
EXHIBIT A

**NEW POWER SALES CONTRACT BETWEEN THE ILLINOIS MUNICIPAL
ELECTRIC AGENCY AND THE CITY OF NAPERVILLE FOR THE DELIVERY
PERIOD COMMENCING OCTOBER 1, 2035**

**POWER SALES CONTRACT
BETWEEN
ILLINOIS MUNICIPAL ELECTRIC AGENCY
AND THE
CITY OF NAPERVILLE, ILLINOIS**

This Contract entered into as of the ____ day of _____, 20____, by and between ILLINOIS MUNICIPAL ELECTRIC AGENCY (“IMEA” or the “Agency”), a body politic and corporate, municipal corporation and unit of local government of the State of Illinois, and the CITY OF NAPERVILLE, ILLINOIS (“Member”), a municipal corporation created and existing under the laws of the State of Illinois; the Agency and Member may also be referred to individually as a “Party” and collectively as the “Parties;” by executing this Contract, Member continues as a Participating Member of the Agency, and all references to “Participating Members” herein or in other IMEA Power Sales Contracts shall include Member unless the context expressly or by necessary implication requires otherwise;

W I T N E S S E T H:

WHEREAS, the Illinois Joint Municipal Electric Power Act (the “Act”) enables municipalities owning or operating electric utilities, which furnish retail electric service to the public to jointly plan, finance, own and operate electric generation and transmission facilities, as well as the acquisition of fuel for the generation of electric energy, through the creation and continued operation of the Agency; and

WHEREAS, pursuant to the Act, a group of such municipalities joined together to form the Agency to acquire and construct projects or participate in projects with investor-owned utilities, generation and transmission cooperatives and others which may be used or useful in the generation, production, distribution, transmission, purchase, sale, exchange or interchange of electric energy, and the Agency has operated in accordance with the Act since 1984; the Agency presently has 32 Members, each of which is currently a Participating Member; and

WHEREAS, under the Act Member is a municipality owning and/or operating an electric utility which furnishes retail electric service to the public and may enter into and carry out contracts and agreements for the purchase from the Agency of power supply and energy transmission services, power supply development services and other services; and

WHEREAS, in order to secure an adequate, reliable and economic long term supply of electrical power and energy for Member, the Agency and Member hereby enter into this Power Sales Contract under the terms of which the Agency will sell to Member and Member will purchase from the Agency all of Member’s power and energy requirements to meet the full service obligation of its service area, including all capacity obligations imposed by the applicable Regional Transmission Organization (“RTO”), and all delivery-related services, including but not limited to transmission and distribution services from transmission and wholesale distribution service providers and ancillary service requirements of the applicable RTO and/or its underlying Transmission Owners.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements set forth in this Contract, the Agency and Member agree as follows:

Definitions

When used herein, the following capitalized terms shall have the meanings ascribed to them below unless the context expressly or by necessary implication requires otherwise:

“Board of Directors” shall mean the corporate authority of the Agency with powers as provided in the Act.

“Bonds” shall mean any revenue bonds, notes and other evidences of obligations of the Agency issued under the provisions of the Act to finance any cost, expense or liability relating to the Power Supply System or service under the Power Sales Contracts.

“Bond Ordinance” shall mean any one or more ordinances, resolutions, indentures or other similar instruments of the Agency providing for the issuance of Bonds.

“Cost Causer;” “Cost Causation” shall mean the Participating Member that causes the Agency to incur an extra-ordinary expense or investment. Under the Cost Causation principle such costs are to be borne by those customers, including but not limited to Member and/or other Participating Members or other entities to whom IMEA provides service, who make a request or decision or otherwise require or cause the action to be taken by IMEA or one of its underlying power suppliers or transmission and/or distribution service providers, thereby causing the Agency to incur the extra-ordinary expense. For purposes of this definition, “extra-ordinary expenses” are any investment, cost or other expenditure or liability incurred, assumed by or imposed on the Agency: (1) that primarily benefit one Participating Member or a group of Participating Members or other entities to whom IMEA provides service directly, rather than providing a general benefit to all or a majority of Participating Members or the Agency as a whole; and (2) that are not or have not historically been of the type ordinarily shared between Participating Members. Costs are recognized as being caused by a service if the costs are brought into existence as a direct result of providing the service or facilities, or the costs are avoided if the service or facilities are not provided. The Board of Directors will make all final decisions on whether a cost item is an extra-ordinary expense and whether a Participating Member or group of Participating Members is or are Cost Causers for purposes of implementation of this and all other Power Sales Contracts, as well as any contracts entered into by the Agency to provide service that are excluded from the definition of Power Sales Contracts.

“Delivery Point” shall mean a presently existing metered connection or connections of IMEA’s or another party’s transmission or distribution system with Member’s transmission or distribution system as set forth in Schedule A or a new or modified connection as Member may request and IMEA or another party is willing to provide in the future. Schedule A shall be updated from time to time by the Agency to reflect any new or modified Delivery Points.

“Member” shall be the city, village or town executing this Contract.

“Member-Directed Resource” shall mean a resource that meets the requirements of this definition and the option in Section 2(b-1) for Member to self-direct one or more resources with nameplate ratings or contracted shares based on nameplate ratings not to exceed the percentage of the Member’s rolling 5-year average annual peak demand set forth in such Section or as otherwise approved by the Board of Directors to be used to serve the Member’s load. Any such resource shall be developed and/or contracted for by the Participating Member only after the Board of Directors formally approves the details of the project. Any such resource shall be located within the State of Illinois unless the Board of Directors approves otherwise. For purposes of this definition the term resource is limited to devices that produce, generate or otherwise create energy or that store energy for beneficial use at a different time that are powered by wind, solar thermal energy, photovoltaic cells or panels, biodiesel, landfill gas produced in Illinois, crops and untreated and unadulterated organic waste biomass, advanced nuclear technology or small nuclear reactors that generate clean energy, and batteries and other forms of energy storage. The term resource may be expanded to include any other such devices powered by other means if they would qualify under a current or future Illinois statute that addresses generating resources that are designated as renewable, carbon-free, net-zero, clean or other similar designation for energy for use in one or more Illinois programs, even if IMEA and/or its Participating Members would not be subject to such statute or qualify for such program due to their status as municipalities, municipal corporations or units of local government; provided however clean coal powered facilities, as defined in the Illinois Power Agency Act shall not be allowed as Member Directed Resources unless specifically approved by the Board of Directors of IMEA. The term resource may also be expanded to include additional types of devices powered by other means if approved by the Board of Directors.

The existing hydro-electric power resources that were owned and operated by the Cities of Rock Falls and Peru at the time of execution of this Agreement are specifically not included in the term Member Directed Resource.

“MISO” means Midcontinent Independent System Operator, Inc., or its successor.

“Participating Members” shall mean Member and those other members that are or hereafter become parties to Power Sales Contracts, as defined below.

“Party” shall mean a party to this Contract and its successors and permitted assigns.

“PJM” means PJM Interconnection, LLC, or its successor.

“Point of Measurement” shall mean any point at which metering equipment is located for purposes of measuring power and energy deliveries to Member as set forth in Schedule A hereof. Schedule A shall be updated from time to time by the Agency to reflect any new or modified Points of Measurement.

“Power Sales Contracts” shall mean this Contract and other contracts providing for the sale of power and energy by IMEA to the other Participating Members as amended from time to time (excepting therefrom the contracts entered into by the Agency and Participating Members for

power supplies which are specifically superseded by the Power Sales Contracts and any other contracts which the Agency by action of its Board of Directors designates as being excepted from being within the definition of Power Sales Contract).

“Power Supply System” shall be broadly construed to mean, encompass and include all Projects and all electric production, transmission, distribution, conservation, load management, general plant and related facilities, equipment or property, and any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, transportation, fabrication or processing of fossil, nuclear or other fuel of any kind or any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Agency’s generating plants, now existing and hereafter acquired by lease, contract, purchase or otherwise or constructed by the Agency, including any interest or participation of the Agency in any such facilities or any rights to the output or capacity thereof, together with all additions, betterments, extensions and improvements to said Power Supply System or any part thereof hereafter made and together with all lands, easements and rights-of-way of the Agency and all other works, property or structures of the Agency and contract rights and other tangible and intangible assets of the Agency used or useful in connection with or related to said Power Supply System, including without limitation a contract right or other contractual arrangement for the long term or short term interconnection, interchange, exchange, pooling, wheeling, transmission, purchase or sale of electric power and energy and other similar arrangements with entities having generation and transmission capabilities and located within or without the State of Illinois. Power Supply System shall not include (1) any properties or interest in properties of Member, except with respect to any contract rights the Agency may have in such properties pursuant to any contract between Member and the Agency other than this Contract, and (2) any properties or interest in properties of the Agency which the Board of Directors determines shall not constitute a part of the Power Supply System for the purposes of the Power Sales Contracts with the Participating Members.

