

PUBLIC SERVICE COMPANY OF NEW MEXICO  
ELECTRIC SERVICE AGREEMENT NO. 37589 - NM

STANDARD METERING AND BILLING AGREEMENT FOR  
QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF GREATER THAN 10 KW  
AND LESS THAN OR EQUAL TO 10 MW:

This Agreement is made by and between SFFD Station 8 (Customer) and PNM (Utility) also referred to collectively as "parties" and singularly as "party." Customer receives electric service from Utility at 6794 Jaguar Dr, Santa Fe NM 87507 under account no. 115942916-1269792. Customer has located at these premises a qualifying facility (QF) as defined by 17.9.570 NMAC, having an installed capacity of greater than 10 kilowatts and up to and including 10 megawatts, which is interconnected to Utility pursuant to Interconnection Agreement No. 37589, attached as Appendix A. For good and valuable consideration, Customer desires to sell or provide electricity to Utility from the QF and Utility desires to purchase or accept all the energy produced by the QF that is not consumed by Customer, and the parties agree to the following terms and conditions:

A. DEFINITIONS. Whenever used in the agreement, the following words and phrases shall have the following meanings:

1. agreement shall mean this agreement and all schedules, tariffs, attachments, exhibits, and appendices attached hereto and incorporated herein by reference;
2. interconnection facilities shall mean all machinery, equipment, and fixtures required to be installed solely to interconnect and deliver power from the QF to the Utility's system, including, but not limited to, connection, transformation, switching, metering, relaying, line and safety equipment and shall include all necessary additions to, and reinforcements of, the Utility's system;
3. prudent electrical practices shall mean those practices, methods and equipment, as changed from time to time, that are commonly used in prudent electrical engineering and operations to operate electric equipment lawfully, and with safety, dependability, efficiency and economy;
4. qualifying facility (QF) shall mean a cogeneration facility or a small power production facility which meets the criteria for qualification contained in 18 C.F.R. Section 292.203;
5. point of delivery shall mean the geographical and physical location described on Appendix B hereto; such appendix depicts the location of the QF's side of interconnection facilities where Customer is to (sell and) deliver electric energy pursuant to this agreement or pursuant to a separate wheeling agreement;
6. termination shall mean termination of this agreement and the rights and obligations of the parties under this agreement, except as otherwise provided for in this agreement;
7. suspension means suspension of the obligation of the Utility to interconnect with and purchase electricity from the Customer.

B. TERM OF AGREEMENT. The original term of this agreement shall be for a period of five (5) years from the date of the execution of this agreement and shall continue thereafter from year to year until terminated as herein provided.

1. Termination by Customer. Termination of this agreement during and after the original term requires written notice to Utility that this agreement will terminate in ninety (90) days. Customer may terminate this agreement without showing good cause.
2. Termination by Utility. Termination of this agreement during and after the original term requires written notice to Customer that this agreement will terminate in ninety (90) days, unless otherwise provided. Utility, in the exercise of this right, must show good cause for the termination.
3. At any time the QF is sold, leased, assigned, or otherwise transferred, the seller or lessor of the QF shall notify Utility and this agreement may be terminated at Utility's option, for good cause, regardless of whether such transfer occurs during the original term or any renewal thereof. Such termination may be made with five (5) days written notice by Utility.
4. Should the Customer default in the performance of any of the Customer's obligations hereunder, Utility may suspend interconnection, purchases, or both and if the default continues for more than 90 days after written notice by Utility to Customer, Utility may terminate this agreement. Termination or suspension shall not affect the obligation of Utility to pay for energy already delivered or of Customer to reimburse interconnection costs, or any cost then accrued. Upon termination, all amounts owed to the Utility will become payable immediately.

C. METER INSTALLATION, TESTING AND ACCESS TO PREMISES. Customer will be metered by a meter or meters as determined by Utility to which Utility is granted reasonable access.

