioning Reserve					
			Internal Decommissioning net of ADIT adjustment					
Note B			External Decommissioning (ARO)					
Note B			External Decommissioning (ARO)	GL 108.0150				
Note B			External Decommissioning (ARO)	GL 108.155				
Note B			External Decommissioning (ARO)	GL 108.407B				
Note A			Clean Smokestack Compliance					
Note A			Accum. Dep. Adjst.: Harris Accel. Dep.					
Note A			Adjustment: Harris AD ADIT					
Note A			Generation Step Up Transformers					
Note A			Securitization Bonds					
			<u>Deferred Credits (GL 228.4):</u>					
Note A			Coal Mines					
Note A			Est. PA Scrubber Charge					
Note A			Deferred Compensation					
Note A			Environmental					
			<u>Unrecovered Plant &amp; Regulatory Study Costs</u>					
FERC Form 1			<u>Rate Base Adjustment</u>					
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(f)	Robinson Nuclear Plant					
230 (b)	26	(f)	Brunswick Nuclear Plant					
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M				
			<u>Annual Amortization</u>					
230 (b)	21	(e)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(e)	Robinson Nuclear Plant					
230 (b)	26	(e)	Brunswick Nuclear Plant					
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M				
			<u>Sum of Monthly Peaks net of SEPA &amp; Entitlement</u>					
Note A			Wholesale Load net of SEPA					
Note A			Wholesale marketing labor included in A&G labor					
Note A			<u>Applicable adjustments for Merger related costs</u>					
			<u>FERC Mitigation Sales included in Off System Sales to Other Utilities</u>		Dr (Cr)			Dr (Cr)
Note A			Demand Revenue (a/c 447)					
Note A			Energy Revenue + loss sharing adjustment with DEC (a/c 447)					
			Net Adjusted Revenues					
Note A			Incremental Fuel Costs to Serve (a/c 5473006)					
Note A			Incremental Purchase Power Costs (a/c 555)					
Note A			Non-Fuel Energy O&M on Sales to Other Utilities					
			Energy Cost of Sales					
			Off-System Sales Loss					
			<u>Other Merger Related Costs</u>					
Note A			Prepayments to Dominion in a/c 165					
Note A			Payroll Tax expense in a/c 408					
Note A			Deferred Debt Amortization exp. in a/c 428					
Note A			Mitigation sale loss sharing adjustment with DEC (502 a/c)					
Note A			A&G (920 - 930 a/c)					
Note A			Transmission O&M (566 - 571 a/c)					
			<u>Excess and Deficient Accumulated Deferred Income Taxes</u>					
[2]			Regulatory Asset for Deficient ADIT - Protected		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Protected		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected Non-PPE		See Note [2]			
			Net Deficient/Excess ADIT Rate Base					
[2]			Collection of Deficient Deferred Tax Expenses - Protected		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Protected		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
			Net Excess/Deficient Deferred Tax Expense					

## Footnotes:

- [1] Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.
- [2] Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.



Source	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
Note A			Other applicable adjustments					
			<u>Adjustments to Remove RECs/ DSM / DSDR / EE Costs</u>					
Note A			Unexpensed REC premium in M&S a/c 1549132					
Note A			REC prepayments in a/c 165					
Note A			RECS Expense in a/c 6090004					
Note A			Gross Intangible Plant (101 a/c)					
Note A			Gross General Plant (101 a/c)					
Note A			Accumulated Amortization on Intangible Plant (108 a/c)					
Note A			Accumulated Depreciation on General Plant (108 a/c)					
Note A			Amortization Expense on Intangible Plant					
Note A			Depreciation Expense on General Plant					
Note A			Property Tax Expense (408 a/c)					
Note A			Insurance Expense					
Note A			A&G Expense					
Note A			Payroll Tax expense in a/c 408					
			<u>Adjustments to remove impacts of NC Retail specific treatment of DOE refunds</u>			<u>Less: Impacts in SAE</u>		<u>Demand Related</u>
Note A			Labor related taxes					
Note A			Production O&M, demand related					
Note A			A&G					
			Total					
<u>FERC Form 1</u>								
114	22+23	(c)	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9)					
Note A			Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2); Production Related					<u>Non- Production Related loss</u>
			Gain on Disposition of Property (G.L. 421.1)					
			Loss on Disposition of Property (G.L. 421.2)					

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Deferred Income Tax Balances (GL 190)

	Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1 Accrued Litigation				Other	
2 ARO - 190				Other	
3 Audit Reserve/FIN48				Other	
4 Bond Premium Discount				NP	
5 Broad River Adjustment				PP	
6 Charitable Contribution Carryforward				Other	
7 Charitable Contributions Addback				Other	
8 CIAC Gross Up Refund Reserve				Other	
9 Compensation Plan				LABOR	
10 Comprehensive Income				NP	
11 Corporate Life Insurance Reserve				Other	
12 Deferred Compensation				LABOR	
13 DOE Settlement - PEC NC retail refund				Other	
14 Earnings on Employee Benefit Trust				LABOR	
15 Emission Allowances-Basis Diff				PROD	
16 Environmental Accrual				Other	
17 FAS 109-Excess				Other	
18 FAS 109-ITC				Other	
19 FAS 112				LABOR	
20 Federal NOL - NonOperating				Other	
21 Federal NOL - Operating				Other	
22 Imputed Interest Income				NP	
23 Insurance Reserve				NP	
24 Interest Rate Hedging				Other	
25 Inventory Reserve				NP	
26 IRS Audit Interest Accrual				Other	
27 Leslie/McInnes Coal Reserves				PROD	
28 Low Income Housing Credits				Other	
29 Mark to Market Accrual				Other	
30 NC NOL - Operating				Other	
31 NC NOL - NonOperating				Other	
32 Nuclear Decommissioning				Other	
33 OPEB Expense				LABOR	
34 Operating Reserve (workers comp)				LABOR	
35 Pension Expense				LABOR	
36 Pension Restoration Exp.				LABOR	
37 Reg Liability ARO Asbestos				Other	
38 Reg. Liability NDT Unrealized G/L				Other	
39 Reg Liability - Renewable Energy Deferral NC				Other	
40 Renewable Energy Certifications				Other	
41 Research & Alt Motor Credits				Other	
42 Severance Pay				LABOR	
43 TMAS - Production				PP	
44 Unbilled Rev.				Other	
45 Uncollectible Accounts				Other	
46 Vacation Accrual				LABOR	
47 Wages: Year End Accrual				LABOR	
48 Misc Prov/Round Adjustment				Other	
49					
GL 190 - Electric					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Deferred Income Tax Balances (GL 190)

	Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
1	Accrued Litigation			
2	ARO - 190			
3	Audit Reserve/FIN48			
4	Bond Premium Discount			
5	Broad River Adjustment			
6	Charitable Contribution Carryforward			
7	Charitable Contributions Addback			
8	CIAC Gross Up Refund Reserve			
9	Compensation Plan			
10	Comprehensive Income			
11	Corporate Life Insurance Reserve			
12	Deferred Compensation			
13	DOE Settlement - PEC NC retail refund			
14	Earnings on Employee Benefit Trust			
15	Emission Allowances-Basis Diff			
16	Environmental Accrual			
17	FAS 109-Excess			
18	FAS 109-ITC			
19	FAS 112			
20	Federal NOL - NonOperating			
21	Federal NOL - Operating			
22	Imputed Interest Income			
23	Insurance Reserve			
24	Interest Rate Hedging			
25	Inventory Reserve			
26	IRS Audit Interest Accrual			
27	Leslie/McInnes Coal Reserves			
28	Low Income Housing Credits			
29	Mark to Market Accrual			
30	NC NOL - Operating			
31	NC NOL - NonOperating			
32	Nuclear Decommissioning			
33	OPEB Expense			
34	Operating Reserve (workers comp)			
35	Pension Expense			
36	Pension Restoration Exp.			
37	Reg Liability ARO Asbestos			
38	Reg. Liability NDT Unrealized G/L			
39	Reg Liability - Renewable Energy Deferral NC			
40	Renewable Energy Certifications			
41	Research & Alt Motor Credits			
42	Severance Pay			
43	TMAS - Production			
44	Unbilled Rev.			
45	Uncollectible Accounts			
46	Vacation Accrual			
47	Wages: Year End Accrual			
48	Misc Prov/Round Adjustment			
49	GL 190 - Electric			

**Notes for adjustments:**

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Deferred Income Tax Balances (GL 190)**

	<b>Current Year End (before adjustments)</b>	<b>Adjustments</b>	<b>Note</b>	<b>Current Year End (with adjustments)</b>
1	Accrued Litigation			
2	ARO - 190			
3	Audit Reserve/FIN48			
4	Bond Premium Discount			
5	Broad River Adjustment			
6	Charitable Contribution Carryforward			
7	Charitable Contributions Addback			
8	CIAC Gross Up Refund Reserve			
9	Compensation Plan			
10	Comprehensive Income			
11	Corporate Life Insurance Reserve			
12	Deferred Compensation			
13	DOE Settlement - PEC NC retail refund			
14	Earnings on Employee Benefit Trust			
15	Emission Allowances-Basis Diff			
16	Environmental Accrual			
17	FAS 109-Excess			
18	FAS 109-ITC			
19	FAS 112			
20	Federal NOL - NonOperating			
21	Federal NOL - Operating			
22	Imputed Interest Income			
23	Insurance Reserve			
24	Interest Rate Hedging			
25	Inventory Reserve			
26	IRS Audit Interest Accrual			
27	Leslie/McInnes Coal Reserves			
28	Low Income Housing Credits			
29	Mark to Market Accrual			
30	NC NOL - Operating			
31	NC NOL - NonOperating			
32	Nuclear Decommissioning			
33	OPEB Expense			
34	Operating Reserve (workers comp)			
35	Pension Expense			
36	Pension Restoration Exp.			
37	Reg Liability ARO Asbestos			
38	Reg. Liability NDT Unrealized G/L			
39	Reg Liability - Renewable Energy Deferral NC			
40	Renewable Energy Certifications			
41	Research & Alt Motor Credits			
42	Severance Pay			
43	TMAS - Production			
44	Unbilled Rev.			
45	Uncollectible Accounts			
46	Vacation Accrual			
47	Wages: Year End Accrual			
48	Misc Prov/Round Adjustment			
49	<b>GL 190 - Electric</b>			

**Notes for adjustments:**

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data  
Deferred Income Tax Balances (GL 282)

	Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1 AFUDC Equity - FAS 109				Other	
2 ARO - Net Property				Other	
3 Clean Smokestacks				Other	
4 NC Direct Disallowance				Other	
5 NC Indirect Disallowance				Other	
6 Non Utility Property Dep.				Other	
7 PA Depr Diff Exc Harris				PP	
8 PA Depr Diff Harris				PP	
9 PA Direct Disallowance Contra				Other	
10 SC Indirect Disallowance				Other	
11 SC Rate Difference				Other	
12 Tax Depr - Distribution Plant				Other	
13 Tax Depr - General Plant				LABOR	
14 Tax Depr - Intangible Plant				LABOR	
15 Tax Dep - Nuclear Fuel				PROD	
16 Tax Depr - Production Plant				PP	
17 Tax Depr - Transmission Plant				TP	
18 Tax Depr - Unfunctionalized Plant				NP	
19 WH Direct Disallowance				PROD	
20 WH Indirect Disallowance				PROD	
21 Wholesale Dep Diff - Distribution				Other	
22 Wholesale Dep Diff - General				LABOR	
23 Wholesale Dep Diff - Production				PP	
24 Wholesale Dep Diff - Transmission				TP	
25 Misc Prov/Round Adjustment				Other	
26 Total GL 282					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Deferred Income Tax Balances (GL 282)**