“Project” means (i) any plant, works, system, facility, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, distribution, transmission, purchase, sale, exchange or interchange of electrical energy and in the acquisition, extraction, conversion, transportation, storage or reprocessing of fuel of any kind for any such purposes, or (ii) any owned or contracted interest in, or right to the use, services, output or capacity, of any such plant, works, system or facilities.

“Prudent Utility Practice” shall mean, any of the practices, methods and acts which, in the exercise of reasonable judgment and in light of the facts (including, but not limited to, any practices, methods and acts engaged in or approved by a significant portion of electrical utility industry prior thereto) known at the time the decision was made, could have been expected to accomplish the desired result at reasonable cost consistent with reliability, safety and expediency. In applying the standard of Prudent Utility Practice to any matter under this Contract, equitable considerations shall be given to the circumstances, requirements and obligations of each of the Parties, and there shall be taken into account the fact that the Agency and Member are both political subdivisions and municipal corporations of the State of Illinois with prescribed statutory powers, duties and responsibilities. Prudent Utility Practice is not intended to be limited to the optimum practice, method or acts to the exclusion of all others, but rather to a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at reasonable

cost consistent with reliability, safety and expediency. Prudent Utility Practice includes due regard for manufacturer's warranties and the requirements of governmental agencies which have jurisdiction.

"Rate Schedule" shall mean the rate schedule or schedules setting forth the rates and charges for payments by Participating Members, including Member, for services rendered by the Agency pursuant to the Power Sales Contracts. The existing Rate Schedules are Schedule B and Schedules B-2, B-4, B-6 and B-7. The Rate Schedules may be revised from time to time by the Agency and/or new schedules may be adopted by the Agency, all in accordance with and in the manner provided for in Section 3 of this Contract, including, without limitation, any amendment, change, deletion or addition to any of the rates and charges, billing components, terms or conditions, or any adjustment set forth therein, including, but not limited to, amending the billing demand provision to impose a minimum demand whether or not based on prior demand measurements, which schedules may be applicable to any one or more Participating Members.

"Revenue Requirements" shall mean all costs and expenses paid or incurred or to be paid or incurred by the Agency resulting from the ownership, operation, maintenance, termination, retirement from service and decommissioning of, and repairs, renewals, replacements, additions, improvements, betterments and modifications to, the Power Supply System or otherwise relating to the acquisition and sale of power and energy, transmission, load management, conservation or related services hereunder and performance by the Agency of its obligations under the Power Sales Contracts for Participating Members, including, without limitation, the following items of cost:

- (1) payments of principal of and premium, if any, and interest on all Bonds issued by the Agency and payments which the Agency is required to make into any debt service reserve fund or account under the terms of any Bond Ordinance or other contract with holders of Bonds; provided, however, that Revenue Requirements shall not include any principal of or premium, if any, or interest on Bonds due solely by virtue of the acceleration of the maturity of such Bonds;
- (2) amounts required under any Bond Ordinance to be paid or deposited into any fund or account established by such Bond Ordinance (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above including any rate stabilization fund or account;
- (3) amounts which the Agency may be required to pay for the prevention or correction of any loss or damage to the Power Supply System or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are necessary to keep any facility of the Power Supply System, whether owned by the Agency or available to the Agency under any contract, in good operating condition or to prevent a loss of revenues therefrom;
- (4) costs of operating and maintaining the Power Supply System and of producing and delivering power and energy therefrom (including, without limitation, fuel costs,

administrative and general expenses and working capital, for fuel or otherwise, regulatory costs (including but not limited to wholesale rate case intervention costs), insurance premiums, and taxes or payments in lieu thereof) not included in the costs specified in the other items of this definition, costs of power supply and demand-side planning and implementation associated with meeting the Agency's power supply obligations and costs of load management and conservation;

- (5) the cost of any electric power and energy purchased for resale by the Agency to the Participating Members and the costs of transmission, scheduling, dispatching and controlling services for delivery of electric power and energy under the Power Sales Contracts for Participating Members;
- (6) all costs incurred or associated with the salvage, discontinuance, decommissioning and disposition or sale of properties;
- (7) all costs, settlements and expenses relating to injury and damage claims asserted against the Agency;
- (8) any additional cost or expense not specified in the other items of this definition imposed or permitted by any regulatory agency or which is paid or incurred by the Agency relating to the Power Supply System or relating to the provision of services to Participating Members (including any amounts to be paid into any reserve account established by the Agency under the terms of any Bond Ordinance for the payment of Revenue Requirements in the future and any provision for depreciation) which is not otherwise included in any of the costs specified herein;
- (9) amounts required to be paid by the Agency including:
 - (i) any reserves the Agency shall determine to be necessary for the payment of those items of costs and expenses referred to in this definition to the extent not already included in any other clause of this definition; and
 - (ii) additional amounts which must be realized by the Agency in order to meet the requirement of any rate covenant with respect to coverage of principal and interest on Bonds contained in any Bond Ordinance or contract with holders of Bonds or which the Agency deems advisable in the marketing of its Bonds or under any contract to which it is a party.

“Regional Transmission Organization” or “RTO” shall mean the entity designated by the Federal Energy Regulatory Commission (“FERC”) to direct operation of the regional electric transmission grid in its area, including the dispatching of generating resources, and that controls the wholesale electric markets for its area. The RTOs that currently control the areas where IMEA's Participating Members are located and where the generating resources owned by or under contract to IMEA are located or into which they are pseudo-tied are Midcontinent Independent System Operator, Inc., or its successor (“MISO”), and PJM Interconnection, LLC, or its successor (“PJM”). At the execution of this Agreement, for those Participating Members that are served by

Commonwealth Edison Company for transmission service, the currently applicable RTO is PJM. For those Participating Members that are served by Ameren Illinois Company, City of Springfield CWLP, Southern Illinois Power Cooperative, or Hoosier Energy Rural Electric Cooperative, Inc., the currently applicable RTO is MISO. Throughout the duration of this Agreement the applicable RTO is subject to change for reasons that are outside the control of the Agency and the Participating Members.

Section 1. Term

(a) Initial Term and Termination

This Contract shall take effect on the latter of the date of execution by the last party to sign hereon or the date specified by the Board of Directors in making the determination in Section 1(b) below. This Contract shall remain in effect for an initial delivery term commencing on October 1, 2035 (at the end of the then-current Power Sales Contract between Member and IMEA) and extending through and including May 31, 2055. The delivery term shall continue thereafter and run from year to year until terminated by five (5) years prior written notice.

(b) Conditions for Effectiveness of Contract

Notwithstanding any other provision herein, the Contract shall not become effective unless by April 30, 2025, or such later date as approved by the Board of Directors, (i) four (4) or more Participating Members with the combined Agency estimated coincident firm purchased power annual peak demand in 2022 of 50 MW or more have entered into new, renewed or extended Power Sales Contracts, or (ii) the Board of Directors has determined the mix of Members signing new, renewed or extended Power Sales Contracts results in sufficient benefits or cost reductions to the Participating Members in which event the Power Sales Contracts shall become effective. The Agency shall provide the Participating Members with written notice within sixty days of any final decision by the Agency that the Contract is to become effective. In the event this Contract does not become effective, any contracts between the Agency and the Participating Members, which are otherwise superseded by this Power Sales Contract, including any such contract with Member, shall not terminate but shall continue in full force and effect throughout its term.

(c) Commencement of Service and Cancellation of Existing Contract

Service to Member under this Contract shall commence on October 1, 2035.

All other power supply or transmission contracts between Member and any entity other than the Agency shall be terminated or assigned by Member to the Agency no later than the date upon which the Agency commences service to Member as provided in this subparagraph or such other action is taken as mutually agreeable by the Agency and Member.

If Member is taking power or transmission service from a supplier other than IMEA on such commencement date, the providing of power by IMEA shall commence only if that Member's obligations from such supplier have ceased pursuant to an assignment or termination of an existing contract.

Section 2. Purchase, Sale and Delivery of Electricity

(a) Sale and Purchase

The Agency agrees to provide and sell and Member agrees to take and pay for all of the electric power and energy required to meet the full service obligation of Member's service area during the term of this Contract and utilized in the operation of its municipal electric system, including all capacity obligations imposed by the applicable RTO, and all delivery-related services, including but not limited to transmission and wholesale distribution services from transmission and/or wholesale distribution service providers and ancillary service requirements of the applicable RTO and/or its underlying Transmission Owners. Batteries or other energy storage devices are a substitute for generation and are deemed to be power supply for purposes of the obligation to purchase Member's full requirements of electric power and energy under this subsection (a) and the restrictions on obtaining electric power and energy from other sources under subsection (b) of this Contract. Batteries or other energy storage devices may be used in an election for a Member Directed Resource in Section 2(b-1) below.