1. Customer shall supply, at its own expense, a suitable location for all meters and associated equipment. Customer shall provide a clearly understandable sketch or one-line diagram showing the qualifying facility, the interconnection equipment, breaker panel(s), disconnect switches and metering, to be attached to this agreement. Such location must conform to Utility's meter location policy. The following metering options will be offered by Utility: load displacement, net metering, simultaneous buy/sell. Customer shall provide and install a meter socket and any related interconnection equipment per Utility's requirements.
2. Customer shall deliver the as available energy to Utility at Utility's meter.
3. Utility shall furnish and install a standard kilowatt hour meter. Utility may install, at its option and expense, magnetic tape recorders in order to obtain load research information. Utility may meter the Customer's usage using two meters for measurement of energy flows in each direction at the point of delivery.
4. If either Utility or Customer requests an alternate form of metering or additional metering that is not required to accomplish net metering or is for the convenience of the party, the

party requesting the change in metering shall pay for the alternate or additional metering arrangement. If Customer elects to take electric service under any rate structure, including time-of-use, that requires the use of metering apparatus or a metering arrangement that is more costly than would otherwise be necessary absent the requirement for net metering, Customer shall be required to pay the additional incremental cost of the required metering equipment. Within ten (10) days of receiving notification from Customer of the intent to interconnect, Utility will notify the Customer of any metering costs. Charges for special metering costs shall be paid by Customer, or arrangements for payment agreed to between Customer and Utility, prior to Utility authorizing interconnected operation.

5. All meter standards and testing shall be in compliance with Utility's rules and regulations as approved by the NMPRC. The metering configuration shall be one of Utility's standard metering configurations as set out in Subsection D of 17.9.570.15 NMAC and mutually agreeable to the parties or any other metering configuration mutually agreeable to the parties. The agreed upon configuration is shown on Appendix B. If the interconnection facilities have been modified pursuant to the interconnection agreement, Customer shall permit Utility, at any time, to install or modify any equipment, facility or apparatus necessary to protect the safety of its employees or to assure the accuracy of its metering equipment, the cost of which shall be borne by Customer. Utility shall have the right to disconnect the QF if it has been modified without Utility's authorization.
6. Utility may enter Customer's premises to inspect at all reasonable hours Customer's protective devices and read or test meter; and pursuant to the interconnection agreement to disconnect, without notice, the interconnection facilities if Utility reasonably believes a hazardous condition exists and such immediate action is necessary to protect persons, or Utility's facilities, or property of others from damage or interference caused by Customer's facilities, or lack of properly operating protective devices.

D. ENERGY PURCHASE PRICE AND METERING OPTION. All electric energy delivered and service rendered hereunder shall be delivered and rendered in accordance with the applicable rate schedules and tariffs. Customer has selected the Net Metering\_metering option defined in this section. It is understood and agreed, however, that said rates are expressly subject to change by any regulatory body having jurisdiction over the subject matter of this agreement. If a new rate schedule or tariff is approved by the proper regulatory body, the new rate schedule or tariff shall be applicable to this agreement upon the effective date of such rate schedule or tariff.

1. Load displacement option: Utility will interconnect with the Customer using a single meter which will be ratcheted and would only measure the flow of energy to the Customer. Billing to Customer will be at Utility's approved tariff rate applicable to the service provided to the QF. There will be no additional Customer charge and no payment by Utility for any excess power that might be generated by the QF.
2. Net metering option.
  - a. Utility shall install the metering necessary to determine the net energy delivered from Customer to Utility or the net energy delivered from Utility to Customer for each time-of-use or single rate period, as applicable, during a billing period. The net energy delivered to either the QF or to the Utility is the difference between the energy produced by the QF

generation and the energy that would have otherwise been supplied by the Utility to the QF absent the QF generation.