	<b>Previous Year End (before adjustments)</b>	<b>Adjustments</b>	<b>Note</b>	<b>Previous Year End (with adjustments)</b>
1 AFUDC Equity - FAS 109				
2 ARO - Net Property				
3 Clean Smokestacks				
4 NC Direct Disallowance				
5 NC Indirect Disallowance				
6 Non Utility Property Dep.				
7 PA Depr Diff Exc Harris				
8 PA Depr Diff Harris				
9 PA Direct Disallowanc Contra				
10 SC Indirect Disallowance				
11 SC Rate Difference				
12 Tax Depr - Distribution Plant				
13 Tax Depr - General Plant				
14 Tax Depr - Intangible Plant				
15 Tax Depr - Nuclear Fuel				
16 Tax Depr - Production Plant				
17 Tax Depr - Transmission Plant				
18 Tax Depr - Unfunctionalized Plant				
19 WH Direct Disallowance				
20 WH Indirect Disallowance				
21 Wholesale Dep Diff - Distribution				
22 Wholesale Dep Diff - General				
23 Wholesale Dep Diff - Production				
24 Wholesale Dep Diff - Transmission				
25 Misc Prov/Round Adjustment				
26 <b>Total GL 282</b>				

**Notes for adjustments:**

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Deferred Income Tax Balances (GL 282)

	Current Year End (before adjustments)	Adjustments	Note	Current Year End (with adjustments)
1 AFUDC Equity - FAS 109				
2 ARO - Net Property				
3 Clean Smokestacks				
4 NC Direct Disallowance				
5 NC Indirect Disallowance				
6 Non Utility Property Dep.				
7 PA Depr Diff Exc Harris				
8 PA Depr Diff Harris				
9 PA Direct Disallowance Contra				
10 SC Indirect Disallowance				
11 SC Rate Difference				
12 Tax Depr - Distribution Plant				
13 Tax Depr - General Plant				
14 Tax Depr - Intangible Plant				
15 Tax Dep - Nuclear Fuel				
16 Tax Depr - Production Plant				
17 Tax Depr - Transmission Plant				
18 Tax Depr - Unfunctionalized Plant				
19 WH Direct Disallowance				
20 WH Indirect Disallowance				
21 Wholesale Dep Diff - Distribution				
22 Wholesale Dep Diff - General				
23 Wholesale Dep Diff - Production				
24 Wholesale Dep Diff - Transmission				
25 Misc Prov/Round Adjustment				
26 Total GL 282				

**Notes for adjustments:**

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Deferred Income Tax Balances (GL 283)**

	Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1 Comprehensive Income				NP	
2 EMC OPEB				LABOR	
3 FASB 109 AFUDC Equity Reg Asset				Other	
4 FAS158 OPEB - Reg Asset				LABOR	
5 FAS158 Pension - Reg Asset				LABOR	
6 FAS158 Pension Restoration Reg Asset				LABOR	
7 FAS158 SERP - Reg Asset				LABOR	
8 Fay/Muni OPEB				LABOR	
9 Grid South-NC				Other	
10 Grid South-SC				Other	
11 Grid South-WH				Other	
12 IRS Audit Reserve				Other	
13 Market to Market				Other	
14 Market to Market - Reg Asset				Other	
15 Miscellaneous Investments				Other	
16 NC Deferred Fuel				Other	
17 Nuc Decom Unrealized Gains				Other	
18 Reg Asset-Accrued Vacation				Other	
19 Reg Asset-ARO Asbestos				Other	
20 Reg Asset-ARO Landfill				Other	
21 Reg Asset - DSM Costs NC				Other	
22 Reg Asset - DSM Costs SC				Other	
23 Reg Asset-Design Basis Brunswick				PROD	
24 Reg Asset-Design Basis Robinson				PROD	
25 Reg Asset-Nuc Decom				Other	
26 Reg Asset-PCF Deferral SC				Other	
27 Renewable Energy Deferral - NC				Other	
28 SC Deferred Fuel				Other	
29 Stock Overhead Adjustment-Prod				PROD	
30 Stock Overhead Adjustment-Unfunct				NP	
31 Storm Damage Deferral NC				Other	
32 Storm Damage Deferral SC				Other	
33 Wholesale Deferred Fuel				Other	
34 Deferred Rate Case Expense				Other	
35 Round Adjustment				Other	
36 Total GL 283					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.



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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Deferred Income Tax Balances (GL 283)

	Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
1 Comprehensive Income				
2 EMC OPEB				
3 FASB 109 AFUDC Equity Reg Asset				
4 FAS158 OPEB - Reg Asset				
5 FAS158 Pension - Reg Asset				
6 FAS158 Pension Restoration Reg Asset				
7 FAS158 SERP - Reg Asset				
8 Fay/Muni OPEB				
9 Grid South-NC				
10 Grid South-SC				
11 Grid South-WH				
12 IRS Audit Reserve				
13 Market to Market				
14 Market to Market - Reg Asset				
15 Miscellaneous Investments				
16 NC Deferred Fuel				
17 Nuc Decom Unrealized Gains				
18 Reg Asset-Accrued Vacation				
19 Reg Asset-ARO Asbestos				
20 Reg Asset-ARO Landfill				
21 Reg Asset - DSM Costs NC				
22 Reg Asset - DSM Costs SC				
23 Reg Asset-Design Basis Brunswick				
24 Reg Asset-Design Basis Robinson				
25 Reg Asset-Nuc Decom				
26 Reg Asset-PCF Deferral SC				
27 Renewable Energy Deferral - NC				
28 SC Deferred Fuel				
29 Stock Overhead Adjustment-Prod				
30 Stock Overhead Adjustment-Unfunct				
31 Storm Damage Deferral NC				
32 Storm Damage Deferral SC				
33 Wholesale Deferred Fuel				
34 Deferred Rate Case Expense				
35 Round Adjustment				
36 Total GL 283				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Deferred Income Tax Balances (GL 283)

	Current Year End (before adjustments)	Adjustments	Note	Current Year End (with adjustments)
1 Comprehensive Income				
2 EMC OPEB				
3 FASB 109 AFUDC Equity Reg Asset				
4 FAS158 OPEB - Reg Asset				
5 FAS158 Pension - Reg Asset				
6 FAS158 Pension Restoration Reg Asset				
7 FAS158 SERP - Reg Asset				
8 Fay/Muni OPEB				
9 Grid South-NC				
10 Grid South-SC				
11 Grid South-WH				
12 IRS Audit Reserve				
13 Market to Market				
14 Market to Market - Reg Asset				
15 Miscellaneous Investments				
16 NC Deferred Fuel				
17 Nuc Decom Unrealized Gains				
18 Reg Asset-Accrued Vacation				
19 Reg Asset-ARO Asbestos				
20 Reg Asset-ARO Landfill				
21 Reg Asset - DSM Costs NC				
22 Reg Asset - DSM Costs SC				
23 Reg Asset-Design Basis Brunswick				
24 Reg Asset-Design Basis Robinson				
25 Reg Asset-Nuc Decom				
26 Reg Asset-PCF Deferral SC				
27 Renewable Energy Deferral - NC				
28 SC Deferred Fuel				
29 Stock Overhead Adjustment-Prod				
30 Stock Overhead Adjustment-Unfunct				
31 Storm Damage Deferral NC				
32 Storm Damage Deferral SC				
33 Wholesale Deferred Fuel				
34 Deferred Rate Case Expense				
35 Round Adjustment				
36 Total GL 283				

**Notes for adjustments:**

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

NCEMPA

Exhibit I  
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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

Labor Related Deferred Credits- Net

Description	Reference	Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1 Accumulated Provision Prop. Ins. (GL 228.1)	p 112, Line 28c					
2 Accumulated Provision for I&D (GL 228.2)	p 112, Line 28c				LABOR	
3 Accumulated Provision for P&B (GL 228.3) [2]	p 112, Line 29c				LABOR	
4 Accumulated Misc. Op. Provisions (GL 228.4)						
5 Coal Mines					PROD	
6 Est. Excess PA Scrubber Charge					PROD	
7 Deferred Compensation					LABOR	
8 Environmental					Other	
9 Total GL 228.4	p 112, Line 30c					
10 SFAS 158 Regulatory Assets [1]	p 232, Line 3f				LABOR	
11 Total - Labor-related Deferred Credits						

**Notes:**

[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I

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Year Ending 12/31/

**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Labor Related Deferred Credits- Net**

Description	Reference	Previous Year End	Adjustment	Note	Previous Year End
		(before adjustments)			(with adjustments)
1 Accumulated Provision Prop. Ins. (GL 228.1)	112.27.c				
2 Accumulated Provision for I&D (GL 228.2)	112.28.c				
3 Accumulated Provision for P&B (GL 228.3) [2]	112.29.c				
4 Accumulated Misc. Op. Provisions (GL 228.4)					
5 Coal Mines					
6 Est. Excess PA Scrubber Charge					
7 Deferred Compensation					
8 Environmental					
9 Total GL 228.4	p 112, Line 30c				
10 SFAS 158 Regulatory Assets [1]	232.3.f				
11 Total - Labor-related Deferred Credits					

**Notes:**

[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&amp;B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I

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Year Ending 12/31/XX

**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Labor Related Deferred Credits- Net**

Description	Reference	Current Year End (before adjustments)	Adjustment Note	Current Year End (with adjustments)
1 Accumulated Provision Prop. Ins. (GL 228.1)	112.27.c			
2 Accumulated Provision for I&D (GL 228.2)	112.28.c			
3 Accumulated Provision for P&B (GL 228.3) [2]	112.29.c			
4 Accumulated Misc. Op. Provisions (GL 228.4)				
5 Coal Mines				
6 Est. Excess PA Scrubber Charge				
7 Deferred Compensation				
8 Environmental				
9 Total GL 228.4	p 112, Line 30c			
10 SFAS 158 Regulatory Assets [1]	232.3.f			
11 Total - Labor-related Deferred Credits				

**Notes:**

[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&amp;B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

NCEMPA

Exhibit I  
Page 15 of 21  
Year Ending 12/31/XXDUKE ENERGY PROGRESS, LLC  
Production Capacity Rate Formula Template Using Form-1 Data

## Production Plant Adjustments for Construction Work In Progress (CWIP) and Renewable Energy Investments

	Description	Beginning	Ending	Average/Total	Allocation Factor	Production Allocation Amount
1	Construction Work In Progress (CWIP)					
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16	Total CWIP					
17	Renewable Energy/Other Governmental Requirements					
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32	Total REPS/EE					

NCEMPA

Exhibit I

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Year Ending 12/31/XX

**DUKE ENERGY PROGRESS, LLC**  
**Production Capacity Rate Formula Template Using Form-1 Data**

**Monthly System Peak Demands (kW)**

Line		Total kW (before adjustments)	Adjustment	Note	Total kW (with adjustments)
1	January				-
2	February				-
3	March				-
4	April				-
5	May				-
6	June				-
7	July				-
8	August				-
9	September				-
10	October				-
11	November				-
12	December				-
13	<b>Average Monthly Peak Demand</b>				-
14	<b>Joint Ownership Entitlement</b>				
15	<b>SEPA</b>				
16	<b>SEPA Losses</b>				-
17	<b>SEPA Grossed up for Losses</b>				-
18	<b>Net System Average Monthly Peak</b>				-
19	<b>Sum of Twelve Monthly Peaks</b>				-

401b, d. &  
 Analysis of  
 Company  
 Books

**Note:**

The Monthly System Peak Demands listed above agree with the Monthly Peak Demand as listed on the DEP FERC Form 1 page 401b, subject to adjustments for joint ownership in DEP's generation units.