Under the previous Power Sales Contract, certain Participating Members, namely Peru and Rock Falls, each exercised an option to install, own and operate a hydro-electric power plant and to self-supply a portion of its load therefrom. That option is no longer available. Such Participating Members may continue to self-supply such portion of their respective loads subject to such reasonable terms and conditions and such rates and charges as the Board of Directors shall approve so long as the Participating Member owns and operates the existing hydro-electric plant. Such Participating Members shall bear all costs of ownership and operation of their hydro-electric plant and shall pay all such rates and charges established by the Board of Directors.

(b) Restrictions on Other Sources

Except as provided in the subsections of this Section 2 or in any policy, program or directive of the Agency approved and authorized by affirmative vote of the Board of Directors, Member shall not obtain electric power and energy required to meet the full service obligation of Member's service area and/or for the operation of its electric utility system from any other source; provided, however, if Member is required by law to purchase power and/or energy from a small power production facility, a cogeneration facility or other facility, Member shall immediately inform the Agency of such requirement whereupon Member and the Agency shall use their

best efforts to arrange for such purchases to be made by the Agency. If such arrangements cannot be made, then Member shall make the required purchase and sell the power and energy to the Agency at the same price and on the same terms and conditions under which it was purchased by Member, unless Member agreed to pay more than required by the law that required the purchase of power and/or energy from such facility, in which case the Agency shall pay Member an amount reasonably calculated to match what the required amount should have been. Member hereby appoints the Agency to act as its agent in all dealings with the owner or operator of any such facility from which power or energy is to be purchased by the Agency directly or indirectly and in connection with all other matters relating to any such purchase and agrees unless ordered to do so by a court of competent jurisdiction not to make any such purchase at prices or on terms and conditions not approved by the Board of Directors.

If Member has an existing partial waiver from FERC of the PURPA requirement to purchase excess power and energy from Qualifying Facilities where that obligation has been undertaken by the Agency as of the effective date of this Contract, such waiver shall be maintained for the term and any extended term of this Contract. Member shall not take any steps or cooperate with steps taken by any others to withdraw or terminate such waiver. If Member does not have an existing partial waiver from FERC of the PURPA requirements and assignment thereof to the Agency as of the effective date of this Contract, Member shall cooperate with the Agency in seeking such waiver, and if granted such waiver shall be maintained for the initial term and any extended term of this Contract. Member shall not take any steps or cooperate with steps taken by any others to withdraw or terminate such waiver.

(b-1) Member-Directed Resources Option

Member and the other Participating Members shall each have the option, but not the obligation, to elect to self-direct a portion of the power supply to serve their load from qualifying generating resources or energy storage devices. The maximum amount of such election shall be ten percent (10%) of Member's rolling 5-year average annual peak demand based on the nameplate capability of, or the contracted share of the nameplate of the resource. The Board of Directors may approve a greater percentage or amount in the future. Resources put in place by Member under one or more offerings, policies or programs of IMEA, other than this Member-Directed Resource Option, and IMEA-sponsored projects located within Member's service area will not count against the above percentage. The resource shall be located in the same delivery zone of the RTO region or Balancing Authority area as the Member or Participating Member making the election, or if approved by the Board of Directors may be located in the same zone of the RTO region or Balancing Authority area as other Participating Members, subject to such reasonable cost allocation as the Board of Directors shall require.

Under this option, Member and other Participating Members shall have the opportunity to contract for, develop, own and operate qualifying resources that would be directly connected to the Participating Member's distribution system, or alternatively to contract with a developer/provider for a portion of a large qualifying resource connected elsewhere on the regional transmission system. All power and energy to serve the total requirements load needs of such Participating Members would continue to be exclusively provided by IMEA, however, subject to the Participating Member's ability to negotiate and enter into ownership or long-term contractual commitment with one or more projects on its distribution system, or power purchase agreements with an eligible energy provider, and subject to reasonable approval by the Board of Directors, Participating Members will be able to commit to a project or a power purchase agreement and thereby self-direct the type of qualifying resource used to serve a portion of its load. The remainder of the full requirements of Participating Members electing this option shall be met under the Rate Schedules that recover the portion of the Revenue Requirement associated with the Agency's socialized resource portfolio. Such resources must be dedicated to IMEA under an agreement similar in concept to the Capacity Purchase Agreements pursuant to which Participating Members have historically dedicated their behind the meter generation to IMEA.

Member shall not use a Member Directed Resource to peak shave. Member shall still be required to purchase its full requirements from IMEA. The Member Directed Resource shall become part of the IMEA resource portfolio for serving Member. Member shall pay all costs associated with the Member Directed Resource and shall be credited or paid back for the actual RTO clearing price for capacity and day-ahead price for energy and any actual ancillary services revenues received by IMEA for the attributes used by IMEA from the Member Directed Resource to serve the participating Member. Member shall own any renewable energy or similar credits, but if they decide to sell them, rather than retire them, the Agency shall have a right of first refusal to purchase them. The Board of Directors would determine the equitable allocation of non-power supply Agency costs among Participating Members electing the option and making binding commitments to self-directed resources and those that elect to be served only from the socialized resource portfolio in the Rate Schedules to be developed and approved.

(c) Shortages

In the event that the Agency is not able to supply all of the power and energy requirements of its Participating Members because of an event of Force Majeure as defined in Section 2(d) or because of an outage of all or any part of Agency's Power Supply System or because of an event beyond Agency's control, and after such reasonable notice as the Agency may be able to give, the Agency shall allocate the power and energy available to it during any billing period among the Participating Members on a pro rata basis in accordance with the Participating Members' respective power and energy requirements supplied by the Agency during the corresponding billing period of the preceding calendar year. Where a Participating

Member did not purchase power and energy from the Agency during the corresponding billing period of the preceding calendar year, that Participating Member's purchases during such billing period from its supplier replaced by the Agency shall be used.

Although the Agency agrees to use its best efforts to avoid a shortage in supply, during any period when the Agency is unable to supply all of the Participating Member's electric power and energy requirements, Member shall be permitted to acquire from other sources the amount of electric power and energy which is not supplied by the Agency; provided, however, that at such time as the Agency is again able to supply all of Member's electric power and energy requirements, Member shall be required to take and pay for such electric power and energy in accordance with the provisions of this Contract. Before entering into any arrangement to acquire power and energy from any source other than the Agency for any period in excess of 48 hours, Member will notify and consult with Agency as to the terms and length of such purchases and obtain Agency's consent before contracting for such supply, which consent shall not be unreasonably withheld.

(d) Continuity of Service

The Agency shall employ its best efforts, in accordance with Prudent Utility Practice, to provide a constant, adequate and uninterrupted supply of power and energy to Member (except where Member is purchasing interruptible or curtailable power or non-firm energy from the Agency under a separate interruptible, curtailable or non-firm rate schedule adopted by the Board of Directors) and shall seek to restore service promptly and diligently on any interruption, but the Agency does not guarantee that service hereunder will be uninterrupted or at all times constant.

If the supply of electric power and energy to Member hereunder shall fail, be interrupted, be reduced, or become defective through an event of Force Majeure, which shall include but not be limited to an act of God, nature, common enemy, failure of any power and energy or transmission service supplier of the Agency or any public authority, or because of accident, riot, insurrection, war, explosion, labor dispute, fire, flood or prudent actions taken to prevent or limit the extent or duration of disturbances of service on Agency's system, or if one or more of its suppliers, or that of systems through which electric service is rendered to the Agency or Member is interrupted, or for any other cause beyond the reasonable control of the Agency, the Agency shall not be liable for damages caused thereby and such events shall not constitute a breach of the Agency's obligations under this Contract. No cause or contingency, however, including any failure of the Agency to supply electric power and energy to Member for any period because of any of the aforesaid conditions, shall relieve Member of its obligation to make all payments to the Agency required by this Contract, when due, for power and energy supplied by the Agency during any period.

The Agency or its underlying transmission and/or wholesale distribution service provider may interrupt service hereunder as necessary for repairs to, or changes of, equipment or facilities needed to provide service hereunder, or for installation of new equipment or facilities, but only for such reasonable times as may be unavoidable, and to the extent possible, with reasonable advance notice to, and in coordination with, Member.

Section 3. Rates and Charges

Member shall pay the Agency for all power and energy and other services furnished under this Contract from the date that service commences as provided in Section 1(c) at the rates and on the terms and conditions set forth in the Rate Schedule(s), as the Rate Schedule(s) may be changed and supplemented by the Board of Directors from time to time.