- b. The net energy delivered from Customer to Utility shall be purchased by Utility at Utility's applicable time-of-use or single period energy rate, as described in Subsection B of 17.9.570.11 NMAC, and filed with the NMPRC. Customer shall be billed for all net energy delivered from Utility in accordance with the tariff that is applicable to Customer absent the QF generation. An additional Customer charge to cover the added costs of billing and administration may be included in the tariff. At the end of the billing period, Utility shall net all charges owed to Utility by Customer and all payments owed by Utility to Customer. If a net amount is owed to Customer for the billing period, and is less than \$50, the payment amount may be carried over to the following billing period. If a net amount is owed to Customer and is \$50 or more, Utility shall make payment to Customer prior to the end of the next billing period.
  - c. If provision of the net metering option requires metering equipment and related facilities that are more costly than would otherwise be necessary absent the requirement for net metering, Customer shall pay all incremental costs associated with installing the more costly metering equipment and facilities.
3. Simultaneous buy/sell option.
- a. Utility will install the metering necessary to determine separately (1) all of the energy produced by Customer's generator and (2) all of the power consumed by Customer's loads. Utility will purchase all energy produced at Utility's applicable time-of-use or single period energy rate, as described in Subsection B of 17.9.570.11 NMAC, for such purchases, and as filed with and approved by the NMPRC. Customer shall purchase all power consumed at its normally applicable tariff rate. An additional Customer charge to cover the added costs of billing and administration may be included.
  - b. If provision of the simultaneous buy/sell option requires metering equipment and related facilities that are more costly than would otherwise be necessary absent the requirement for simultaneous buy/sell metering, Customer shall pay all incremental costs associated with installing the more costly metering equipment and facilities.

#### E. INTERRUPTION OR REDUCTION OF DELIVERIES.

1. Utility shall not be obligated to accept or pay for and may require Customer to interrupt or reduce deliveries of available energy under the following circumstances:
  - a. it is necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system or if it reasonably determines that curtailment, interruption, or reduction is necessary because of emergencies, forced outages, force majeure, or compliance with prudent electrical practices; whenever possible, Utility shall give Customer reasonable notice of the possibility that interruption or reduction of deliveries may be required;

- b. there is evidence that Customer's QF is interfering with service to other Customers or interfering with the operation of Utility's equipment; Customer may be reconnected by Utility when Customer makes the necessary changes to comply with the standards required by this agreement;
  - c. it is necessary to assure safety of Utility's personnel; notwithstanding any other provision of this agreement, if at any time Utility reasonably determines that the facility may endanger Utility personnel or other persons or property or the continued operation of Customer's facility may endanger the integrity or safety of Utility's electric system, Utility shall have the right to disconnect and lock out Customer's facility from Utility's electric system; Customer's facility shall remain disconnected until such time as Utility is reasonably satisfied that the conditions referenced in this section have been corrected;
  - d. there is a failure of Customer to adhere to this agreement;
  - e. if suspension of service is otherwise necessary and allowed under Utility's rules and regulations as approved by the NMPRC.
2. Customer shall cooperate with load management plans and techniques as ordered or approved by the NMPRC, and the service to be furnished by Utility hereunder may be modified as required to conform thereto.
- F. **FORCE MAJEURE.** Force majeure shall mean any cause beyond the control of the party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, (labor dispute,) labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction, by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence, it shall be unable to overcome. If either party, because of force majeure, is rendered wholly or partly unable to perform its obligations under this agreement, except for the obligation to make payments of money, that party shall be excused from whatever performance is affected by the force majeure to the extent so affected, provided that:
- 1. the nonperforming party, within a reasonable time after the occurrence of the force majeure, gives the other party written notice describing the particulars of the occurrence;
  - 2. the suspension of performance is of no greater scope and of no longer duration than is required by the force majeure; and
  - 3. the nonperforming party uses its best efforts to remedy its inability to perform. This paragraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms that, in the sole judgment of the party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the party involved in the disputes.
- G. **INDEMNITY.** To the extent permitted by law, each party shall indemnify the other from liability, loss, costs, and expenses on account of death or injury to persons or damage or

destruction of property occasioned by the negligence of the indemnifying party or its agents, officers, employees, contractors, licensees or invitees, or any combination thereof, except to the extent that such death, injury, damage, or destruction resulted from the negligence of the other party or its agents, officers, employees, contractors, licensees or invitees, or any combination thereof. Provided, however, that:

1. each party shall be solely responsible for the claims or any payments to any employee or agent for injuries occurring in connection with their employment or arising out of any Workmen's Compensation Law or Occupational Disease Disablement Law;
  2. Utility shall not be liable for any loss of earnings, revenues, indirect or consequential damages or injury which may occur to Customer as a result of interruption or partial interruption (single-phasing) in delivery of service hereunder to Customer or by failure to receive service from Customer by reason of any cause whatsoever, including negligence; and
  3. the provisions of this subsection on indemnification shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of any valid insurance policy;
  4. the indemnifying party shall pay all costs and expenses incurred by the other party in enforcing the indemnity under this agreement including reasonable attorney fees.
  5. Any liability incurred by Customer in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended. Customer and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this agreement modifies or waives any provision of the New Mexico Tort Claims Act.
- H. DEDICATION. An undertaking by one party to another party under any provision of this agreement shall not constitute the dedication of such party's system or any portion thereof to the public or to the other party and any such undertaking shall cease upon termination of the party's obligations herein.
- I. STATUS OF CUSTOMER. In performing under this agreement, Customer shall operate as or have the status of an independent contractor and shall not act as or be an agent, servant, or employee of Utility.
- J. AMENDMENT, MODIFICATIONS OR WAIVER. Any amendments or modifications to this agreement shall be in writing and agreed to by both parties. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of the breach of any term or covenant contained in this agreement, whether by conduct or otherwise, shall be deemed to be construed as a further or continuing waiver of any such breach or a waiver of the breach of any other term or covenant unless such waiver is in writing.
- K. ASSIGNMENT. This agreement and all provisions hereof shall inure to and be binding upon the respective parties hereto, their personal representatives, heirs, successors, and assigns. Customer

shall not assign this agreement or any part hereof without the prior written consent of Utility, otherwise this agreement may be terminated pursuant to paragraph (3) of Subsection B of 17.9.570.15 NMAC.

- L. NOTICES. Any payments, notices, demands or requests required or authorized by this agreement shall be deemed properly given if personally delivered or mailed postage prepaid to:

Customer:

SFFD Station 8

6794

Jaguar

Dr

Santa Fe, NM 87507

PNM:

Customer Owned Generation Programs

Public Service Company of New Mexico

Main Offices

Albuquerque, NM 87158-1135

The designation of the persons to be notified, or the address thereof, may be changed by notice in writing by one party to the other. Routine notices and notices during system emergency or operational circumstances may be made in person or by telephone. Customer's notices to Utility pursuant to this agreement shall refer to the Customer's electric service account number set forth in this agreement.

- M. MISCELLANEOUS. This agreement and any amendments thereto, including any tariffs made a part hereof, shall at all times be subject to such changes or modifications as shall be ordered from time to time by any regulatory body or court having jurisdiction to require such changes or modification. This agreement (and any tariffs incorporated herein) contains all the agreements and representations of the parties relating to the interconnection and purchases contemplated and no other agreement, warranties, understandings or representations relating thereto shall be binding unless set forth in writing as an amendment hereto.
- N. GOVERNING LAW. This agreement shall be interpreted, governed, and construed under the laws of the state of New Mexico as if executed and to be performed wholly within the state of New Mexico.
- O. ATTACHMENTS. This agreement includes the following appendices as labeled and incorporated herein by reference:
- A. Interconnection Agreement No. 37589;
  - B. Customer's sketch or one line diagram and site drawing, and generation and protection equipment specifications.

IN WITNESS WHEREOF, the parties have caused two originals of this agreement to be executed by their duly authorized representatives. This agreement is effective as of the last date set forth below.