**Notes for adjustments:**

## NCEMPA

## Illustrative Example to be Updated Annually

## Exhibit I

Page 17 of 21

Year Ending 12/31/

**DUKE ENERGY PROGRESS, LLC**  
**Return of Excess Deferred Taxes - Protected portion (1)**

Account 190	\$	30,538,455
Account 282	\$	(1,076,768,929)
Account 283	\$	-
Adjusted System-level balance (2)	\$	(1,046,230,474)

Year (3)	(A)	(B)	(A) x (Adj. System-level balance) (C)	(B)-(C) (D)
	Est. ARAM Rate Used (4)	Beginning year balance	Current year amortization (5)	Remaining Balance
2018	3.57%	(1,046,230,474)	\$ (37,350,427.92)	(1,008,880,046)
2019	3.57%	(1,008,880,046)	\$ (37,350,427.92)	(971,529,618)
2020	3.57%	(971,529,618)	\$ (37,350,427.92)	(934,179,190)

(1) The return of the protected portion of excess Federal ADIT generated by the 2017 Tax Cuts and Jobs Act will begin effective January 1, 2018 and continue through the term of the contract using the agreed upon methodology until the balance in the Remaining Balance Column is \$0.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

(3) The total number of years necessary for the return of the Protected portion of excess federal ADIT to customers will be determined by the ARAM rate, which will change over time.

(4) Represents the estimated amortization rate using the Average Rate Assumption Method, ("ARAM rate") per DEP's PowerTax system. Revised ARAM rates are calculated during the 4th quarter of each year. DEP will use the best available ARAM rate when setting estimated billing rates on December 1st of each year, and will incorporate the then current best available ARAM rate into each year's true-up. For example, 3.57%, which was calculated in 4th quarter 2019, will be used in the estimated rate for 2020. The true-up for 2020, which will be completed in June/July 2021, will incorporate the ARAM rate calculated in the 4th quarter of 2020, and an updated schedule reflecting the revised ARAM rate will be provided to customers each year as part of the true-up.

(5) The goal is to return the wholesale load ratio share of the total protected portion of the excess deferred taxes, initially determined to be \$(1,046,230,474) over the appropriate period using ARAM. This amount will be determined annually by multiplying \$(1,046,230,474) by the ARAM rate from column (A). This amount will not be impacted by the gross-up factor nor the net plant allocator used to determine the actual amount returned to customers annually.



NCEMPA

Exhibit I  
Page 18 of 21  
Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC  
Return of Excess Deferred Taxes - Unprotected PPE portion (1)

Account 190	\$	-
Account 282	\$	(400,321,666)
Account 283	\$	-
Adjusted System-level balance (2)	\$	(400,321,666)

Year	(A) Amortization Rate (20 years)	(B) Beginning year balance	(A) x (Adj. System- level balance) (C) Current year amortization	(B-C) (D) Remaining Balance
2018	5.00%	(400,321,666)	\$ (20,016,083.30)	(380,305,583)
2019	5.00%	(380,305,583)	\$ (20,016,083.30)	(360,289,499)
2020	5.00%	(360,289,499)	\$ (20,016,083.30)	(340,273,416)
2021	5.00%	(340,273,416)	\$ (20,016,083.30)	(320,257,333)
2022	5.00%	(320,257,333)	\$ (20,016,083.30)	(300,241,250)
2023	5.00%	(300,241,250)	\$ (20,016,083.30)	(280,225,166)
2024	5.00%	(280,225,166)	\$ (20,016,083.30)	(260,209,083)
2025	5.00%	(260,209,083)	\$ (20,016,083.30)	(240,193,000)
2026	5.00%	(240,193,000)	\$ (20,016,083.30)	(220,176,916)
2027	5.00%	(220,176,916)	\$ (20,016,083.30)	(200,160,833)
2028	5.00%	(200,160,833)	\$ (20,016,083.30)	(180,144,750)
2029	5.00%	(180,144,750)	\$ (20,016,083.30)	(160,128,666)
2030	5.00%	(160,128,666)	\$ (20,016,083.30)	(140,112,583)
2031	5.00%	(140,112,583)	\$ (20,016,083.30)	(120,096,500)
2032	5.00%	(120,096,500)	\$ (20,016,083.30)	(100,080,417)
2033	5.00%	(100,080,417)	\$ (20,016,083.30)	(80,064,333)
2034	5.00%	(80,064,333)	\$ (20,016,083.30)	(60,048,250)
2035	5.00%	(60,048,250)	\$ (20,016,083.30)	(40,032,167)
2036	5.00%	(40,032,167)	\$ (20,016,083.30)	(20,016,083)
2037	5.00%	(20,016,083)	\$ (20,016,083.30)	0

(1) The unprotected PPE portion of excess federal ADIT generated by the 2017 Tax Cuts and Jobs Act will be returned to customers over a 20 year period, effective January 1, 2018.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

NCEMPA

Exhibit I

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Year Ending 12/31/

**DUKE ENERGY PROGRESS, LLC**  
**Collection of Deficient Deferred Taxes - Unprotected non-PPE portion (1)**

Account 190	\$	645,896,216
Account 282	\$	-
Account 283	\$	(639,986,722)
Adjusted System-level balance (2)	\$	5,909,494

Year	(A)	(B)	(A) x (Adj. System-level balance) (C)	(B-C) (D)
	Amortization Rate (5 years)	Beginning year balance	Current year amortization	Remaining Balance
2018	20.00%	5,909,494	\$ 1,181,898.80	4,727,595
2019	20.00%	4,727,595	\$ 1,181,898.80	3,545,696
2020	20.00%	3,545,696	\$ 1,181,898.80	2,363,798
2021	20.00%	2,363,798	\$ 1,181,898.80	1,181,899
2022	20.00%	1,181,899	\$ 1,181,898.80	0

(1) The unprotected non-PPE portion of deficient federal ADIT generated by the 2017 Tax Cuts and Jobs Act will be collected from customers over a 5 year period, effective January 1, 2018.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

NCEMPA

Formula Rate Template - Generic Page 20 - [Return/Collection of Future Excess/Deficient] Deferred Taxes - [Protected/Unprotected PPE/Unprotected Non-PPE] Portion

DUKE ENERGY PROGRESS, LLC  
Illustrative Worksheet to be Updated Annually

		Amount			
Account xxx (1)					
System-level balance (2)		XX			
		(A)	(B)	(A) x (System-level balance) (C)	(B-C) (D)
		Amortization Rate ({Est. ARAM Rate Used (3)} or {X years})	Beginning year balance	Current year amortization	Remaining Balance
Year					
20XX			XX		
20XX+1					

(1) Account will be populated with the ADIT account remeasured as a result of the federal or state tax law change and the amount will be the excess or deficient ADIT contained therein.

(2) The [Protected/Unprotected PPE/Unprotected Non-PPE] portion of [excess/deficient] ADIT generated by [Insert Name of Federal or State Tax Law] will be returned to or recovered from customers over a [X] year period, effective [Insert Date].

(3) The total number of years necessary for the [return of the Protected portion of excess ADIT] or [recovery of the Protected portion of deficient ADIT] to customers will be determined by the ARAM rate, which will change over time. Represents the estimated ARAM rate per DEP's PowerTax system.

NCEMPA

**Exhibit I**  
**Page 21 of 21**  
**Year Ending 12/31/**

Page 21 - Generic Reconciliation of Re-measurements related to Future Federal or State Tax Rate Changes

**DUKE ENERGY PROGRESS, LLC**  
**Tax Rate Change Re-measurement Reconciliation**

(Dr)Cr ADIT Offset Account Category	Description	Dr(Cr) 190	Dr(Cr) 282	Dr(Cr) 283	Dr(Cr) Other	Dr(Cr) Total
Excess/Deficient ADIT						
Balance Sheet Items - Other Than Excess/Deficient ADIT						
Income Statement						
Grand Total						

*Note: Supplemental Informational schedule to be provided to customers with each future federal or state tax rate change.*

Exhibit II

Energy Rate Formula

(Exhibit Follows)

**Exhibit II**  
**Page 1 of 6**  
**Month Ending XX/XX/XXXX**

**DUKE ENERGY PROGRESS**  
**System Average Energy Rate Template**  
*For the month ending XX/XX/XXXX*

Line	Description	Source	Reference	Total (before adjustments)	Adjustment	Note	Amount (with adjustments)
1	Burned Fuel						
	Fossil	Acct 5013	[2]			[4]	\$ -
2	Nuclear	Acct 5183, 5188, 51882	[2]				\$ -
3	Other Power	Acct 5473	[2]				\$ -
4	Total Burned Fuel		Add L.1 thru L.3	\$ -	\$ -		\$ -
5	Purchased Power		[3] Page 1			[5]	\$ -
6	Sales to Other Utilities		Page 2, L.12				\$ -
7	Energy-related Production O&M		Page 3, Col. 5, L.64	\$ -			\$ -
8	Total Energy-related Production Costs		L.4 + L.5 + L.6 + L.7	\$ -	\$ -		\$ -
9	Total Generated and Purchased MWh		Page 6, L.7		-		MWh
10	Annual System Average Energy Rate (\$/MWh)		L.8 / L.9				/MWh

Note: [1] The expenses presented on this exhibit represent energy-related expenses currently recorded in existing production operation and maintenance FERC accounts on DBP's books. If new production FERC accounts are established subsequent to the execution of this Agreement, this exhibit will be amended to include the energy related expenses recorded in such accounts, subject to FERC approval in accordance with Section 15.1 of the Agreement. The Monthly Energy Rate in this exhibit is to be calculated as provided in Section 5.2 of the Agreement. Adjustments shall be made consistent with Section 5.2 and 5.3, as amended and clarified. No costs or adjustments shall be incorporated in the Monthly Energy Rate that differentiate NCEMPA from CP&L's native load service (including NCEMPA's load served under the Agreement) unless approved by FERC.

[2] Analysis of Company Books

[3] Schedule 3, NCUC

[4] Merger saving adjustment for coal blending credits recorded in Acct 456.

[5] InterCompany Purchased Power Expenses - Other represent intercompany transfers between Progress Energy and Duke Energy for margins on off-system sales. Formula provides credits for fuel and variable O&M components of off-system sales. Off-system sales margins are not credited.

It is the intent of this System Average Energy Rate Template Formula ("Formula"), including the supporting explanations and allocations described herein, that each input to the Formula either will be (i) taken directly from the FERC Form No. 1 or (ii) reconcilable to the FERC Form No. 1 or other appropriate documentation by the application of clearly identified and supported information. Adjustments to the inputs will be set forth in the "Adjustment" columns of this Formula template and will be those amounts necessary to (i) maintain all applicable DBP hold harmless commitments to FERC and (ii) remove the effect of retail ratemaking orders on DEP's inputs so that the Formula calculates DEP's system average energy cost on a purely wholesale basis. This note is applicable to all pages of the Formula template included herein.

