



A Touchstone Energy® Cooperative 

P.O. Box 264
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1 (800) 846-BARC

POWER PURCHASE AGREEMENT

This Power Purchase Agreement (the “Agreement”) is entered into by and between BARC Electric Cooperative (“BARC” or the “Cooperative”), a Virginia utility consumer services cooperative with its headquarters located in Millboro, VA, and the below-named customer, a member-owner of BARC who has a Renewable Fuel Generator (“RFG”) located on his/her residence or business, which is located at the address set forth below, that is interconnected through BARC’s distribution system, and that qualifies for net metering service pursuant to BARC’s Net Energy Metering Rider (“Customer”), as of the date set forth below (the “Effective Date”). Collectively, BARC and Customer may hereinafter be referred to as the “Parties,” or individually as a “Party.”

Witnesseth:

WHEREAS, Cooperative is willing to purchase Customer’s Excess Generation and credit Customer for the value of Customer’s Excess Generation on an annual basis, and to compensate Customer for any Excess Generation Value that remains at the end of the Net Metering Period; and

WHEREAS, Customer agrees to abide by this Agreement and the Cooperative’s Terms and Conditions of Service, particularly with regard to the operation and maintenance of the RFG;

NOW, THEREFORE, in consideration of the mutual covenants, promises, agreements and benefits hereinafter set forth, and for good and valuable consideration, the receipt and sufficiency of which is hereby recognized, BARC and Customer hereby mutually agree as follows:

1. **Definitions.** The following capitalized words, terms and phrases shall have the following meanings unless otherwise contextually defined with capitalized letters in the Agreement:

a. “Excess Generation” means the amount of electricity generated by a Customer-owned Renewable Fuel Generator in excess of the electricity consumed by the Customer over the course of the Net Metering Period. For time-of-use net metering customers, excess generation is determined separately for each time-of-use tier.

b. “Excess Generation Value” means the value, based on the price established herein, of any Excess Generation credited to Customer that remains in existence at the end of the Net Metering Period.

c. “Billing Period” means the time period between two meter readings upon which BARC calculates the Customer’s bill.

d. "Billing Period Credit" means the quantity of electricity, measured in kilowatt hours (kWhs), generated and fed back into the electric grid by a Customer-owned Renewable Fuel Generator in excess of the electricity supplied to Customer over the Billing Period. For time-of-use net metering customers, Billing Period Credits are determined separately for each time-of-use tier.

e. "Net Metering Period" means each successive 12-month period beginning with the first meter reading date following the Effective Date of this Agreement.

f. "Net Metering Service" means BARC's provision of retail electric service to a Customer who is operating a Renewable Fuel Generator and BARC's measurement of the difference, over the Net Metering Period, between electricity supplied to Customer from the Cooperative's distribution system and the electricity generated and fed back to the Cooperative's distribution system by Customer. Customer may qualify for this service by owning and operating, or contracting with other persons to own, operate, or both, a Renewable Fuel Generator on Customer's premises.

g. "Renewable Energy Certificate" ("REC") means a certificate issued by a recognized certifying agency that represents the renewable energy attributes associated with the production of one megawatt hour (MWh) of electric energy generated by a Renewable Fuel Generator.

h. "Renewable Fuel Generator" ("RFG") means an electric generating facility that:

i. Uses, as its total fuel source, a renewable energy (solar, wind, hydro, energy from waste, wave motion, tides, sustainable biomass, and geothermal) as defined by § 56-576 of the Code of Virginia;

ii. Customer owns and operates, or has contracted with other persons to own or operate, or both;

iii. Is located on Customer's premises and is connected to Customer's wiring on Customer's side of the interconnection with BARC;

iv. Is interconnected pursuant to a net metering arrangement and operated in parallel with Cooperative's facilities; and

v. Is primarily intended to offset part or all of Customer's own electricity requirements at Customer's premises and is of a size that makes it reasonably equipped to do so.

2. Term and Termination

a. This Agreement shall become effective upon execution by all Parties, and shall remain in effect for one (1) year from the Effective Date. It shall thereafter continue on a month-to-month basis until terminated by either Party upon thirty (30) days written notice to the other Party.

b. This Agreement shall terminate immediately and without notice upon: (i) termination of the electric distribution service by Cooperative to Customer; or (ii) failure by Customer to comply with any of the terms and conditions of this Agreement or the laws and regulations applicable to customer-owned renewable energy facilities or Renewable Fuel Generators, whichever is applicable.