The Board of Directors shall establish and maintain its rates and charges under its Power Sales Contracts with its Participating Members to provide revenues which are sufficient, but only sufficient, together with other available revenues of the Agency, to cover the estimated Revenue Requirements of the Agency. In determining rates and charges necessary to produce sufficient revenues, the Agency shall take into account any anticipated (or actual) delinquency or default in payments by Participating Members. The Agency's rates and charges for power supply for the portion of a Participating Member's full requirements not met through the self-directed resource option discussed below and for all other bundled aspect of electric service to the Participating Members shall be set generally on a uniform postage stamp basis so as to recover all production and transmission costs in providing service to all Participating Members; provided, however, that the rates and charges may vary between Participating Members to reflect contracts with Participating Members having varying lengths of terms and/or contracts executed at different times, differences in delivery voltage level, delivery facilities costs, different load factors, and variances in service provided to Participating Members which enter into Capacity Purchase Agreements and Participating Members which do not (including a phase-in of postage stamp rates to reflect load factors of certain Participating Members) and may contain ratchets, premiums, load factor requirements and other provisions which affect all Participating Members or only Participating Members which obtain a portion of their requirements from any other source. Rates and charges may also vary between Participating Members based on the Cost Causation principle if the Board of Directors determines that Member or another Participating Member is a Cost Causer of an extra-ordinary expense or investment as defined herein above.

Notwithstanding the foregoing, the Board of Directors shall establish and maintain and may revise, amend or change from time to time in the future backup service rates for Participating Members with a hydroelectric plant and/or may charge such Participating Member for all actual costs incurred by IMEA attributable to the operation of said hydro-electric power plant, or the failure thereof, and/or costs incurred by IMEA due to the accreditation of said plant. In addition, the Board of Directors may establish separate Rate Schedules or may approve separate rate provisions in an Addendum to the Power Sales Contract for Participating Members that elect to have a portion of their full requirements met (as authorized herein) on a contracts-basis, rather than the standard socialized basis, or the Agency and one or more Participating Members, including Member, may execute Addendums to their Power Sales Contracts, so-as-to directly commit to a

portion of the output from individual eligible resource power purchase agreements or ownership arrangements. Rates and charges for the portion of the Participating Member's requirements being met under such Rate Schedules or Addendum will vary from Participating Members served exclusively or in different proportions from the socialized resource portfolio. The remainder of the Participating Member's full requirements shall be met under the Rate Schedules that recover the portion of the Revenue Requirement associated with the socialized resource portfolio.

The methodology for establishing rates and charges used by the Agency may be modified by the Agency from time to time.

The Agency shall place into effect initial rates and charges applicable on commencement of service by the Agency to the Participating Members under this new Power Sales Contract and thereafter at such intervals as it shall determine appropriate, but in any event not less frequently than once in each calendar year, the Agency shall review and, if necessary, revise its rates and charges under the Power Sales Contracts, to ensure that the rates and charges thereunder cover the Agency's estimated Revenue Requirements.

The Agency's rates and charges hereunder may include one or more automatic adjustment clauses which may be modified or changed periodically to ensure that the Agency is protected against changing cost of fuel, purchased power, taxes, and other costs of service. The automatic adjustment clauses may use estimated costs, with a later true-up to actual costs. The Agency may place an automatic adjustment clause in effect to recover costs from the date they were incurred upon thirty (30) days' notice to Member and shall provide Member supporting information which need not be the same detailed analysis as for base rate changes.

In connection with any revision of the Rate Schedule, except as to automatic adjustment clause rate changes, the Agency shall cause a notice in writing to be given to all Participating Members which shall set out any proposed revision of the Rate Schedule with the effective date thereof, which shall be not less than sixty (60) days after the date of the mailing of the notice, and which shall be accompanied by an analysis of the estimated Revenue Requirements for which the Rate Schedule is proposed to be revised and the derivation of the proposed rate. Member agrees to pay for electric power and energy made available by the Agency to it hereunder after the effective date of any revisions in the Rate Schedule in accordance with the Rate Schedule as so revised.

Section 4. Payment Obligation

(a) Nature of Obligation to Pay.

The obligation of Member to pay all rates and charges established by the Agency under Section 3 of this Contract for the delivery of power and energy and for other services provided by the Agency shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be otherwise conditioned upon the performance by the Agency of its obligations under the Power Sales Contracts for Participating Members or any other instrument or agreement. It is expressly understood that Member shall be obligated to pay all rates and

charges imposed for power and energy supplied hereunder regardless of whether any one or more projects or other facilities of the Agency constructed, purchased or undertaken to provide service hereunder are operating or operable at any time; provided, however, that except as provided by this subsection (a) nothing herein shall be construed to prevent or restrict Member from asserting any rights which it may have against the Agency under this Contract or under any provision of law, including the institution of legal proceedings for specific performance or recovery of damages.

(b) Limitation on Obligation to Pay.

All payments made by Member for services hereunder shall be made as operating expenses from the revenues of Member's electric utility system, or any integrated utility system of Member of which, Member's electric utility system may be a part, and from other funds of such system legally available therefor and shall be in addition to, and not in substitution for, any other payments, whether on account of dues or otherwise, owed by Member to the Agency. Member shall not be required to make payments under this Contract except from the revenues of Member's electric system, or other integrated public utility system of which the electric system is a part, and from other funds of such system legally available therefor. In no event shall the Agency, or any other person or entity, including any person or entity to which revenues under this Contract have been assigned or pledged, be entitled to look to, or seek to recover from, any other revenues, monies or property of Member for payment of any amounts due hereunder. The obligation of Member to make payments for services hereunder shall not constitute a general obligation of Member and shall not constitute indebtedness of Member for the purpose of any statutory limitation and Member shall not be required to make such payments from any source other than the revenues and funds referred to in the first two sentences of this paragraph. In no event shall Member be required to make payments under this Contract from tax revenues or to impose any new tax or adjust any existing tax for such purpose.

Member's electric utility system shall be deemed to be a part of an integrated utility system for purposes of this Contract if the revenues of the electric utility system (i) are commingled with the revenues of one or more utility systems owned by Member, or (ii) are utilized to pay operating expenses of Member's electric utility system and one or more other utility systems owned by Member, or (iii) are pledged to secure any bonds or other evidences of indebtedness issued to finance one or more utility systems owned by Member. For purposes of this paragraph, the term "commingled" shall not be deemed to include the keeping of funds in one bank account so long as such funds are separately accounted for on the books and records of Member. An integrated utility system shall not be deemed to exist hereunder merely (i) because Member's electric utility and another utility of Member are managed by the same commission or other public body, have common employees or facilities, the costs of which are shared, or undertake joint projects or (ii) where

surplus funds from one utility which are legally available for transfer to the general fund of Member are transferred or loaned to the other utility.

Section 5. Billing

(a) Billing Procedure

The calendar month shall be the standard period for all billing and settlements under this Contract. The Agency may, from time to time, adopt another standard period for billing and settlements. It is understood that, as soon as practicable after the end of each billing period, IMEA shall prepare and transmit a detailed statement to Member which shows amounts due from Member.

Billing period statements for charges under this Contract shall be rendered by IMEA in the month following the billing period in which the charges were incurred. Each payment shall be due, and payment of each bill shall be made to IMEA by electronic transfer or such other means as shall cause payment to be available for the use of IMEA on the first banking day following the tenth (10th) day after the date of invoice. Interest on unpaid amounts shall accrue daily at the then current published prime interest rate per annum as published in the Wall Street Journal or its successor to the extent permitted by law from the due date of such unpaid amount and until the date paid.

(b) Billing Disputes

In the event that Member takes exception to a bill rendered by the Agency, Member shall pay the disputed amount and promptly inform the Agency in writing of the basis for the dispute. Member will not be entitled to any adjustment on account of any disputed charges which are not brought to the attention of the Agency in the manner herein specified within thirty (30) days of when Member first learns of the basis for the dispute.

Within thirty (30) days of receipt of the notice of the dispute, including a written explanation by Member of the nature of the dispute, the Agency shall respond to Member's protest in writing. In the event it is determined that all or part of the disputed payment was not properly payable, then the Agency shall refund such amount together with interest thereon from the date the amount was paid until the refund is made at an annual rate equal to that established pursuant to subsection (a) above.

In addition, any billing adjustment sought by Member which is related to the Agency obtaining a similar billing adjustment from any transmission or power or energy supplier to the Agency shall be dependent upon the Agency obtaining a corresponding adjustment from its supplier. The Agency shall pursue any such corresponding adjustment with due diligence, provided that the Agency considers such adjustment to be appropriate.

(c) Service Discontinuance and Contract Termination for Failure to Pay.

Whenever any amount due remains unpaid after the due date, the Agency may take all steps available to it under applicable law to collect such amount and, subject to any applicable regulatory requirements and any applicable requirements of the applicable Regional Transmission Organization, after giving thirty (30) days advance notice in writing of its intention to do so, suspend and discontinue service hereunder if the amount remains unpaid at the end of said 30-day period. Whenever any amount due remains unpaid for one hundred twenty (120) or more days after the due date and after giving thirty (30) days advance notice in writing of its intention to do so, the Agency may terminate this Contract. No such discontinuance or termination shall relieve Member from liability for payment for electric power and energy furnished hereunder or made available to Member where Member has an obligation to take such power and energy and has not, or for damages suffered by the Agency, or any other Participating Members, as a consequence of default by Member. The Agency may, either at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of the covenants, agreements, and obligations of Member under this Contract to be performed by Member or any officer or official thereof, including but not limited to an action for specific performance, injunction and/or for damages for the remaining term of this Contract.