Exhibit II  
Page 2 of 6  
Month Ending XX/XX/XXXX

DUKE ENERGY PROGRESS  
System Average Energy Rate Template  
For the month ending XX/XX/XXXX  
Energy-related Costs of Sales to Other Utilities

Line	Description	Source	Reference	Total (before adjustments)	Adjustment	Note	Amount (with adjustments)
1	Sales to Other Utilities MWh	[1]					- MWh
2	Sales to Other Utilities Fuel Cost	[1]					\$ -
3	Energy-related O&M Calculation						
3	Energy-related Fossil O&M		Page 3, Col.5, L.19	\$ -			\$ -
4	Total Other Power O&M		Page 3, Col. 1, L. 63	\$ -			\$ -
5	80% of Other Power O&M		Line 4 x 80%	\$ -			\$ -
6	Total Energy-related O&M		L.3 + L.5	\$ -			\$ -
7	Fossil Steam Net Generation MWh	FF1	Page 401A, L.3				- MWh
8	Other Power Net Generation MWh	FF1	Page 401A, L.7				- MWh
9	Total Fossil Net Generation MWh		L.7 + L.8	-			- MWh
10	Energy-related O&M Rate		L.6 / L.9				/MWh
11	Energy-related O&M		L.1 x L.10				\$ -
12	Total Energy-related Cost of Sales to Other Utilities		L.2 + L.11				\$ -

Note: [1] Schedule 3, NCUC

DUKE ENERGY PROGRESS  
 System Average Energy Rate Template  
 For the month ending XXXX/XXXX  
 Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Col. 1 Total Production O & M Expenses (with adjustments)	Col. 2 Labor Component (with adjustments)	Col. 3 Labor % To Total	Col. 4 Allocated S & E O & M	Col. 5 Total Energy O & M	Col. 6 Total Demand O & M
<b>STEAM POWER GENERATION</b>								
1	Operating Supervision & Engr.	500	\$ -	N/A	N/A	N/A	\$ -	\$ -
2	Fuel - Labor & Misc. Expense	5012	0.00	-	-	0.00	0.00	0.00
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	0.00	-	-	0.00	0.00	0.00
4	Steam Expense - Ammonia	502	0.00	-	-	0.00	0.00	0.00
5	Steam Expense - Limestone	502	0.00	-	-	0.00	0.00	0.00
6	Steam Expense - Gypsum Disposal/Sales	502456	0.00	-	-	0.00	0.00	0.00
7	Steam Expense - Magnesium Hydroxide	502	0.00	-	-	0.00	0.00	0.00
8	Electric Expense	505	0.00	-	-	0.00	0.00	0.00
9	Misc. Steam Power Expense	506	0.00	-	-	0.00	0.00	0.00
10	Rents	507	0.00	-	-	0.00	0.00	0.00
11	Allowances	509	0.00	-	-	0.00	0.00	0.00
12	Total Operation	L. 1 thru 11	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
13	Maintenance Supervision & Engr.	510	\$ -	N/A	N/A	N/A	\$ -	\$ -
14	Maint. of Structures	511	0.00	-	-	0.00	0.00	0.00
15	Maint. of Boiler Plant	512	0.00	-	-	0.00	0.00	0.00
16	Maint. of Electric Plant	513	0.00	-	-	0.00	0.00	0.00
17	Maint. of Misc. Steam Plant	514	0.00	-	-	0.00	0.00	0.00
18	Total Maintenance	L. 13 thru 17	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
19	Total Steam Power Generation	L. 12 + L. 18	\$ -				\$ -	\$ -
<b>NUCLEAR POWER GENERATION</b>								
20	Operating Supervision & Engr.	517	\$ -	N/A	N/A	N/A	\$ -	\$ -
21	Fuel Handling	51823	0.00	-	-	0.00	0.00	0.00
22	Condensates & Waters	519	0.00	-	-	0.00	0.00	0.00
23	Steam Expenses	520	0.00	-	-	0.00	0.00	0.00
24	Steam from Other Sources	521	0.00	-	-	0.00	0.00	0.00
25	Steam Transferred - Cr	522	0.00	-	-	0.00	0.00	0.00
26	Electric Expenses	523	0.00	-	-	0.00	0.00	0.00
27	Misc. Nuclear Power Expenses	524	0.00	-	-	0.00	0.00	0.00
28	Rents	525	0.00	-	-	0.00	0.00	0.00
29	Total Operation	L. 20 thru 28	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
30	Maintenance Supervision & Engr.	528	\$ -	N/A	N/A	N/A	\$ -	\$ -
31	Maint. of Structures	529	0.00	-	-	0.00	0.00	0.00
32	Maint. of Reactor Plant Equip.	530	0.00	-	-	0.00	0.00	0.00
33	Maint. of Electric Plant	531	0.00	-	-	0.00	0.00	0.00
34	Maint. of Misc. Nuclear Plant	532	0.00	-	-	0.00	0.00	0.00
35	Total Maintenance	L. 30 thru 34	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
36	Total Nuclear Power Generation	L. 29 + L. 35	\$ -				\$ -	\$ -
<b>HYDRAULIC POWER GENERATION</b>								
37	Operating Supervision & Engr.	535	\$ -	N/A	N/A	N/A	\$ -	\$ -
38	Water for Power	536	0.00	-	-	0.00	0.00	0.00
39	Hydraulic Expenses	537	0.00	-	-	0.00	0.00	0.00
40	Electric Expenses	538	0.00	-	-	0.00	0.00	0.00
41	Misc. Hydro Power Gen. Expenses	539	0.00	-	-	0.00	0.00	0.00
42	Rents	540	0.00	-	-	0.00	0.00	0.00
43	Total Operation	L. 37 thru 42	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
44	Maintenance Supervision & Engr.	541	\$ -	N/A	N/A	N/A	\$ -	\$ -
45	Maint. of Structures	542	0.00	-	-	0.00	0.00	0.00
46	Maint. of Reservoirs, Dams & Waterways	543	0.00	-	-	0.00	0.00	0.00
47	Maint. of Electric Plant	544	0.00	-	-	0.00	0.00	0.00
48	Maint. of Misc. Hydraulic Plant	545	0.00	-	-	0.00	0.00	0.00
49	Total Maintenance	L. 44 thru 48	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
50	Total Hydraulic Power Generation	L. 43 + L. 49	\$ -				\$ -	\$ -
<b>OTHER POWER GENERATION</b>								
51	Operating Supervision & Engr.	546	\$ -	N/A	N/A	N/A	\$ -	\$ -
52	Fuel - Labor & Misc. Expense	5472	0.00	-	-	0.00	0.00	0.00
53	Generation Expense(Excluding Ammonia)	548	0.00	-	-	0.00	0.00	0.00
54	Generation Expense-Ammonia	548	0.00	-	-	0.00	0.00	0.00
55	Misc. Other Power	549	0.00	-	-	0.00	0.00	0.00
56	Rents	550	0.00	-	-	0.00	0.00	0.00
57	Total Operation	L. 51 thru 56	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
58	Maintenance Supervision & Engr.	551	\$ -	N/A	N/A	N/A	\$ -	\$ -
59	Maint. of Structures	552	0.00	-	-	0.00	0.00	0.00
60	Maint. of Gen. & Electric Plant	553	0.00	-	-	0.00	0.00	0.00
61	Maint. of Misc. Other Power	554	0.00	-	-	0.00	0.00	0.00
62	Total Maintenance	L. 58 thru 62	\$ -	\$ -	0.0000%	\$ -	\$ -	\$ -
63	Total Other Power Generation	L. 57 + L. 62	\$ -				\$ -	\$ -
64	Total Production O&M Expenses	.18+L.36+L.50+L.63	\$ -				\$ -	\$ -



Exhibit II  
Page 4 of 6  
Month Ending XX/XX/XXXX

DUKE ENERGY PROGRESS  
System Average Energy Rate Template  
For the month ending XXXX/XXXX  
Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Source	Reference	Col. 1	Col. 2	Col. 3	Col. 4
					Total Production O & M Expenses	Adjustments	Note	Total
					(before adjustments)			(after adjustments)
STEAM POWER GENERATION								
1	Operating Supervision & Engr.	500	FF1	P. 320, L.4, Col. (b)				\$ -
2	Fuel - Labor & Misc. Expense	5012	[1]					0.00
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	[1]					0.00
4	Steam Expense - Ammonia	502	[1]					0.00
5	Steam Expense - Limestone	502	[1]					0.00
6	Steam Expense - Gypsum Disposal/Sales	502/456	[1]					0.00
7	Steam Expense - Magnesium Hydroxide	502	[1]					0.00
8	Electric Expense	505	FF1	P. 320, L.9, Col. (b)				0.00
9	Misc. Steam Power Expense	506	FF1	P. 320, L.10, Col. (b)				0.00
10	Rents	507	FF1	P. 320, L.11, Col. (b)				0.00
11	Allowances	509	FF1	P. 320, L.12, Col. (b)			[2]	0.00
12	Total Operation	L. 1 thru 11			\$ -	\$ -		\$ -
13	Maintenance Supervision & Engr.	510	FF1	P. 320, L.15, Col. (b)				\$ -
14	Maint. of Structures	511	FF1	P. 320, L.16, Col. (b)				0.00
15	Maint. of Boiler Plant	512	FF1	P. 320, L.17, Col. (b)				0.00
16	Maint. of Electric Plant	513	FF1	P. 320, L.18, Col. (b)				0.00
17	Maint. of Misc. Steam Plant	514	FF1	P. 320, L.19, Col. (b)				0.00
18	Total Maintenance	L. 13 thru 17			\$ -	\$ -		\$ -
19	Total Steam Power Generation	L. 12 + L. 18			\$ -	\$ -		\$ -
NUCLEAR POWER GENERATION								
20	Operating Supervision & Engr.	517	FF1	P. 320, L.24, Col. (b)				\$ -
21	Fuel Handling	51823	[1]				[3]	0.00
22	Coolants & Waters	519	FF1	P. 320, L.26, Col. (b)			[3]	0.00
23	Steam Expenses	520	FF1	P. 320, L.27, Col. (b)			[3]	0.00
24	Steam from Other Sources	521	FF1	P. 320, L.28, Col. (b)				0.00
25	Steam Transferred - Cr	522	FF1	P. 320, L.29, Col. (b)				0.00
26	Electric Expenses	523	FF1	P. 320, L.30, Col. (b)				0.00
27	Misc. Nuclear Power Expenses	524	FF1	P. 320, L.31, Col. (b)			[3]	0.00
28	Rents	525	FF1	P. 320, L.32, Col. (b)				0.00
29	Total Operation	L. 20 thru 28			\$ -	\$ -		\$ -
30	Maintenance Supervision & Engr.	528	FF1	P. 320, L.35, Col. (b)			[3]	\$ -
31	Maint. of Structures	529	FF1	P. 320, L.36, Col. (b)			[3]	0.00
32	Maint. of Reactor Plant Equip.	530	FF1	P. 320, L.37, Col. (b)			[3]	0.00
33	Maint. of Electric Plant	531	FF1	P. 320, L.38, Col. (b)			[3]	0.00
34	Maint. of Misc. Nuclear Plant	532	FF1	P. 320, L.39, Col. (b)			[3]	0.00
35	Total Maintenance	L. 30 thru 34			\$ -	\$ -		\$ -
36	Total Nuclear Power Generation	L. 29 + L. 35			\$ -	\$ -		\$ -
HYDRAULIC POWER GENERATION								
37	Operating Supervision & Engr.	535	FF1	P. 320, L.44, Col. (b)				0.00
38	Water for Power	536	FF1	P. 320, L.45, Col. (b)				0.00
39	Hydraulic Expenses	537	FF1	P. 320, L.46, Col. (b)				0.00
40	Electric Expenses	538	FF1	P. 320, L.47, Col. (b)				0.00
41	Misc. Hydro Power Gen. Expenses	539	FF1	P. 320, L.48, Col. (b)				0.00
42	Rents	540	FF1	P. 320, L.49, Col. (b)				0.00
43	Total Operation	L. 37 thru 42			\$ -	\$ -		\$ -
44	Maintenance Supervision & Engr.	541	FF1	P. 320, L.53, Col. (b)				0.00
45	Maint. of Structures	542	FF1	P. 320, L.54, Col. (b)				0.00
46	Maint. of Reservoirs, Dams & Waterways	543	FF1	P. 320, L.55, Col. (b)				0.00
47	Maint. of Electric Plant	544	FF1	P. 320, L.56, Col. (b)				0.00
48	Maint. of Misc. Hydraulic Plant	545	FF1	P. 320, L.57, Col. (b)				0.00
49	Total Maintenance	L. 44 thru 48			\$ -	\$ -		\$ -
50	Total Hydraulic Power Generation	L. 43 + L. 49			\$ -	\$ -		\$ -
OTHER POWER GENERATION								
51	Operating Supervision & Engr.	546	FF1	P. 321, L.62, Col. (b)				0.00
52	Fuel - Labor & Misc. Expense	5472	[1]					0.00
53	Generation Expense (Excluding Ammonia)	548	[1]					0.00
54	Generation Expense-Ammonia	548	[1]					0.00
55	Misc. Other Power	549	FF1	P. 321, L.65, Col. (b)				0.00
56	Rents	550	FF1	P. 321, L.66, Col. (b)				0.00
57	Total Operation	L. 51 thru 56			\$ -	\$ -		\$ -
58	Maintenance Supervision & Engr.	551	FF1	P. 321, L.69, Col. (b)				0.00
59	Maint. of Structures	552	FF1	P. 321, L.70, Col. (b)				0.00
60	Maint. of Gen. & Electric Plant	553	FF1	P. 321, L.71, Col. (b)				0.00
61	Maint. of Misc. Other Power	554	FF1	P. 321, L.72, Col. (b)				0.00
62	Total Maintenance	L. 58 thru 62			\$ -	\$ -		\$ -
63	Total Other Power Generation	L. 57 + L. 62			\$ -	\$ -		\$ -
64	Total Production O&M Expenses	L.18+L.36+L.50+L.63			\$ -	\$ -		\$ -

Note: [1] Analysis of Company Books.  
[2] Adjustment to exclude RBPS allowances for retail jurisdictions.  
[3] Adjustment to exclude reversal of a 2011 DOE refund that is being deferred and amortized through 8/31/2018 for retail jurisdictions only.