3. Terms of Purchase and Sale.

a. For residential customers, the RFG capacity may not exceed twenty (20) kilowatts alternating current, and for non-residential customers, the RFG capacity may not exceed one (1) megawatt alternating current. The total connected capacity of all generators shall not exceed 1.0% of the Cooperative's Virginia peak-load forecast for the previous year.

b. For general purposes, the Customer's tariff shall be that tariff under which Customer would be served if Customer were not a net energy metering customer (the Customer's standard tariff). Time-of-use net metering is not permitted under an electricity supply service tariff having no demand charges.

c. Over the Billing Period, electricity generated by Customer's RFG shall be metered and shall be netted against the electricity supplied to Customer by Cooperative. Customer shall receive a Billing Period Credit in any Billing Period in which the quantity of electricity generated and fed back into the electric grid by Customer's RFG exceeds the electricity supplied to Customer for the Billing Period.

d. For any Billing Period in which generation exceeds consumption, producing a Billing Period Credit, the monthly charge shall be based only on the fixed charges of Customer's standard tariff. Customer must pay only the nonusage sensitive charges for any Billing Period in which a Billing Period Credit exists. If Customer is under a time-of-use tariff with net metering, Excess Generation is determined separately for each time-of-use tier. Customer must pay only the demand charges and the nonusage sensitive charges in any Billing Period when there are credits in all tiers for that Billing Period.

e. Billing Period Credits will be carried forward and applied to offset future consumption charges within the Net Metering Period. Billing Period Credits shall be accumulated, carried forward, and applied at the first opportunity to any Billing Periods having positive net consumptions (by tiers, in the case of time-of-use customers).

f. Customer shall be solely responsible for complying with any and all other requirements of federal, state, or local law or regulation regarding the operation or maintenance of its RFG. Cooperative shall not be responsible for any additional costs related to ensuring the RFG's compliance with any legal or regulatory requirements.

4. Metering.

a. Interconnection of Customer's RFG shall be through a single meter, or additional meters.

b. Except as otherwise stated in this Agreement, Customer shall not be required to pay for additional metering, testing, or controls in order to interconnect with Cooperative. Customer may request, and Cooperative may install, additional controls or meters, or conduct additional tests. The expenses associated with these additional meters, tests or equipment shall be borne by the Party desiring the additional meters, tests, or equipment.

c. If Customer takes service under a time-of-use tariff, Customer is responsible for all incremental metering costs associated with net metering.

5. Price.

a. During the initial net metering period, and extensions thereof, Excess Generation shall be valued at a price equal to the simple average (by tiers for time-of-use customers) of Cooperative's hourly avoidable cost of energy, including fuel, based on the energy and energy-related charges of its primary wholesale power supplier for the Net Metering Period. Excess Generation purchased at the end of the Net Metering Period shall be priced on this basis.

b. In subsequent Net Metering Periods, Cooperative and Customer may mutually agree to negotiate a higher price or, after notice and opportunity for hearing, the State Corporation Commission may establish a different price or pricing methodology.

6. Billing and Payment.

a. After the Cooperative makes all deductions for any outstanding balances and other amounts owed to the Cooperative, the Cooperative shall make full payment for Excess Generation annually to Customer within 30 days following the end of the Net Metering Period.

b. In lieu of a direct payment, Customer may choose to have Cooperative credit the annual Excess Generation payment to Customer's account by providing written notice to the Cooperative.

7. Renewable Energy Certificates.

a. Customer owns any RECs associated with the total output of its RFG. Cooperative is obligated to purchase Customer's RECs only if Customer has exercised at the time of signing this Agreement its one-time option to include a provision requiring the purchase by Cooperative of all generated RECs over the duration of this Agreement.

b. Payment for all whole RECs purchased by Cooperative during a Net Metering Period in accordance with this Agreement shall be made at the same time and subject to the same terms as the payment for any Excess Generation in the section entitled "Billing and Payment." Cooperative will post a credit to Customer's account, or Customer may elect a direct payment. Any fractional REC remaining shall not receive immediate payment, but may be carried forward to subsequent Net Metering Periods for the duration of the Agreement.

c. The rate of the payment by Cooperative for Customer's RECs shall be the daily unweighted average of the "CR" component of Virginia Electric and Power Company's Virginia jurisdiction Rider G tariff in effect over the period for which the rate of payment for the Customer's RECs is determined.

d. Any additional metering costs associated with incremental metering to measure the total output of the RFG for the purposes of receiving RECs, as reasonably determined by the Cooperative, shall be installed at Customer's expense unless otherwise negotiated between Customer and Cooperative.