(d) Partial Month Bill

In the event that the initial or final month's service under this Contract is for less than a full month's service, Member shall be billed for such partial month. The bill for such fractional part of a billing period shall be proportionately adjusted by IMEA in the ratio that the number of hours that electric service is furnished to Member (in such fractional billing period) bears to the total number of hours in the billing period involved. Except as provided in this subsection with respect to fractional billing periods at the beginning and end of service, there shall be no proration of demand charges under the Rate Schedule for any billing period during any part of which power is made available to Member.

Section 6. Delivery Conditions and Metering

(a) Electric Characteristics

The electric service furnished under this Contract shall be 60 Hertz, three phase alternating current and shall be delivered to the Delivery Points and metered by the Agency, or its designee, at such location or locations and such voltages as are shown on Schedule A. The Delivery Points, the Points of Measurement, the Delivery Voltage, and Special Conditions of Service shall be as set forth in Schedule A which may be amended by the Agency from time to time to include such other Delivery Points and Points of Measurements and other provisions as

may be established by the Agency. In the event the Agency and Member agree on the need for an additional Delivery Point, the Agency will exercise Prudent Utility Practice to obtain it. When electricity is measured at more than one (1) Point of Measurement, the maximum total coincident demand of Member's system shall be determined by combining the recorded demand at each Point of Measurement during the same 60-minute interval. Member shall maintain its system power factor in accordance with the requirements of the underlying transmission and/or distribution service provider and with Schedule A as it may be amended from time to time by the Agency.

Member shall install, own and maintain or cause to be installed and maintained at Delivery Point(s) established pursuant to this Contract or elsewhere at a location mutually agreeable to the Parties hereto such facilities as may be necessary to protect the system of the delivering entity, including such transformation, control, switching and protective equipment as meets Prudent Utility Practice and the requirements of the underlying transmission and/or wholesale distribution service provider(s).

Member shall provide or cause to be provided and maintained suitable protective devices on its system to prevent any loss, injury or damage that might result from single phasing conditions or any other fluctuation or irregularity in the supply of electrical power and energy. IMEA shall not be liable for any loss, (including Member electric system revenues), opportunity costs, injury or damage resulting from a single phasing condition or any other fluctuation or irregularity in the supply of energy which could have been prevented by use of such protective device.

(b) Responsibility for Facilities

The Agency's undertaking shall be complete upon the delivery of electric power and energy to the Delivery Points. Beyond the Delivery Points, except as the Parties may agree in writing otherwise, Member shall furnish and maintain all devices, equipment and appliances, including but not limited to, control, protection, regulation and load shedding equipment, required to utilize safely and efficiently the power and energy delivered by the Agency.

If load growth or other power supply requirements or construction of facilities necessitate modifying, upgrading or relocating the existing Delivery Points on the effective date or the then-existing Delivery Point(s) or adding new Delivery Point(s), unless otherwise agreed between the Agency and Member, Member shall be responsible for construction of, and all of the costs of, the new, modified, upgraded or relocated Delivery Point(s), except that the Agency shall pay the reasonable costs actually incurred for the necessary metering equipment. The location of any new or relocated Delivery Point shall be subject to approval by the Agency, which approval shall not be unreasonably withheld. Upon request by Member, the Agency may (but shall not be obligated to) provide initial funding for the construction of new Delivery Points, subject to the requirement that Member

reimburse the Agency therefor in the manner and timeframe determined by the Agency. In such event the cost thereof, with interest and Agency project management costs attributable to said Member requested service, shall be reimbursed by Member through lump-sum payment(s) or recovered from Member through the Agency's charges, all within a reasonable timeframe and as determined by the Agency.

Member shall provide, free of charge, suitable and sufficient space on its premises, including but not limited to all structures, enclosures and access facilities, for all electric facilities reasonably necessary for the Agency to deliver and measure power and energy to Member hereunder and shall grant to the Agency, or the Agency's designee, a right-of-way over Member's premises and property for the construction and maintenance of all such facilities as shall be placed thereon which are reasonably necessary for the provision of service to Member.

The design and operating characteristics of Member's electrical equipment at the Delivery Points shall be coordinated with the Agency and shall be subject to the Agency's approval, which approval shall not be unreasonably withheld.

(c) Metering

All electric power and energy delivered under this Contract shall be measured as to real and reactive demand and energy by suitable metering equipment, including any needed area interchange, totalizing or remote metering equipment, located, furnished, installed, maintained and tested by the Agency or its designated power or transmission supplier. All energy will be measured at the service voltage at the Delivery Point by IMEA or the delivering party. In cases where IMEA or the delivering party elects to measure at a secondary voltage, IMEA or delivering party may at its option adjust the reading to a primary basis by the use of compensating meters.

It is understood that in some instances the metering equipment may not be located at the Delivery Points. All meters shall be kept under seal, such seals to be broken only when the meters are to be tested and maintained.

Member shall provide at no cost to IMEA or delivering party suitable space, if necessary, for the installation of meters and metering equipment at the Delivery Points or Points of Measurement.

The Agency's meters or the meters of the underlying transmission or wholesale distribution service provider shall measure and record the electrical power and energy furnished hereunder at such Point of Measurement. Such metering equipment shall provide a continuous record of the 60-minute integrated total demand to Member at such Point of Measurement during each billing period throughout the term of the Contract. Such records shall be available at all

reasonable times to authorized agents of Member. Meter readings will be adjusted for losses where appropriate.

(d) Meter Testing

The Agency or the underlying transmission and/or wholesale distribution service provider shall test and calibrate meters or cause meters to be tested and calibrated by comparison with accurate standards at intervals not to exceed the periodic test schedule approved by the Illinois Commerce Commission for entities subject to its authority for similar meters. The Agency shall make or cause to be made special meter tests at any time at Member's request. The cost of all tests shall be borne by the Agency, except that if any special meter test made at Member's request shall disclose that the meters are recording accurately, Member shall reimburse the Agency for the cost of such tests. Meters registering not more than 2% above or below normal shall be deemed to be accurate. The readings for any meter which shall have been disclosed by test to be inaccurate shall be corrected in accordance with the percentage of inaccuracy found by such test for the period, not exceeding ninety (90) days, that such inaccuracy is estimated to have existed. Should any meter fail to register, the electric power and energy delivered during such period of failure shall for billing purposes be estimated by the Agency and Member from the best information available. The Agency shall notify Member or cause Member to be notified in advance of the time of any meter test so that Member's representative may be present at such meter test.

Testing procedures may be changed by the Agency from time to time to reflect current electric industry practice and such change shall be incorporated by the Agency within Schedule B. Member shall be entitled to install its own backup parallel metering.

(e) Limited Agency Relationship

Member hereby designates IMEA to be the agent for Member for the limited purpose of: (i) planning for and meeting requirements and obligations imposed on Member by the applicable RTO in connection with its status as a load serving entity or other market participant activities in the wholesale electricity markets of the applicable RTO; (ii) purchase of transmission services and wholesale distribution services in connection with the delivery of power and energy to serve Member's load, including any connection, interconnection, construction or related agreement with or tariff of the owner and/or operator of the transmission and/or distribution system to which Member's system is directly or indirectly connected; (iii) negotiating, executing and implementing any agreements with the owners of the transmission and distribution systems to which Member's distribution system is physically connected and the applicable RTO regarding transmission and distribution service necessary to deliver the power and energy to be supplied hereunder to Member and agreements regarding the connection of the respective systems and upgrades or new connections thereof; and (iv) managing any power

purchase agreement or ownership arrangement entered into by Member in connection with an election under the Member-Directed Resources option. IMEA agrees to act on Member's behalf as such agent.

Section 7. Additional Covenants of the Agency.

The Agency covenants and agrees as follows:

(a) Performance

The Agency shall perform all of its obligations under this Contract promptly with due diligence in accordance with Prudent Utility Practice. The Agency shall employ its best efforts to provide adequate, reliable and reasonable cost electric service to Member under this Contract. To this end the Agency shall plan to have such power and energy and such transmission resources available by contract or otherwise as are necessary and desirable to meet the requirements of all Participating Members, including reasonably anticipated growth as projected by the Agency.

The Agency will perform or cause to be performed services, including but not limited to, (i) coordinating and monitoring the investigating, studying, planning, engineering, designing, financing, installing, constructing, acquiring, operating, maintaining, retiring, decommissioning or disposing of any part of its Power Supply System; (ii) issuing and selling Bonds; (iii) planning, undertaking, coordinating and monitoring the economic dispatching and scheduling of power and energy to the Participating Members but only to the extent that the Agency possesses at the time its own load control capability; and (iv) providing such other services as the Agency from time to time shall determine to be appropriate or necessary to provide to Member and enable Member to utilize an adequate, reliable and economic supply of power and energy.