DUKE ENERGY PROGRESS  
 System Average Energy Rate Template  
 For the month ending XX/XX/XXXX  
 Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Source	Reference	Col. 1 Labor Component (before adjustments)	Col. 2 Adjustments	Col. 3 Note	Col. 4 Total (after adjustments)
<b>STEAM POWER GENERATION</b>								
1	Operating Supervision & Engr.	500	[1]		N/A	N/A		N/A
2	Fuel - Labor & Misc. Expense	5012	[1]				\$	-
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	[1]					0.00
4	Steam Expense - Ammonia	502	[1]					0.00
5	Steam Expense - Limestone	502	[1]					0.00
6	Steam Expense - Gypsum Disposal/Sales	502/456	[1]					0.00
7	Steam Expense - Magnesium Hydroxide	502	[1]					0.00
8	Electric Expense	505	[1]					0.00
9	Misc. Steam Power Expense	506	[1]					0.00
10	Rents	507	[1]					0.00
11	Allowances	509	[1]					0.00
12	Total Operation	L. 1 thru 11			\$ -	\$ -	\$	-
13	Maintenance Supervision & Engr.	510	[1]		N/A	N/A		N/A
14	Maint. of Structures	511	[1]				\$	-
15	Maint. of Boiler Plant	512	[1]					0.00
16	Maint. of Electric Plant	513	[1]					0.00
17	Maint. of Misc. Steam Plant	514	[1]					0.00
18	Total Maintenance	L. 13 thru 17			\$ -	\$ -	\$	-
19	Total Steam Power Generation	L. 12 + L. 18			\$ -	\$ -	\$	-
<b>NUCLEAR POWER GENERATION</b>								
20	Operating Supervision & Engr.	517	[1]		N/A	N/A		N/A
21	Fuel Handling	51823	[1]				\$	-
22	Coolants & Waters	519	[1]					0.00
23	Steam Expenses	520	[1]					0.00
24	Steam from Other Sources	521	[1]					0.00
25	Steam Transferred - Cr	522	[1]					0.00
26	Electric Expenses	523	[1]					0.00
27	Misc. Nuclear Power Expenses	524	[1]					0.00
28	Rents	525	[1]					0.00
29	Total Operation	L. 20 thru 28			\$ -	\$ -	\$	-
30	Maintenance Supervision & Engr.	528	[1]		N/A	N/A		N/A
31	Maint. of Structures	529	[1]				\$	-
32	Maint. of Reactor Plant Equip.	530	[1]					0.00
33	Maint. of Electric Plant	531	[1]					0.00
34	Maint. of Misc. Nuclear Plant	532	[1]					0.00
35	Total Maintenance	L. 30 thru 34			\$ -	\$ -	\$	-
36	Total Nuclear Power Generation	L. 29 + L. 35			\$ -	\$ -	\$	-
<b>HYDRAULIC POWER GENERATION</b>								
37	Operating Supervision & Engr.	535	[1]		N/A	N/A		N/A
38	Water for Power	536	[1]				\$	-
39	Hydraulic Expenses	537	[1]					0.00
40	Electric Expenses	538	[1]					0.00
41	Misc. Hydro Power Gen. Expenses	539	[1]					0.00
42	Rents	540	[1]					0.00
43	Total Operation	L. 37 thru 42			\$ -	\$ -	\$	-
44	Maintenance Supervision & Engr.	541	[1]		N/A	N/A		N/A
45	Maint. of Structures	542	[1]				\$	-
46	Maint. of Reservoirs, Dams & Waterways	543	[1]					0.00
47	Maint. of Electric Plant	544	[1]					0.00
48	Maint. of Misc. Hydraulic Plant	545	[1]					0.00
49	Total Maintenance	L. 44 thru 48			\$ -	\$ -	\$	-
50	Total Hydraulic Power Generation	L. 43 + L. 49			\$ -	\$ -	\$	-
<b>OTHER POWER GENERATION</b>								
51	Operating Supervision & Engr.	546	[1]		N/A	N/A		N/A
52	Fuel - Labor & Misc. Expense	5472	[1]				\$	-
53	Generation Expense(Excluding Ammonia)	548	[1]					0.00
54	Generation Expense-Ammonia	548	[1]					0.00
55	Misc. Other Power	549	[1]					0.00
56	Rents	550	[1]					0.00
57	Total Operation	L. 51 thru 56			\$ -	\$ -	\$	-
58	Maintenance Supervision & Engr.	551	[1]		N/A	N/A		N/A
59	Maint. of Structures	552	[1]				\$	-
60	Maint. of Gen. & Electric Plant	553	[1]					0.00
61	Maint. of Misc. Other Power	554	[1]					0.00
62	Total Maintenance	L. 58 thru 62			\$ -	\$ -	\$	-
63	Total Other Power Generation	L. 57 + L. 62			\$ -	\$ -	\$	-
64	Total Production O&M Expenses	L. 18+L.36+L.50+L.63			\$ -	\$ -	\$	-

Note: [1] Analysis of Company Books.

Exhibit II

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Month Ending XX/XX/XXXX

**DUKE ENERGY PROGRESS**  
**System Average Energy Rate Template**  
*For the month ending XXXX/XXXX*  
**Net Generated and Purchased MWh and Company Use**

Line	Description	Source	Reference	MWh (before adjustments)	Adjustment	Note	MWh (with adjustments)
<b>Net Generated and Purchased MWh</b>							
1	Total Energy	FF1	P.401a, L.28				-
2	Sales to Other Utilities	[1]					-
3	SEPA Received	FF1	P.329				-
4	SEPA Delivered	FF1	P.329				-
5	Net System Input Adjusted for SEPA		L.1 - L.2 - L.3 - L.4	-			-
6	Company Use		L.12				
7	Net Generated and Purchased MWh		L.5 - L.6				
<b>CP&amp;L Company Use</b>							
8	Metered Company Uses	FF1	P.401a, L.26				-
9	Total Energy Unaccounted For	FF1	P.401a, L.27				-
10	Net System Input	FF1	P.401a, L.28				-
11	Energy Loss %		L.9 / L.10				
12	Company Use Including Losses		L.8 x (L.11 + 1)				

Note: [1] Schedule 3, NCUC

Exhibit III

Reserve Capacity Rate Formula

(Exhibit Follows)



Exhibit IV

Base Load Reduction Compensation Payment

(Exhibit Follows)

## Exhibit IV

**Compensation Payment Calculation and Methodology**  
 (Example Assuming 1/1/16 Closing and 1/1/28 Termination of 200 MW)

<u>Year</u>	<u>Purchase Price</u> (\$000)	<u>20-Year</u> <u>Amortization</u> (\$000)	<u>Unamortized</u> <u>Purchase Price</u> <u>@ Y/E</u> (\$000)	<u>Net System</u> <u>Avg. Monthly</u> <u>Peak Demands</u> (MW)
A	B	C	D	E
2016	1,200,000	60,000	1,140,000	11,273
2017		60,000	1,080,000	11,439
2018		60,000	1,020,000	11,601
2019		60,000	960,000	11,765
2020		60,000	900,000	11,929
2021		60,000	840,000	12,092
2022		60,000	780,000	12,260
2023		60,000	720,000	12,439
2024		60,000	660,000	12,623
2025		60,000	600,000	12,799
2026		60,000	540,000	12,978
2027		60,000	480,000	13,159
2028		60,000	420,000	13,352
2029		60,000	360,000	13,546
2030		60,000	300,000	13,718
2031		60,000	240,000	13,900
2032		60,000	180,000	14,080
2033		60,000	120,000	14,266
2034		60,000	60,000	14,266
2035		60,000	-	14,266
Assumed Base Load Capacity Reduction				200
Avg. of Previous 5-Years Net System Avg. Monthly Peak Demands				12,800
Load Ratio Share of Base Load Capacity Reduction				1.5625%
Base Load Reduction Compensation Payment (\$000)				7,500

**NOTE - APPLICATION OF METHODOLOGY**

The Compensation Payment provided for in Section 2.7.7 of the Agreement shall be based on the amount of capacity of Base Load purchases that Power Agency terminates in accordance with Section 2.7.6 divided by the same DEP net Monthly Peak Demands as used in the Capacity Rate Formula (Exhibit I, Page 16 - shown on Line 18, Column Total kW with adjustments), applied to the unamortized balance of the purchase price set forth in the Asset Purchase Agreement (shown in Column D) and based on a 20-year amortization. The actual closing date, and final purchase price under Asset Purchase Agreement and the effective date for the Base Load purchase termination or reduction in accordance with Section 2.7.6 will be used for purposes of determining the Compensation Payment (e.g., if the actual closing date on the Power Agency's assets were to be February 1, 2016 and the effective date of the Base Load purchase termination were to be August 1, 2028, the "Unamortized Purchase Price" balance (shown in Column D) would reflect 150 months of amortization from the closing date and 90 months of remaining amortization). However, the load ratio calculation discussed above would remain based on the most recent 5 years of complete Calendar Year load data.

Exhibit V

Form of Notice for Qualified Resources and Economic Development Resources

1. Type of Resource (Member Resource; Customer Resource; or Economic Development Resource): \_\_\_\_\_
2. Member/Customer: \_\_\_\_\_
3. Delivery Point: \_\_\_\_\_
4. Scheduled (or Actual) Date of First Operation: \_\_\_\_\_
5. Maximum Capable Injection Capacity kW (if Energy Injection Device): \_\_\_\_\_
6. Nameplate kW (if Generation): \_\_\_\_\_
7. Notice Date: \_\_\_\_\_
8. If Economic Development Resource, provide a description of the project qualifications and attach relevant documentation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Resource Location & Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. List of Protective Relays (Best information on electrical protection functional diagram, device types and makes shall be provided with original notice and updated as more definitive information is obtained): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Exhibit VI

## METHODOLOGY FOR CALCULATION OF GSU LOSS FACTOR - DEP

**I. INTRODUCTION**

The GSU Loss Factor is used to compensate DEP for replacing losses incurred in “stepping-up” voltage from the generators to match transmission line voltage (“GSU Losses”).

**II. ANNUAL LOSS FACTOR CALCULATION PERIOD**

The GSU Loss Factor shall be based on a contiguous 12-month period beginning December 1 at 00:00 of the year prior to the test year and ending on November 30 at 23:59 of the test year (“Calculation Period”). The Calculation Period shall be divided into four seasons as follows:

Calculation Period											
Dec	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov
Winter			Spring			Summer			Fall		

- Winter – December 1 at 00:00 of the year prior to the test year through the last day of February at 23:59 of the test year,
- Spring – March 1 at 00:00 of the test year through May 31 at 23:59 of the test year,
- Summer – June 1 at 00:00 of the test year through August 31 at 23:59 of the test year, and
- Fall – September 1 at 00:00 of the test year through November 30 at 23:59 of the test year.

**III. OVERVIEW OF GSU LOSSES CALCULATION METHODOLOGY**

This section describes the overall methodology governing the calculation of the GSU Loss Factor.

GSU Losses for the Calculation Period shall be estimated for each hour in each season through a linear estimation of GSU Losses as a function of hourly load. The equations for the linear estimation shall be derived from five data points using the methodology in Section III.b. The GSU Loss Factor shall be calculated for the combined DEP Balancing Authority Areas (i.e., CPLE and CPLW) and shall be the sum of the GSU Losses for each hour of the Calculation Period divided by the sum of the hourly demands at each Point of Delivery (“POD”) for each hour of the Calculation Period expressed as a percentage, rounded to two decimal places.