8. Force Majeure. Neither Party shall be considered to be in default with respect to any obligation hereunder if performance of such obligation is prevented by uncontrollable forces. The term "uncontrollable forces" is deemed for the purpose of this Agreement to mean any cause

beyond the control of the Party affected, including but not limited to flood, earthquake, severe storm, drought, lightning, fire, war, riot, civil disturbance, labor disturbance, sabotage, or restraint by a court order or other regulatory agency, which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid. Any Party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch. Nothing contained herein shall be construed to obligate a Party to settle a strike against its will.

9. Miscellaneous.

a. Assignment. Neither Party may transfer, sell, mortgage, pledge, hypothecate, convey, designate, or otherwise assign this Agreement, or any interest herein or any rights or obligations hereunder, in whole or in part, either voluntarily or by operation of law, (including, without limitation, by merger, consolidation, or otherwise), without the express written consent of the other Party (and any such attempt shall be void), which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

b. Amendment. Cooperative reserves the right, on no less than an annual basis, to change any of the terms and conditions, including pricing, in this Agreement on sixty (60) days advance written notice. Cooperative may make such changes on an immediate basis in the event any applicable law, rule, regulation, or court order requires them. In such event Cooperative will give Customer as much notice as reasonably possible under the circumstances.

c. Indemnification. To the fullest extent permitted by all laws and regulations, and in return for adequate, separate consideration, Customer shall defend, indemnify, and hold harmless Cooperative, its officers, directors, agents, guests, invitees, and employees from and against all claims, damages, losses to persons or property, whether direct, indirect, or consequential (including but not limited to fees and charges of attorneys, and other professionals and court and arbitration costs) arising out of, resulting from, occasioned by, or otherwise caused by the operation or misoperation of the Customer's RFG, or the acts or omissions of any other person or organization directly or indirectly employed by the Customer to install, furnish, repair, replace or maintain the RFG, or anyone for whose acts any of them may be liable.

d. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the Parties shall be governed and construed in accordance with the laws of the Commonwealth of Virginia without regard for any conflicts of law provisions that might cause the law of other jurisdictions to apply. All controversies, claims, or disputes arising out of or related to this Agreement or any agreement, instrument, or document contemplated hereby, shall be brought exclusively in the Circuit Court or General District Court for Rockbridge County, Virginia.

e. Third Party Beneficiaries. This Agreement is solely for the benefit of Cooperative and Customer and no right nor any cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person or corporation other than Cooperative or Customer, any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and, all provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and be binding upon Cooperative and Customer and their respective representatives, successors, and assigns.

f. Entire Agreement. This Agreement is intended to compliment, but not conflict with, the terms and conditions of the Cooperative's Net Energy Metering Rider (Schedule NEM-5) (the "Rider"), a true and correct copy of which is attached hereto as Exhibit A, and which is incorporated by reference as if fully set forth. Should any term or provision of this Agreement be found to conflict with the Rider, the terms of the Rider shall govern. With the exception of the foregoing, this Agreement and all documents incorporated herein constitute the entire agreement between the parties and supersede any oral or written understandings or agreements.

g. Severability. Each part of this Agreement is intended to be severable. In the event that any part of this Agreement is found by a court of competent jurisdiction to be illegal or unenforceable, such provision or provisions shall be severed or modified to the extent necessary to render it enforceable, and as so severed or modified, this Agreement shall continue in full force and effect.

h. Section Headings. The section headings and section numbers and letters in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

i. Further Assurances. In addition to the instruments and documents to be made, executed and delivered pursuant to this Agreement, the Parties agree to make, execute and deliver or cause to be made, executed and delivered, to the requesting Party such other instruments and to take such other actions as the requesting Party may reasonably require to carry out the terms of this Agreement and the transactions contemplated hereby.

j. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

k. Waiver. Any waiver at any time by BARC of its rights with respect to this Agreement, or with respect to any other matter arising in connection with this Agreement, shall be deemed a waiver of that specific instance only and shall not be deemed a waiver with respect to any other matter arising thereafter in connection with this Agreement.

l. Consequential Damages. Except as otherwise expressly provided for in this Agreement, in no event shall either party hereto, including its officers, directors, employees, and agents, be liable for indirect, incidental, or consequential loss or damages whatsoever.

m. Interpretation. Neither this Agreement as a whole, nor any provision of this Agreement, is to be interpreted in favor of, or against, either Customer or BARC because that party or its legal representative drafted the provision, or this Agreement.

n. Relationship of the Parties. This Agreement shall not be interpreted or construed to create an association, joint venture, partnership, or corporate affiliation between the Parties, or to impose any partnership or corporate affiliate obligation or liability on either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

[Signature Page Follows]

IN WITNESS WHEREOF, Customer and Cooperative have executed this Agreement the day and year first written above.

Customer:

By: _____

Name:

Address:

BARC:

By: _____

Name: Michael Keyser

Title: CEO/General Manager