The duration and term of all contracts entered into by the Agency for the acquisition of facilities or for the acquisition of power and energy shall be determined by the Agency in light of its analysis of the power markets and determination of an appropriate mix of short, intermediate and long-term resources.

(b) Enforcement of Obligations

The Agency shall promptly collect all amounts due and enforce all provisions of the Power Sales Contracts and shall at all times maintain and promptly and vigorously enforce its rights against any Participating Member which does not pay sums when due or perform the contract obligations pursuant to the provisions of Section 5 of such Participating Member's Power Sales Contract. Likewise, IMEA will collect all amounts due and vigorously enforce its rights under and all provisions of any other contracts with any other purchasers.

(c) Records and Accounts

The Agency shall keep accurate records and accounts of its operations in connection with this Contract in accordance with generally accepted accounting practices. The Agency's books and records shall be audited independently once a year. Member shall have the right at any reasonable time to examine and audit such records at Member's expense.

(d) Prudent Utility Practice

The Agency shall, in accordance with Prudent Utility Practice: (i) at all times operate and conduct its business in connection with this Contract in an efficient manner, (ii) maintain the Power Supply System in good repair, working order and condition, and (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the Power Supply System so that at all times the business carried on in connection therewith shall be properly conducted.

(e) Other Services

The Agency may (but shall not be obligated to) provide such other services to Member as Member may request, including but not limited to, maintenance of Member's system, billing of Member's customers, safety training, load management, and meter reading. For any such service so provided by the Agency, the Agency will adopt charges therefor includable within its Rate Schedule(s), which charges shall be paid only by those Members requesting such service.

(f) Marketing Power.

After satisfying, to the extent provided for herein, the total requirements of all Participating Members, IMEA shall use its best-efforts to market and dispose of under the most economically advantageous terms and conditions obtainable, all its surplus electric power and energy which in the sole judgment of IMEA can be disposed of without adversely affecting performance by IMEA under this Contract.

(g) Sales to Non-Participating Members and Eligible Utilities

The Agency may provide power and energy to Members and eligible utilities as defined in the Act which are not Participating Members at rates and under terms and conditions to be prescribed by the Board of Directors.

Section 8. Additional Covenants of Member.

Member covenants and agrees as follows:

(a) Maintenance of Rates

Member shall maintain rates for electric power and energy to its customers so that such rates shall provide revenues which, together with other funds estimated to be available, will be sufficient to meet Member's obligations to the Agency under this Contract, and all other operating expenses of Member's electric system, and to pay all obligations of Member payable from, or constituting a charge or lien on, the revenues of its electric system.

If Member establishes or maintains an integrated utility system of which the electric system is a part for its electric, water, sanitary sewer, wastewater or similar utility systems (or any combination of two or more thereof which includes its electric system), it shall maintain its rates for the services provided to the customers of its integrated utility system so that such rates shall provide revenues, which, together with other funds estimated to be available, will be sufficient to meet Member's obligations to the Agency under this Contract, and all other operating expenses of Member's integrated utility system, and to pay all obligations payable from, or constituting a charge or lien on, the revenues of its integrated utility system.

(b) No Sale or Lease

Member shall not sell, lease or otherwise dispose of all or substantially all of its electric system except on one hundred twenty (120) days' prior written notice to the Agency and, in any event, shall not so sell, lease or otherwise dispose of the same unless all of the following conditions are met: (i) at the sole option of the Agency either (x) Member shall assign this Contract and its rights and interests hereunder to the purchaser, assignee or lessee of the electric system and such purchaser, assignee or lessee shall assume all obligations of Member under this Contract in such a manner as shall assure the Agency to its sole satisfaction that the amount of electric power and energy to be purchased hereunder and the amounts to be paid therefor will not be reduced, and if and to the extent deemed necessary by the Agency in its sole discretion to reflect such assignment and assumption, the Agency and such purchaser, assignee or lessee shall enter into an agreement supplemental to this Contract to clarify the terms on which power and energy are to be sold hereunder by the Agency to such purchaser, assignee or lessee; or (y) such purchaser, assignee or lessee shall enter into a new contract with the Agency for the purchase of electric power and energy in amounts, at prices and on terms which the Agency in its sole discretion determines not to be less beneficial to it and the other Participating Members than this Contract is and, upon such sale, lease or other disposition and the entering into of such new contract, this Contract shall be terminated; (ii) the senior debt, if any, of such purchaser, assignee or lessee, if such purchaser, assignee or lessee is not a Participating Member, shall be rated in one of

the three highest whole rating categories by at least one nationally-recognized bond rating agency; and (iii) the Agency shall by resolution determine that such sale, lease or other disposition will not adversely affect the other Participating Members of the Agency or the value of this Contract, or any new contract entered into pursuant to clause (i) (y) above, as security for the payment of Bonds and interest thereon or adversely affect the eligibility of interest on Bonds (then outstanding or thereafter to be issued) for federal tax-exempt status. The Agency shall make the determinations required by this subsection (b) within one hundred twenty (120) days of receipt by the Agency of the notice referred to in the first sentence of this subsection (b) and shall set forth those determinations in writing to Member.

In the event any sale, lease or other disposition is permitted pursuant to this subsection (b), Agency may request as additional security to preserve the flow of revenues under this Contract, and Member shall provide the funds to establish an escrow deposit equivalent to Member's pro rata contribution to the Agency's Revenue Requirements for the balance of this Contract's term. Every five years, after the establishment of such escrow deposit, Agency will release to Member such of the funds in the escrow equivalent to those paid to the Agency by Member's purchaser, assigns or lessee during such previous five years.

(c) Prudent Utility Practice

Member shall, in accordance with Prudent Utility Practice, (1) at all times operate its electric system, or integrated utility system of which the electric system is a part, and the business in connection therewith in an efficient manner, (2) maintain its electric system, or integrated utility system of which the electric system is a part, in good repair, working order and condition, and (3) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the electric system, or integrated utility system of which the electric system is a part, so that at all times the business carried on in connection therewith shall be properly conducted.

(d) Operating Expenses.

Member represents, warrants and covenants that all payments to the Agency pursuant to this Contract shall constitute operating expenses of Member's electric system (and any future ordinance authorizing borrowing by Member shall provide that such payments constitute operating expenses of the electric system) payable from any operating and maintenance fund established for such system, or for such integrated utility system of which the electric system is a part, and that such operating expenses are and shall remain payable from the revenues of Member's electric system, or integrated utility system, prior (except to the extent that any provision in any existing bond ordinance or borrowing resolution of Member governing outstanding obligations of Member provides to the contrary) to payment of any debt service payable from such revenues.

(e) Tax Status

- (i) Member shall not use or permit to be used any of the electric power and energy acquired under this Contract or operate its system in any manner or for any purpose or take any other action or omit to take any action which could, either alone or in conjunction with any other similar actions by Member or other Participating Members of the Agency, result in loss of the exclusion from gross income for federal income tax purposes of the interest on any Bond or Bonds issued by the Agency, or which could be issued by the Agency in the future, as that status is governed by the federal income tax laws, as amended from time to time, including but not limited to, Section 141 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations or any rulings promulgated thereunder or as affected by a decision of any court of competent jurisdiction (collectively, the “Tax Laws”).
- (ii) At the time of execution of this Contract, Member has no contracts whereby any person, corporation, partnership or other non-governmental entity agrees to purchase from Member electric power and/or energy provided to Member under this Contract for a period of more than thirty (30) days except as shown on Schedule D hereto, and Member has no current expectation of entering into any such contracts, except as set forth in Schedule D hereto. At least sixty (60) days prior to entering into any contract whereby any person, corporation, partnership or other non-governmental entity agrees to purchase from Member electric power and/or energy provided to Member under this Contract for a period of more than thirty (30) days, Member shall notify the Agency of its intent to enter into such contract and provide copies of such contract to the Agency. Within sixty (60) days after receipt of such notice, the Agency shall advise Member as to whether, in the opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency, the entering into of such contract would result in a violation of the covenant in clause (i) above. The cost of this opinion shall be borne by Member. Any determination by the Agency that any such contract would violate the-covenant set forth in clause (i) above shall be made by the Agency based upon the aforementioned opinion. In the event that allocations are necessary under the Tax Laws to determine whether entering into any such contract violates the covenant set forth in clause (i) above, the Agency shall make such allocations, in its sole discretion, after receipt of an opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency and paid for by Member.

(f) Sale of Power.

Member shall not sell at wholesale any of the electric power and energy delivered to it hereunder by the Agency to any customer of Member or any other entity for

resale by that customer or entity, unless it has first given the Agency 60 days written notice of its intent to sell such power and energy. The Agency, after receipt of such notice, shall have 30 days in which to impose limits on the amount of power and energy to be sold or to veto such sale if the sale will jeopardize the Agency's availability of resources to serve its Participating Members or increase the cost of power and energy to the Agency.

- (g) Member Rate Design. Nothing in this Contract shall be construed to diminish or surrender the power of Member to regulate the rate design for public services rendered by Member to its ratepayers.