**a. SEASONAL LOAD DATA**

Following the test year, DEP shall supply to its wholesale power customers the following data in Excel format for each season of the Calculation Period:

- Hourly load ranked from seasonal peak to seasonal minimum
- Date and time of each hourly load observation

iii. Transformer no-load loss spreadsheet

b. LOAD DATA POINT SELECTION FOR LOSS EQUATION CALCULATION

- i. Five data points shall be selected for each season of the Calculation Period. Data points shall represent percentiles between the seasonal peak value and seasonal minimum load value for DEP. The MW load points shall be determined as follows:

Seasonal Load Difference = Seasonal peak load less seasonal minimum load

First Data Point =  $(0.99 * \text{Seasonal Load Difference})$  plus seasonal minimum load

Second Data Point =  $(0.85 * \text{Seasonal Load Difference})$  plus seasonal minimum load

Third Data Point =  $(0.50 * \text{Seasonal Load Difference})$  plus seasonal minimum load

Fourth Data Point =  $(0.15 * \text{Seasonal Load Difference})$  plus seasonal minimum load

Fifth Data Point =  $(0.01 * \text{Seasonal Load Difference})$  plus seasonal minimum load

Collectively, these shall be referred to as the "Data Points."

DEP shall select the actual seasonal load that most closely approximates the MW value of the respective Data Points. Hours excluded by the application of section III.b.ii.(a)-(c) shall be replaced with hours that most closely approximate the MW value of the respective Data Points.

- ii. DEP will exclude the following as representations of the Data Points:

(a) If applicable, any hour excluded pursuant to the mutual agreement provision in Attachment W, Section III.b.ii.(a) of the Joint Open Access Transmission Tariff;

(b) Any hour during which the DEP system experienced an event that resulted in the filing by DEP of a report using the U.S. Department of Energy Electric Emergency Incident and Disturbance Report (Form OE-417)<sup>1</sup> or its successor; and (<sup>1</sup> Form OE-417 is a mandatory emergency form filed by specific electric power industry actors when at least one of the qualifying criteria is met—pursuant to Section 13(b) of the Federal Energy Administration Act of 1974 (Public Law 93-275). [https://www.oe.netl.doe.gov/docs/OE417\\_Form\\_Instructions\\_05312021.pdf](https://www.oe.netl.doe.gov/docs/OE417_Form_Instructions_05312021.pdf).)

(c) Any hour that occurs on a NERC holiday.

- iii. DEP shall supply its wholesale power customers with the month, day, hour and MW values selected to best represent the five Data Points for each season, for a total of twenty Data Points to represent the Calculation Period. DEP shall determine GSU Losses based upon the methodology described in Section IV.

## c. LINEAR INTERPOLATION OF DATA POINTS

Losses for each hourly load shall be calculated from a linear interpolation of the Data Points described above.

For loads from the maximum seasonal load to the 85<sup>th</sup> percentile, the loss equation is:

$$\text{LossMW} = [(\text{LOSS}_{99} - \text{LOSS}_{85}) / (\text{LOAD}_{99} - \text{LOAD}_{85})] * (\text{LoadMW} - \text{LOAD}_{85}) + \text{LOSS}_{85}$$

Where  $\text{LOSS}_{99}$  and  $\text{LOSS}_{85}$  are the losses at the load levels for the 99<sup>th</sup> and 85<sup>th</sup> percentiles and  $\text{LOAD}_{99}$  and  $\text{LOAD}_{85}$  are the load levels at the 99<sup>th</sup> and 85<sup>th</sup> percentiles.

For loads from the 85<sup>th</sup> percentile to the 50<sup>th</sup> percentile, the loss equation is:

$$\text{LossMW} = [(\text{LOSS}_{85} - \text{LOSS}_{50}) / (\text{LOAD}_{85} - \text{LOAD}_{50})] * (\text{LoadMW} - \text{LOAD}_{50}) + \text{LOSS}_{50}$$

Where  $\text{LOSS}_{85}$  and  $\text{LOSS}_{50}$  are the losses at the load levels for the 85<sup>th</sup> and 50<sup>th</sup> percentiles and  $\text{LOAD}_{85}$  and  $\text{LOAD}_{50}$  are the load levels at the 85<sup>th</sup> and 50<sup>th</sup> percentiles.

For loads from the 50<sup>th</sup> percentile to the 15<sup>th</sup> percentile, the loss equation is:

$$\text{LossMW} = [(\text{LOSS}_{50} - \text{LOSS}_{15}) / (\text{LOAD}_{50} - \text{LOAD}_{15})] * (\text{LoadMW} - \text{LOAD}_{15}) + \text{LOSS}_{15}$$

Where  $\text{LOSS}_{50}$  and  $\text{LOSS}_{15}$  are the losses at the load levels for the 50<sup>th</sup> and 15<sup>th</sup> percentiles and  $\text{LOAD}_{50}$  and  $\text{LOAD}_{15}$  are the load levels at the 50<sup>th</sup> and 15<sup>th</sup> percentiles.

For loads from the 15<sup>th</sup> percentile to the minimum seasonal load, the loss equation is:

$$\text{LossMW} = [(\text{LOSS}_{15} - \text{LOSS}_1) / (\text{LOAD}_{15} - \text{LOAD}_1)] * (\text{LoadMW} - \text{LOAD}_1) + \text{LOSS}_1$$

Where  $\text{LOSS}_{15}$  and  $\text{LOSS}_1$  are the losses at the load levels for the 15<sup>th</sup> and 1<sup>st</sup> percentiles and  $\text{LOAD}_{15}$  and  $\text{LOAD}_1$  are the load levels at the 15<sup>th</sup> and 1<sup>st</sup> percentiles.

## d. LOSS PERCENTAGE CALCULATION

Total GSU Losses by season shall be the sum of the hourly losses estimated by the equations above for every hour of the Calculation Period. Total annual GSU Losses are the sum of the seasonal losses. The annual loss percentage is calculated as:

$$\text{Loss Factor} = (\text{LOSS}_{\text{Winter}} + \text{LOSS}_{\text{Spring}} + \text{LOSS}_{\text{Summer}} + \text{LOSS}_{\text{Fall}}) / \text{Total Load},$$

Where  $\text{LOSS}_{\text{Winter}}$  = sum of hourly loss calculations for each load level of the Winter Season of the Calculation Period, and

Where  $\text{LOSS}_{\text{Spring}}$  = sum of hourly loss calculations for each load level of the Spring Season of the Calculation Period, and

Where  $LOSS_{Summer}$  = sum of hourly loss calculations for each load level of the Summer Season of the Calculation Period, and

Where  $LOSS_{Fall}$  = sum of hourly loss calculations for each load level of the Fall Season of the Calculation Period, and

Where Total Load = sum of hourly POD demand for each hour of the Calculation Period.

#### IV. METHODOLOGY

##### a. DATA SOURCES

The DEP methodology uses power flow models created for hourly Available Transfer Capability ("ATC") calculations, including day-ahead forecasts for load, generation, and transmission topology, and including known outages. Power flow cases are not saved at the time of the ATC calculations due to the size and quantity of the files, but all input parameters are saved. Once the twenty load points are chosen per Section III.b, the saved input parameters are used to recreate those specific ATC base cases. Because actual loads at the selected hours will be more accurate than the day-ahead forecast loads for those hours, the day-ahead forecast loads are replaced with the actual loads at the start of the case creation process for this losses analysis. Other known system conditions at the time of ATC analysis are retained in the model.

##### b. CALCULATION OF REAL POWER LOSS FACTOR AND GSU LOSS FACTOR

###### i. Load

DEP Area load is extracted from the power flow cases using the PSS/E Area Report for the two DEP Balancing Authority Areas (CPLW and CPLW). The total load reported by PSS/E is equivalent to the total load measured at the Transmission Customer PODs.

###### ii. GSU Losses

For many planning and operations analyses, it is important to model details of DEP-owned and non-DEP-owned equipment behind the generation meters and load meters. However, for this GSU Losses analysis, only equipment on the transmission side of the meters is considered. To achieve this, equipment on the generation side of the generation meters and equipment on the load side of the load meters are deleted from the PSS/E cases before extracting loss data. The following generation plants have high-side metering, so their GSUs are deleted from the models before extracting loss data:

- NCEMC Hamlet Plant
- NCEMC Anson Plant

- Fayetteville PWC Butler Warner Plant
- Eden Solar
- Elm City Solar
- Fayetteville Solar
- Roslin Solar
- Warsaw Solar

In addition, DEP distribution equipment is not appropriate for this losses analysis. The following DEP equipment is removed before extracting losses:

- Marshall Hydro transformers

Once these are removed, the PSS/E Area Report is used to provide the total losses in the two DEP Balancing Authority Areas (CPLE and CPLW). The total losses value from this report represents the sum of transmission losses and applicable GSU Losses, and it is recorded for each of the twenty power flow models.

The next step is to delete all remaining GSUs from the power flow cases and create another PSS/E Area Report. In the resulting report, the losses value represents only transmission system losses, and it is also recorded for each of the twenty power flow models.

The difference between the losses from the first PSS/E Area Report (transmission and GSU Losses) and losses from the second PSS/E Area Report (only transmission losses) is the total GSU load losses for DEP, except it does not include GSU transformer no-load losses.

DEP does not include transformer no-load losses in its PSS/E planning models, similar to the way it is handled by a majority of utilities in North America. Instead, DEP keeps an Excel workbook list of the no-load losses of its GSU transformers. These no-load losses are added to the losses from the PSS/E models to calculate the total GSU Losses for DEP. As long as DEP maintains transformer no-load losses in a list separate from the models discussed in Section V.a., the no-load losses list will be reviewed and updated annually as a part of this process. At the beginning of each annual GSU Loss Factor update, DEP will review the lists of generators and GSU transformers in its models to confirm the treatment of GSU Losses. In particular, for new generators added to the models since the previous year, whether Duke-owned or third party-owned, the meter location and any meter compensation will be confirmed to determine GSU transformer loss treatment. The appropriate modeling of retired and replacement generators and their GSU transformers will also be confirmed.

The DEP loss calculation then proceeds as described in Section III above.

**Exhibit VII**  
**Calculation of Coal Combustion Residuals Costs**

**I. Definitions:**

Buyer's Production Demand Allocation Factor means the sum of the 12 Monthly Coincident Billing Demands for a Calendar Year divided by DEP's Sum of Twelve Monthly Peaks, as calculated on Page 16 of Exhibit I, except for 2015 only as set forth below in Section III.B.

**II. Purpose of this Exhibit VII:**

The purpose of this Exhibit VII is to entitle Duke to recover through rates the CCR Costs incurred by Duke starting on and after August 1, 2015. This Exhibit VII provides for the annual calculation of all components of the CCR Costs that are allocated and recoverable as production demand related costs. Any CCR Costs collected under this Exhibit VII will be excluded from the costs that otherwise would have been collected in accordance with Exhibits I, II and III.

Beneficial Reuse Costs that are recorded in FERC Account No. 501 shall be recovered as a component of the Monthly Energy Charge determined in accordance with Section 5.3, and shall not be included in CCR Costs for purposes of applying the methodology set forth below in Section III of this Exhibit VII.

**III. Methodology:**

It is the intent of this Exhibit VII to reflect the Buyer's full allocable share of Duke's system level of CCR Costs, minus any CCR Disallowances, as such are incurred (except for Beneficial Reuse Costs that are recorded in FERC Account No. 501 and that are recovered as a component of the Monthly Energy Charge as set forth in Section II); and, one-twelfth of the annual Calendar Year projection of such costs will be billed monthly using the Buyer's Production Demand Allocation Factor ("Monthly Charge for Buyer's CCR Costs"). Such

allocation factor will be based on recently available actual values, adjusted as appropriate for known changes in system and/or Buyer loads during the forecast period, and subject to annual true-up once actual costs and allocation factors are known.