Section 9. Cooperation.

If it becomes necessary by reason of any emergency or extraordinary condition for either the Agency or Member to request the other Party to furnish personnel, materials, tools, or equipment for the accomplishment of its obligations hereunder, the other Party shall cooperate with the requesting Party and render such assistance as the other Party may determine to be available. The Party making such request, upon receipt of itemized bills from the other Party, shall promptly reimburse the other Party for all costs reasonably associated with providing assistance, including but not limited to costs of labor, supplies, facilities and equipment and may include an amount not to exceed ten percent (10%) of the total for administrative and general expenses; such costs are to be determined on the basis of current charges or rates used in its own operations by the Party rendering the assistance.

Section 10. Assignment of Contract.

- (a) This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Contract provided, however, that, except for any assignment by the Agency authorized by subsection (b) of this section, and except for any assignment by Member in connection with the sale, lease or other disposition of all or substantially all of its electric system as provided for in Section 8(b) above, neither this Contract nor any interest herein shall be transferred or assigned by either Party, except with the consent in writing of the other Party, which consent shall not be unreasonably withheld, it being understood that it would be reasonable for the Agency to withhold such consent if such transfer or assignment would (i) reduce the total amount of electric power or energy being sold hereunder; (ii) be to a party (other than a Participating Member of the Agency) with senior debt, if any, not rated in one of three highest whole rating categories by at least one nationally recognized bond rating agency; or (iii) adversely affect the value of this Contract or any new contract entered into pursuant to clause (i) (y) of Section 8(b) hereof as security for the payment of Bonds and interest thereon or affect the eligibility of interest on Bonds (whether then outstanding or thereafter to be issued) for federal tax-exempt status. No assignment or transfer of this Contract shall relieve the Parties of any obligation hereunder, unless specifically agreed to in writing by the other Party. It is understood and agreed that if this Contract is assigned or pledged by the Agency pursuant to subsection (b) of this section 10, no

proposed assignment of this Contract by Member shall be consented to by the Agency except in accordance with the terms of such assignment and pledge by the Agency and any applicable Bond Ordinance or other governing instrument of the Agency, in addition to the foregoing.

- (b) It is understood and agreed that the Agency may issue Bonds (or other financial instruments) and enter into long-term contractual obligations on behalf of the Agency and Participating Members in connection with meeting its obligations under this Contract. Member acknowledges and agrees that the Agency may assign and pledge to any trustee or similar fiduciary designated in any Bond Ordinance all of, or any interest in, the Agency's right, title and interest in, to and under this Contract and all payments to be made to the Agency under the provisions of this Contract as security for the payment of the principal (including sinking fund installments) of, premium, if any, and interest on any Bonds and all other payments as required by the Bond Ordinance and may deliver possession of this Contract to such trustee in connection therewith, and, upon such assignment, pledge and delivery, the Agency may grant to such trustee any rights and remedies herein provided to the Agency and thereupon any reference herein to the Agency shall be deemed, with the necessary changes in detail, to include such trustee. Member agrees to take all steps necessary to facilitate any such assignment and pledge.

Section 11. Insurance.

The Parties to this Contract shall each procure and maintain such policies of general liability insurance and other insurance or self-insurance as shall be necessary in accordance with Prudent Utility Practice to insure themselves against any claim or claims for damages arising by reason of property damage, personal injury or death occasioned directly or indirectly in connection with the operation of its electric system, or integrated utility system of which the electric system is a part, or the performance of activities undertaken by it in connection with this Contract.

The Agency and Member shall maintain insurance, if available, or self-insurance on their electric facilities to cover damage or accident to those facilities in an amount consistent with Prudent Utility Practice.

Each Party agrees to defend, indemnify and hold harmless the other Party against any and all claims, liability, loss, damages or expense, including attorneys' fees, caused by or resulting solely from the operation of the indemnifying Party's electric facilities, or integrated utility system facilities, or solely from the negligent acts or omissions of the indemnifying Party, its employees or agents. This provision is not intended to be, and shall not be construed to constitute, a waiver for any purpose as to any person or entity of any statutory claim, procedure or statutory limitation on liability applicable to either Party.

Section 12. Opinions as to Validity.

If reasonably requested by the Agency in connection with a financing or long-term contract by the Agency, Member shall timely furnish the Agency with an opinion by an attorney or firm of

attorneys and a certificate from Member to the effect that (i) Member is a political subdivision and municipal corporation of the State of Illinois and is fully authorized and empowered under the laws of the State of Illinois to enter into this Contract and to perform its obligations hereunder, (ii) based upon the attorney's knowledge and due investigation, no consent, order, waiver or any other action by any person, board or body, public or private, is required as of the date of execution of this Contract by Member for Member to enter into this Contract and to perform its obligations hereunder, (iii) based upon the attorney's knowledge and due investigation, there is no action, suit or proceeding at law or in equity or by or before any court, administrative agency, governmental instrumentality or other agency pending or threatened against or affecting Member or its electric utility system (or, if Member's electric utility system shall be deemed to be a part of an integrated utility system, such integrated utility system) which seeks to prohibit, restrain or enjoin Member from entering into or complying with its obligations contained in this Contract, including payment of obligations to the Agency, or in any way affects or questions the validity or enforceability of this Contract, or in any way might materially adversely affect Member's ability to carry out the transactions contemplated by this Contract, (iv) this Contract has been duly and validly authorized, executed and delivered by Member and constitutes a legal, valid and binding obligation of Member enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization and similar laws of general application relating to the rights and remedies of creditors, and (v) the execution and delivery of this Contract and compliance by Member with its terms will not conflict with, or constitute on the part of Member a breach of or a default under, any existing statute, law, governmental rule, regulation, decree, resolution, ordinance, charter or order, or any agreement, indenture, mortgage, lease or instrument to which Member is subject or by which it is or its properties are or may be bound.

Member shall at its sole expense furnish the Agency, in form and substance satisfactory to and at such time requested by the Agency, such additional legal opinions, certificates, instruments and other documents as the Agency may reasonably request. The Agency shall at its sole expense furnish Member, in form and substance satisfactory to and at such time requested by Member, such additional legal opinions, certificates, instruments and other documents as Member may reasonably request.

Section 13. Dispute Resolution/Procedure.

Should any dispute arise under this Contract concerning the interpretation or application of the Contract or should any controversy, claim or counterclaim arise, then before the initiation of litigation, such dispute shall be submitted to the chief executive officers of the Parties for resolution. Each Party shall designate its chief executive officer. In the event no agreement is reached, the Parties shall have all remedies, either at law or in equity, including but not limited to an action for specific performance, mandamus, and/or injunction.

Section 14. General Provisions.

(a) Regulation.

This Contract, and the respective obligations of the Parties hereunder, are subject to all valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction.

(b) Access and Information.

Duly authorized representatives of the Agency and Member shall be permitted to enter the other's premises at all reasonable times in order to carry out the provisions of this Contract.

The Agency and Member will promptly furnish each other such information as may be reasonably requested from time to time in order to carry out more effectively the intent and purpose of this Contract, or as may be reasonably necessary and convenient in the conduct of the operations of the Party requesting such information. Without limiting the generality of the foregoing, Member shall, upon request, furnish to the Agency all such information, certificates, engineering reports, feasibility reports, information relating to load forecasting and power supply planning, financial statements, opinions of counsel (including the opinion required by Section 12 hereof), official statements and other documents as shall be reasonably necessary in connection with any financial reporting by the Agency, or any issuance of Bonds or any other financing instruments and other contractual obligations undertaken by the Agency on behalf of the Participating Members.

Each Party may audit the books and records of the other Party upon reasonable request, and the cost shall be paid by the requesting Party.

Member shall assist the Agency in forecasting Member's power and energy requirements to be provided under this Contract. To this end Member shall promptly provide the Agency with notice of all anticipated changes in Member's electric load and shall provide the Agency with Member's projected future power and energy requirements in such form or for such periods as the Agency may from time to time request. Member also shall provide the Agency with all other information reasonably sought by the Agency for the purpose of load forecasting and planning.

Member further agrees to provide such certificates and opinions as may be required by the Agency for any financing or other financial security.

(c) Compliance with Terms of Service.

Member agrees to comply with all terms and conditions of service applicable to sales of power and energy and/or transmission and wholesale distribution service

procured by the Agency from any supplier for Member's load, including any connection, interconnection, construction or related agreement with or tariff of the owner and/or operator of the transmission and/or distribution system to which Member's system is directly or indirectly connected. The Agency shall provide Member with a copy of all such terms and conditions of service.

(d) Demand-Side Programs.

Member agrees to cooperate with and endeavor to implement at Member's cost any demand-side, demand response, conservation, load management and similar programs of the Agency adopted in connection with the provision of service hereunder.

(e) Relationship to and Compliance with Other Instruments.

It is recognized by the Parties hereto that, in undertaking, or causing to be undertaken, the planning, financing, construction, acquisition, operation and maintenance of the Power Supply System, the Agency must comply with the requirements of any Bond ordinance, any agreements for the purchase or transmission of power and energy, any agreement with any owner or co-owner of or participant or co-participant in any facility included in the Power Supply System relating to the construction, operation or maintenance thereof and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, acquisition, operation and maintenance, and it is therefore agreed that the Agency's performance under this Contract must be consistent with the terms and provisions of any Bond Ordinance, any such agreements for the purchase or transmission of power and energy (including any provisions for the curtailment or interruption of power and energy or transmission service contained therein), any such agreement with any owner or co-owner of or participant or co-participant in any facility included in the Power Supply System and all such licenses, permits, and regulatory approvals.

(f) No Relationship Created

None of the provisions of this Contract is intended to create, nor shall it be deemed to create, any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effectuating the provisions of this Contract. Except as specifically provided for herein, neither Party, nor any of their respective officers, agents or employees, shall be construed to be an officer, agent or employee of the other, solely by reason of the existence of this Contract. Except as specifically provided for herein, neither Party shall make any contract or representation, or incur any liability or obligation whatsoever, on behalf of or in the name of the other Party.

(g) Amendment.

Except as provided for expressly herein, neither this Contract nor any terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing executed by each Party to this Contract.

(h) Governing Law.

This Contract shall be governed by, and construed in accordance with, the laws of the State of Illinois without regard to any conflicts of law principles.

(i) Delays and Waivers.

The failure of either Party to insist in any one or more instances upon the performance of any of the terms, covenants or conditions of this Contract shall not be construed as a waiver or relinquishment of the future performance of any other term, covenant or condition, but the defaulting Party's obligation with respect to future performance of any other term shall continue in full force and effect. The failure of either Party to take any action permitted to be taken by it by this Contract shall not be construed as a waiver or relinquishment of that Party's right thereafter to take such action.

(j) Headings; References.

The headings used in this Contract are for convenience only and shall not constitute a part of this Contract. Unless the context clearly requires otherwise, all references to "Sections" and other subdivisions are to the sections and subdivisions of this Contract.

(k) Severability.

In the event that any of the terms, covenants or conditions of this Contract, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, the remainder of this Contract and the application of its terms, covenants or conditions to such persons or circumstances shall not be affected thereby. If any provision of this Contract is held invalid, the Parties agree to negotiate a revision to this Contract which to the extent possible restores the original intent of this Contract with respect to the invalid provision.

In the event that any of the terms, covenants or conditions of any Power Sales Contract for Participating Members (other than this Contract), or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, it is agreed by the Parties hereto that such invalidity shall have no effect whatsoever upon any of the terms, covenants or conditions of this Contract.

(1) Notices.

Any notice required or permitted under this Contract shall be in writing and shall be given by personal delivery, including by electronic mail; by private courier service, such as Federal Express or United Parcel Service; or by certified mail, return receipt requested, addressed as follows:

To the Agency: Illinois Municipal Electric Agency
Attention: President & CEO
3400 Conifer Drive
Springfield, Illinois 62711
e-mail: kgaden@imea.org

To Member: City of Naperville
Attention: Mayor
400 S. Eagle Street
Naperville, IL 60540

Either Party may, by written notice, designate a different or additional address for notices to it. All notices hereunder shall be effective only upon receipt by the Party to which notice is being given. If a Party declines or refuses to accept or otherwise frustrates reasonable attempts to make delivery of the notice, the notice shall be deemed to have been received and shall be effective as of the date one day after it was sent.

(m) Survivorship of Obligations.

The termination of this Contract shall not discharge either Party hereto from any obligation it owes to the other Party under this Contract 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 Contract or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Contract) shall survive the termination of this Contract.

Section 15. No Adverse Distinction

IMEA agrees that there shall be no adverse distinction and no pattern of undue discrimination in carrying out its obligations under this Contract relating to Member as compared to other Participating Members; provided, however, that differences in treatment between Participating Members based on variances in cost of service determined by the Agency and other criteria as provided for in Section 3 shall not be considered an adverse distinction or undue discrimination for purposes of this Contract. Member's sole remedy for adverse distinction is pursuant to this Contract.

Section 16. Intergovernmental Freeze.

This Contract and the obligations hereunder shall not be subject to the Local Government Financial Planning and Supervision Act of the State of Illinois, or, to the extent permitted, to any other stay, moratorium, freeze or bankruptcy law.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their proper officials, respectively, being thereunto duly authorized, and their respective corporate seals to be hereto affixed, as of the day, month and year first above written.

ILLINOIS MUNICIPAL ELECTRIC AGENCY

By: _____
President & CEO

ATTEST:

Assistant Secretary-Treasurer

CITY OF NAPERVILLE, ILLINOIS

By: _____
Mayor

ATTEST:

City Clerk

REVISED SCHEDULE A

ILLINOIS MUNICIPAL ELECTRIC AGENCY SERVICE SPECIFICATIONS

MEMBER: City of Naperville, Illinois

1. **Applicability.** These service specifications are applicable to the Power Sales Contract dated as of February 6, 2007 covering the supply and delivery of electric power and energy by the Agency to the City of Naperville, Illinois, hereinafter referred to as the "Participating Member".
2. **Points of Delivery.** The Agency is obligated to deliver electric power and energy contracted for by the Participating Member at the following points and voltages, which are shown in the diagram under paragraph 5 hereof:

| <u>Delivery Point Identity and Location</u> | <u>Delivery Voltage</u> |
|--|-------------------------|
| a) City's tap on ComEd Bus [REDACTED], Line [REDACTED], NED Westside Substation | 138 kV |
| b) City's tap on ComEd Bus [REDACTED], Line [REDACTED], NED Westside Substation | 138 kV |
| c) City's tap on ComEd Line [REDACTED] tap, NED Route 59 Substation, | 138 kV |
| d) City's tap on ComEd Line [REDACTED] tap, NED Route 59 Substation, | 138 kV |
| e) City's tap on ComEd Line [REDACTED] tap, NED Springbrook Substation, | 138 kV |
| f) City's tap on ComEd Line [REDACTED] tap NED Springbrook Substation, | 138 kV |
| g) City's tap on ComEd Line [REDACTED] tap | 138 kV |
| h) City's tap on ComEd Line [REDACTED] tap, | 138 kV |
| i) ComEd Line [REDACTED] tap Metering Station, | 138 kV |
| j) Nalco Co-Gen connection to NED Pebblewood Substation, Circuit # [REDACTED] | 12.47 kV |
| k) Solar Facility – 1000 kW | 12.47 kV |

3. **Points of Measurement.** The Agency shall meter electric power and energy delivered to the Participating Member as follows and as shown in the diagram under paragraph 5 hereof:

| <u>Metering Point Identity and Location</u> | <u>Metering Voltage</u> |
|---|-------------------------|
| a) From ComEd Bus [REDACTED], Line [REDACTED] NED Westside Substation, | 138 kV |
| b) From ComEd Bus [REDACTED], Line [REDACTED] NED Westside Substation, | 138 kV |
| c) From Com Ed Line [REDACTED] tap NED Route 59 Substation, | 12.47 kV |
| d) From ComEd Line [REDACTED] tap NED Route 59 Substation, | 12.47 kV |
| e) From ComEd Line [REDACTED] tap NED Springbrook Substation, | 12.47 kV |
| f) From ComEd Line [REDACTED] tap NED Springbrook Substation, | 12.47 kV |
| g) From ComEd Line [REDACTED] tap NED Royce Rd. Substation, | 12.47 kV |
| h) From ComEd Line [REDACTED] tap NED Royce Rd. Substation, | 12.47 kV |

- | | |
|---|----------|
| i) ComEd Line [REDACTED] tap Metering Station | 138 kV |
| j) From Nalco Co-Gen NED Pebblewood Substation, Circuit [REDACTED] | 12.47 kV |
| k) Solar Facility – 1000 kW | 12.47 kV |

3. Adjustments. Where electric power and energy are metered on the low side of a transformer at any Point of Delivery, meter readings for all electric power and energy supplied by the Agency at such metering point will be increased to compensate for transformer losses between the delivery voltage and the metering voltage.

If there are other losses between any Point of Measurement and any Point of Delivery, an appropriate loss factor will be used to compensate for losses.

5. Diagram: Following is a one-line diagram of the facilities at each Point of Delivery and Point of Measurement. The engineering and electric system design information contained in the attached one-line drawing classifies as Critical Electric Infrastructure Information (CEII) and it is not available for public inspection. A public version is attached for public records purposes.

Effective: _____

Approved: _____ Issued by: _____

SCHEDULE B

**ILLINOIS MUNICIPAL ELECTRIC AGENCY
POWER SALES RATE SCHEDULE**

TO BE APPROVED BY IMEA BOARD OF DIRECTORS IN THE FUTURE.

SCHEDULE D

MEMBERS LONG TERM POWER CONTRACTS FOR SALES