A. Calculation:

In any Calendar Year, the Charge for Buyer CCR Costs = ((CCR Costs – CCR Disallowance - Beneficial Reuse Costs included in FERC Account No. 501) \* Buyer's Production Demand Allocation Factor).

CCR Costs will be based on the actual CCR Costs incurred by Duke during the Calendar Year. All such Duke CCR Costs will be recorded as debits to FERC Account No. 230 (Asset Retirement Obligations), and booked to Duke sub-account 230315. CCR Costs will be reduced by all cost of removal amounts collected for coal ash remediation.

B. CCR Costs Owed for Compliance From August 1, 2015 – December 31, 2017:

Actual Buyer's CCR Costs, including deferred Beneficial Reuse Costs, for the period from August 1, 2015 through and including December 31, 2016, and estimated Charge for Buyer's CCR Costs from January 1, 2017 through and including December 31, 2017 shall be recovered over twenty-four (24) months billed in equal monthly installments starting January 1, 2018 and continuing through December 31, 2019, without any interest payable by Buyer. Buyer's CCR Costs for 2015 only shall be equal to the sum of Buyer's Monthly Coincident Billing Demands for the last five months of the Calendar Year divided by DEP's Sum of Twelve Monthly Peaks for the Calendar Year (as calculated on Page 16 of Exhibit I) times Duke's demand-related CCR Costs for 2015.

Actual Beneficial Reuse Costs that are recorded in FERC Account No. 501 for the period from January 1, 2017 through and including June 30, 2017 will be



recovered over six (6) equal installments as part of the Monthly Energy Charge under Section 5.3 starting July 1, 2017 and continuing through December 31, 2017. For the period July 1, 2017 through December 31, 2017, estimated Beneficial Reuse Costs that are recorded in FERC Account No. 501, will be recovered as part of the Monthly Energy Charge under Section 5.3.

The 2017 estimated Buyer's CCR Costs and Beneficial Reuse Costs will be subject to true-up on or about June 30, 2018, in accordance with the true-up provisions in Section 7, including interest calculated at the Interest Rate.

#### IV. General Provisions:

- A. For any Buyer's CCR Costs collected prior to issuance of an order or law creating a CCR Disallowance, Duke will adjust Buyer's CCR Costs by applying billing credits equal to Buyer's Allocable Share of CCR Disallowances, as part of the annual true up performed in accordance with Section 7.1 of the Agreement.
- B. Except as provided in Section 5.5.2.3 with respect to Buyer Deferred CCR Costs, and except with respect to interest payable for any true-up of costs billed under this Agreement, Duke shall not charge DEP Cost of Capital on CCR Costs.
- C. Buyer shall receive the Buyer's Share of CCR Insurance Proceeds (i) if demand related and a Buyer Deferred CCR Costs balance exists, as a reduction to such balance and/or (ii) if demand related and no Buyer Deferred CCR Costs balance exists or if fuel related, then as a billing credit or a refund, in either case to be provided to Buyer within ninety (90) days subsequent to Duke's receipt of CCR Insurance Proceeds. The obligation to make or pay such reductions, billing credits and/or refunds shall survive termination of this Agreement in accordance with Section 18.17.

D. Except as otherwise expressly provided in this Exhibit VII, the terms used in this Exhibit VII shall have the meanings provided for elsewhere in the Agreement and its Exhibits.

### Buyer Maximum Annual CCR Billing Amounts

Buyer Maximum Annual CCR Billing Amount Example for NCEMPA												
Buyer Maximum Annual CCR Billing Amounts per this Attachment are fixed; however, the remaining portion of this Attachment is for illustrative purposes only.												
See Contract for Definitions												
Line No.		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
1	Buyer Maximum Annual CCR Billing Amount:	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
2	Charge for Buyer CCR Costs (Assumed actual costs for a year):	35,000,000	35,000,000	30,000,000	32,000,000	28,000,000	20,000,000	7,500,000	5,000,000	5,000,000	5,000,000	3,000,000
3	Charge for Buyer CCR Costs vs. Buyer Maximum Annual CCR Billing Amount (Line 2 - Line 1):	7,000,000	7,000,000	2,000,000	4,000,000	0	(6,000,000)	0	(2,500,000)	(2,500,000)	(2,500,000)	(4,500,000)
4	Charge for Buyer CCR Costs plus Buyer Deferred CCR Costs (Line 2 + prior year Line 7):	35,000,000	42,070,000	44,210,700	48,372,807	48,618,476	40,894,239	20,523,182	18,153,413	15,759,947	13,342,547	8,900,972
5	Charge for Buyer CCR Costs up to Buyer Maximum Annual CCR Billing Amount (lesser of Line 1 and Line 4)	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
6	Buyer Deferred CCR Costs Rolling Balance (Line 4 - Line 5)	7,000,000	14,070,000	16,210,700	20,372,807	20,618,476	12,894,239	13,023,182	10,653,413	8,259,947	5,842,547	1,400,972
7	Buyer Deferred CCR Costs Rolling Balance plus FERC Interest on Line 6 amount less than or equal to \$20M plus DEP Cost of Capital on Line 6 greater than \$20M. (Example assumes FERC Interest Rate is 1.0% and DEP Cost of Capital is 12.25%)	7,070,000	14,210,700	16,372,807	20,618,476	20,894,239	13,023,182	13,153,413	10,759,947	8,342,547	5,900,972	1,414,982
8	Total Buyer Annual Bill Amount:	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
Note: In accordance with Section 5.5.4, upon Agreement expiration or termination, Buyer shall pay the then-outstanding Buyer Deferred CCR Costs within ninety (90) days of such termination or expiration.												

**Exhibit IX****Rate Discount for North Carolina Excess Deferred Taxes ("Excess NC-ADIT")**

<b>Year</b>	<b>Discount (\$/kW-Month)</b>
2019	.20
2020	.20
2021	.19
2022	.18
2023	.18
2024	.17
2025	.16
2026	.15

1. The above rate discounts address past and future disposition of Duke's excess accumulated deferred income tax liability arising from the recognition of reductions in North Carolina state corporate income tax rates from 6.9% to 2.5% during the years 2013 through 2017 pursuant to the legislation adopted in North Carolina in 2013 (North Carolina House Bill 998) and in 2017 (North Carolina Senate Bill 257) (hereinafter, "Excess NC-ADIT"). These rate discounts provide full compensation for the value of: (a) the applicable rate base offsets related to Excess NC-ADIT deferred for the period of 2013-2018, to the extent these rate base offsets have not already been provided by Duke to Buyer; (b) the benefit of amortization of the Excess NC-ADIT balances over an eight-year period beginning January 1, 2019; (c) the applicable rate base offsets related to the unamortized Excess NC-ADIT balances from 2019-2026; and, (d) an interest component on the value of the 2013-2018 rate base offsets over the 2019-2026 amortization period.

**Exhibit X****Rate Discounts Pursuant to Settlement Agreement in FERC Docket No. EL20-4-000 <sup>[1]</sup>**

<b>Line</b>	<b>Year (a)</b>	<b>Discount (\$/kW-Month) (b)</b>
1	2021	0.25
2	2022	0.24 <sup>[2]</sup>
3	2023	0.24 <sup>[2]</sup>

- [1] The rate discounts set forth in this exhibit are being provided in accordance with the Settlement Agreement filed in FERC Docket No. EL20-4-000 and will be applied pursuant to Section 5.1 of the Agreement.
- [2] The values shown in column (b) at lines 2 and 3 are estimated values that reflect forecasted Monthly Coincident Billing Demands at the time of the Settlement Agreement (12,859 MW-months in 2022, and 12,873 MW-months in 2023). The rate discount that will be applied to charges for service rendered during calendar year 2022 will be based upon NCEMPA's updated forecast of Monthly Coincident Billing Demands for 2022 as prepared by NCEMPA and provided to DEP in 2021. The rate discount that will be applied to charges for service rendered during calendar year 2023 will be based upon NCEMPA's updated forecast of Monthly Coincident Billing Demands for 2023 as prepared by NCEMPA and provided to DEP in 2022.

## Exhibit XI

## Grandfathered Energy Injection Devices

1. Member: City of Wilson
  - a. Location & Address: 4523 Merck Road, Wilson, NC 27893
  - b. Delivery Point: 10
  - c. Date of First Operation: May 2019
  - d. Nameplate kW: NA
  - e. Maximum Capable Injection Capacity kW: 1,000 kW AC
2. Member: Greenville Utilities Commission
  - a. Location & Address: Evans Street, 190 East Howell Street, Greenville, NC 27834
  - b. Delivery Point: #1,2,3
  - c. Date of First Operation: November 2020
  - d. Nameplate kW: NA
  - e. Maximum Capable Injection Capacity kW: 1,000 kW AC
3. Member: Town of La Grange
  - a. Location & Address: 503 W. Railroad Street, La Grange, NC 28551
  - b. Delivery Point: 1
  - c. Date of First Operation: September 2022
  - d. Nameplate kW: NA
  - e. Maximum Capable Injection Capacity kW: 3,000 kW AC



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** FY2023-2024 Budget Amendment - Re-appropriations from FY2023-2024

**Date:** 10/9/2023

**Memo Number:** 23-68

---

As of June 30, 2023, there were a number of open items which were appropriated through the execution of a purchase order but not completed prior to the fiscal year end.

These items cannot be absorbed in this year's budget and should be re-appropriated.

All amounts to be re-appropriated were budgeted, available, and unspent as of period ending June 30, 2023.

It is recommended that Council adopt the attached budget resolution.

### **ATTACHMENTS:**

Description	Upload Date	Type
Budget Amendment - Re-appropriations	10/3/2023	Budget Amendment

## BUDGET RESOLUTION

### TOWN COUNCIL OF THE TOWN OF TARBORO

October 9, 2023

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TARBORO, NORTH CAROLINA, that the Fiscal Year 2023-2024 Budget be adjusted as follows:

<u>Account Number</u>	<u>Account Name</u>	<u>Current Budget</u>		<u>Amount of Change</u>		<u>Revised Budget</u>
<b>REVENUES</b>						
10-3991-0100	Fund Balance Appropriated	946,826	+	51,275	=	998,101
<b>EXPENDITURES</b>						
10-4120-6200	Economic Development Program	100,000	+	51,275	=	151,275

BE IT FURTHER RESOLVED that the Budget Officer is hereby authorized and directed to implement said budget as amended.





## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** Budget Amendment - Motorola Software Upgrade

**Date:** 10/9/2023

**Memo Number:** 23-69

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The North Carolina Voice Interoperability Project for Emergency Responders (VIPER) continues to grow in size. In order to maintain technological timeless and to be able to make the most efficient use of the resources VIPER must begin to address their ability to implement new capabilities to ensure continued growth and future system enhancements. Time Division Multiple Access or TDMA upgrades will allow radio channels to be divided and support more concurrent voice conversations without the need of additional base stations to address the need for growth.

Forty-five Motorola APX6000 radio's purchased by the Town in 2016 and 2017 will need software upgrades to be TDMA compatible and to remain on the VIPER network at a cost of approximately \$25,000.

It is recommended that Council approve the attached budget amendment to allocate funds for the TDMA software upgrades.

### **ATTACHMENTS:**

Description	Upload Date	Type
Budget Amendment - Motorola Upgrade	9/29/2023	Budget Amendment

## BUDGET RESOLUTION

### TOWN COUNCIL OF THE TOWN OF TARBORO

October 9, 2023

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TARBORO, NORTH CAROLINA, that the Fiscal Year 2023-2024 Budget be adjusted as follows:

<u>Account Number</u>	<u>Account Name</u>	<u>Current Budget</u>		<u>Amount of Change</u>		<u>Revised Budget</u>
<b>REVENUES</b>						
10-3991-0100	Fund Balance Appropriated	921,826	+	25,000	=	946,826
<b>EXPENDITURES</b>						
10-4145-1600	Maintenance & Repair Equipment	9,500	+	25,000	=	34,500

BE IT FURTHER RESOLVED that the Budget Officer is hereby authorized and directed to implement said budget as amended.



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** 2022 State and Local Cybersecurity Grant

**Date:** 10/9/2023

**Memo Number:** 23-70

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The Town of Tarboro applied for and received funding from the NC Department of Public Safety in the amount of \$100,000 for the 2022 State and Local Cybersecurity Grant. The purpose of this grant is to improve our organization's network security by replacing outdated, unsupported, unpatched network switches and firewall equipment. This grant will reduce the risk of cyber-attacks, data breaches, and other security incidents that could compromise the confidentiality, integrity, or availability of our data.

It is recommended that Council authorize appropriate staff to execute the necessary documents to complete and carry out the grant for 2022 State and Local Cybersecurity Grant. It is further recommended that Council approve the attached budget amendment.

### **ATTACHMENTS:**

Description	Upload Date	Type
Budget Amendment - 2022 State and Local Cybersecurity Grant	9/29/2023	Budget Amendment

## BUDGET RESOLUTION

### TOWN COUNCIL OF THE TOWN OF TARBORO

October 9, 2023

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TARBORO, NORTH CAROLINA, that the General Grant Project Fund be adjusted as follows:

<u>Account Number</u>	<u>Account Name</u>	<u>Current Budget</u>		<u>Amount of Change</u>		<u>Revised Budget</u>
<b>REVENUES</b>						
81-3760-0500	Cyber Securty Grant Revenues	-	+	100,000	=	100,000
81-3760-0100	Contribution from General Fund	-	+	7,000	=	7,000
<b>EXPENDITURES</b>						
81-8550-7300	Capital Outlay - Equipment	-	+	107,000	=	107,000

BE IT FURTHER RESOLVED that the Budget Officer is hereby authorized and directed to implement said budget as amended.



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** NCDOT - Christmas Parade

**Date:** 10/9/2023

**Memo Number:** 23-71

---

In order to receive approval from the North Carolina Department of Transportation (NCDOT) to close Main Street for the Tarboro Christmas Parade, it is necessary to adopt an ordinance declaring the road closure.

It is recommended that Council adopt the attached ordinance declaring the closure of N. Main Street from Granville Street to Hope Lodge Street for the purpose of holding the 2023 Tarboro Christmas Parade.

### **ATTACHMENTS:**

Description	Upload Date	Type
Christmas Parade Ordinance	9/29/2023	Cover Memo

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE DECLARING A ROAD CLOSURE FOR A  
CHRISTMAS PARADE**

**THE TOWN COUNCIL OF THE TOWN OF TARBORO ORDAINS:**

**WHEREAS**, the Town Council of the Town of Tarboro acknowledges a long tradition of co-sponsoring an annual Christmas parade for the pleasure of its citizens; and

**WHEREAS**, the Town Council of the Town of Tarboro acknowledges its citizens realize a financial benefit from holding an annual Christmas parade; and

**WHEREAS**, the Town Council of the Town of Tarboro acknowledges a parade requires approximately two (2) hours to install traffic control, and also requires approximately two hours for removing traffic control and litter;

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Tarboro pursuant to the authority granted by N.C.G.S. 20-169 that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Date: Sunday, December 10, 2023  
Time: 3:30 PM – 8:30 PM (Parade at 5:30 PM)  
Route Description: N. Main Street (NC 33) between Granville Street and Hope Lodge Street (SR 1213)

This ordinance to become effective when signs are erected giving notice of the limits and times of the closure, and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this 9<sup>th</sup> day of October, 2023

\_\_\_\_\_  
Tate Mayo, Mayor

Attest:

\_\_\_\_\_  
Leslie M. Lunsford, Town Clerk



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** NCDOT - New Year's Eve Event

**Date:** 10/9/2023

**Memo Number:** 23-72

---

Town staff is currently working on the 2023 New Year's Eve Event in Downtown Tarboro. In order to receive approval from NCDOT to close Main Street and St Andrew Street for the New Year's Eve Event, it is necessary to adopt an ordinance declaring the road closures.

It is recommended that Council adopt the attached ordinance declaring the closure of N. Main Street (NC 33) between St. James Street and Pitt Street, the 300 block of N. Main Street, and the 300 block of St. Andrew Street for the 2023 New Year's Eve Event.

### **ATTACHMENTS:**

Description	Upload Date	Type
New Year's Eve Event Ordinance	9/29/2023	Cover Memo

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE DECLARING A ROAD CLOSURE FOR A  
NEW YEAR’S EVE EVENT**

**THE TOWN COUNCIL OF THE TOWN OF TARBORO ORDAINS:**

**WHEREAS**, the Town Council of the Town of Tarboro has a desire to establish a New Year’s Eve event in the Town to attract visitors and provide entertainment for residents; and

**WHEREAS**, the Town Council of the Town of Tarboro acknowledges its citizens realize a social and economic benefit from holding such events; and

**WHEREAS**, the Town Council of the Town of Tarboro acknowledges this event requires approximately two (2) hours to install traffic control, and also requires approximately two hours for removing traffic control and litter;

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Tarboro pursuant to the authority granted by N.C.G.S. 20-169 that they do hereby declare a temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Date: Sunday, December 31, 2023 – Monday, January 1, 2024

Time: 4:00 PM – 1:00 AM (Event from 7:00 PM to 12:00 AM)

Route Description: N. Main Street (NC 33) between St. James Street and Pitt Street

Time: 4:00 PM – 1:00 AM

Route Description: 300 block of N. Main Street and 300 block of St. Andrew Street

This ordinance to become effective when signs are erected giving notice of the limits and times of the closure, and implementation of adequate traffic control to guide through vehicles around the road closure.

Adopted this 9<sup>th</sup> day of October, 2023.

\_\_\_\_\_  
Tate Mayo, Mayor

Attest:

\_\_\_\_\_  
Leslie M. Lunsford, Town Clerk





## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** Appointment for October - Downtown Grant Review Committee

**Date:** 10/9/2023

**Memo Number:** 23-73

---

The 2-year term for the following individuals will expire in October 2023:

Sylvia Nash  
William Broadwater  
Maggie Gregg

William Broadwater and Maggie Gregg are interested in serving another term and their application is attached.

Sylvia Nash wishes to no longer serve another term on the Downtown Grant Review Committee leaving this position vacant.

It is recommended that Council appoint individuals to fill the expired terms and vacancy at the October Council meeting.

### **ATTACHMENTS:**

Description	Upload Date	Type
William Broadwater Application	9/29/2023	Cover Memo
Maggie Gregg Application	9/29/2023	Cover Memo



## Town of Tarboro Application for Boards and Commissions

Please print or type the following information:

Name: Wm. Bret Broadwater Daytime Telephone: (919) 210-0069  
Address: 905 St. Andrew Street Ward: \_\_\_\_\_ Zip Code: 27886  
Email: wmbret.broadwater5@gmail.com  
Length of Residence in Tarboro: 5 years

Please indicate which board, commission, or committee you would like to serve:

Main Street Facade Grant committee

Why would you like to serve? To continue to assist in the Town's efforts to revitalize our historic downtown  
to encourage not only tourism but also population growth for our town

Please describe how your education, work experience, and community activities are relevant to your selection: Educated in Art

History (CSUN) and Architecture & Urban Planning (CalPoly-Pomona) along with practicing  
architecture and being a general contractor for the past 40+ years with an emphasis in Preservation

Community Activities: In addition too serving on both the Town and TDC committees, I teach a historic  
drafting course in the Historic Preservation Technology department at ECC

Employment History: 16 years in aerospace program management (Rockwell & Boeing), 25 years  
operating an architectural design firm, 4 years as principal of a merchant residential  
construction firm

Education: Have attended: Cypress Community College, Santa An College, California State University-  
Northridge & California State Polytechnic University-Pomona

Are you currently a member of any state, federal, or local board, commission, or committee? If so, please list below: Tarboro Main  
Street Facade Grant committee, Design committee of Tarboro Development Corp

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Signature of Applicant: Signature Date: October 1, 2021

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Submit Application by Mail to: Town of Tarboro (or) Fax to: 252-641-4254  
Attn: Town Manager  
P.O. Box 220  
Tarboro, NC 27886



## Town of Tarboro

### Application for Boards and Commissions

Please print or type the following information:

Name: Maggie Gregg Daytime Telephone: 252 327 0080

Address: 310 E. Saint John St. Ward: \_\_\_\_\_ Zip Code: 27886

Email: maggie.gregg@gmail.com

Length of Residence in Tarboro: 9 years

Please indicate which board, commission, or committee on which you would like to serve:

Facade Committee

Why would you like to serve? I have served on this committee since its beginning and enjoy it immensely.

Please describe how your education, work experience, and community activities are relevant to your selections: I am the regional director for Preservation North Carolina's Eastern Office. My degree is in Historic Preservation with a background prior in Real Estate

Community Activities: \_\_\_\_\_

Employment History: Tarboro Realty 2010 - 2016, Preservation North Carolina 2016 - present

Education: AS Historic Preservation, AA General education, Real Estate Brokers License

Are you currently a member of any state, federal, or local board, commission, or committee? If so, please list below: Design Committee, Facade grant committee

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Signature of Applicant: Margaret Gregg Date: 10/1/23

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Submit Application by Mail to: Town of Tarboro  
Attn: Town Manager  
P.O. Box 220  
Tarboro, NC 27886

or Fax to: 252-641-4254



***Town of Tarboro, North Carolina  
Mayor and Council Communication***

**Subject:** Appointment for October - Edgecombe County Tourism Development Authority

**Date:** 10/9/2023

**Memo Number:** 23-74

---

The (3) three-year term for Rosena Ricks will expire in October 2023.

Ms. Ricks is no longer able to serve on the Edgecombe County Tourism Development Authority leaving this position vacant.

It is recommended that Council be ready to appoint an individual to fill the vacant term at the October Council meeting.



## ***Town of Tarboro, North Carolina Mayor and Council Communication***

**Subject:** Appointment for October - Redevelopment Commission

**Date:** 10/9/2023

**Memo Number:** 23-75

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The (5) five-year term for Morris Armstrong will expire in October 2023.

Mr. Armstrong is interested in serving another term and his application is attached.

It is recommended that Council appoint an individual to fill the expired term for the Redevelopment Commission at the October Council meeting.

### **ATTACHMENTS:**

Description	Upload Date	Type
Morris Armstrong Application	9/29/2023	Cover Memo



# Town of Tarboro

## Application for Boards and Commissions

Please print or type the following information:

Name: Mavis Armstrong Daytime Telephone: 252 813-8373  
Address: PO Box 334 1207 Elm St Tarboro NC Zip Code: 27886  
Email: mavisarmstrong5752@gmail.com  
Length of Residence in Tarboro: 26 years

Please indicate in priority order the two boards, commissions, or committees on which you would like to serve:

1. Redevelopment Commission 2. \_\_\_\_\_

Why would you like to serve? I have been on the Redevelopment Commission for 20 years. I enjoyed helping the community recover from two floods and I am committed to providing decent housing for everyone.

Please describe how your education, work experience, and community activities are relevant to your selections: I am a retired teacher. I taught in the public school system of Edgecombe County for 35 years. I live in East Tarboro and I understand the needs for decent housing for everyone especially children.

Community Activities: PTA President School System Present captain, Redevelopment Commission

Employment History: Edgecombe County Schools - 35 years - Retired High School Teacher

Education: BS/MS Degree A&T State University

Are you currently a member of any state, federal, or local board, commission, or committee? If so, please list below: \_\_\_\_\_

Redevelopment Commission Tarboro NC

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Signature of Applicant: Mavis Armstrong Date: 10-3-23

All information contained on this application is subject to public disclosure and will be reviewed by public officials. Attach any additional supporting documentation that is relevant to your qualifications to serve, i.e. resume, bio, etc.

Submit Application by Mail to: Town of Tarboro  
Attn: Town Manager  
P.O. Box 220  
Tarboro, NC 27886  
or Fax to: 252-641-4254