Interconnection Customer by:  
City of Santa Fe:

John Blair  
John Blair (May 5, 2022 09:55 AM)

John Blair, City Manager

Public Service Company of New Mexico by:

Andrea Sanchez  
Andrea Sanchez, Manager, Team II

Date:

May 5, 2022

Date:

May 23, 2022

Attest:

Kristine Mihelcic

Kristine Bustos Mihelcic, City Clerk XIV

City Attorney's Office:

Marcos Martinez  
Marcos Martinez (Apr 11, 2022 11:09 AM)

Senior Assistant City Attorney

Approved for Finances:

Mary McCoy

Mary McCoy, Finance Director



**Appendix A and B**

**INTERCONNECTION AGREEMENT  
AND  
METERING CONFIGURATION**

See Interconnection Agreement No. 37589

PUBLIC SERVICE COMPANY OF NEW MEXICO  
ELECTRIC SERVICE AGREEMENT NO. 37589

STANDARD INTERCONNECTION AGREEMENT FOR  
GENERATING FACILITIES WITH A RATED CAPACITY NO GREATER THAN 10 MW  
AND NOT QUALIFIED FOR SIMPLIFIED INTERCONNECTION

This Generating Facility Interconnection Agreement (Agreement) is entered into by and between Public Service Company of New Mexico (Utility or PNM) and SFFD Station 8 (Interconnection Customer). The Interconnection Customer and the Utility are sometimes referred to in this Agreement jointly as Parties or individually as a Party.

In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

**I. SCOPE AND PURPOSE**

A) This Agreement is intended to provide for the Interconnection Customer to interconnect and operate the Generating Facility in parallel with the Utility's System. Appendix A provides a one-line diagram of the Generating Facility and the Point of Common Coupling. Appendix B provides a description of the Generating Facility and its location.

B) This Agreement contains the terms and conditions under which the Interconnection Customer may interconnect the Generating Facility to the Utility. This Agreement does not authorize the Interconnection Customer to export power or constitute an agreement to purchase or wheel the Interconnection Customer's power. Other services that the Interconnection Customer may require from the Utility, or others, may be covered under separate agreements.

C) This Agreement allows for the occasional and inadvertent export of energy to the Utility, though it does not constitute an agreement by the Utility to purchase or pay for any energy, inadvertently or intentionally exported.

D) This Agreement does not constitute a request for, or the provision of, any transmission delivery service or any local distribution delivery service.

E) The technical requirements for interconnection are provided in New Mexico Administrative Code 17.9.568, which incorporates by reference the New Mexico Interconnection Manual (Manual). Rule 17.9.568 and the Manual are incorporated and made part of this Agreement by this reference.

**II. DEFINITIONS**

A) "Agreement" means this Generating Facility Interconnection Agreement and its appendices.

B) "Business Day" means Monday through Friday, excluding holidays observed by the Utility.

C) "Commission" means the New Mexico Public Regulation Commission.

D) "Generating Facility" means the Interconnection Customer's device for the production of electricity identified in the Interconnection Application, including all generators, electrical wires, equipment, and other facilities owned or provided by the Interconnection Customer for the purpose of producing electric power.

E) "Generator" means any device producing electrical energy, including rotating generators driven by wind, steam turbines, internal combustion engines, hydraulic turbines, solar panels, fuel cells, or any other electric producing device, including energy storage technologies.

F) "Interconnection Application" means the request by an Interconnection Customer to interconnect a new Generating Facility, or to increase the capacity or make a material modification to the operating characteristics of an existing Generating Facility that is interconnected with the Utility's System.

G) "Interconnection Customer" is the person or entity so defined in the first paragraph of this Agreement.

H) "Interconnection Facilities" means the Utility's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Common Coupling, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility's System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades.

I) "Manual" is the New Mexico Interconnection Manual attached to New Mexico Administrative Code 17.9.568.

J) "Point of Common Coupling" means the point where the Interconnection Facilities connect with the Utility's System.

K) "Rated Capacity" when used with respect to solar PV systems means the total AC nameplate rating of the Power Conversion Unit(s) at the Point of Common Coupling. When used with respect to any other Generating Facility, Rated Capacity means the nameplate rating of the Generating Facility.

L) "System" means the facilities owned, controlled, or operated by the Utility that are used to provide electric service under a Utility's tariff.

M) "System Emergency" means a condition on the Utility's System that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

N) "Upgrade" means the required additions and modifications to the Utility's System at or beyond the Point of Common Coupling. Upgrades do not include Interconnection Facilities.

O) "Utility" is the entity so defined in the first paragraph of this Agreement.

### **III. GENERATING FACILITY DESCRIPTION**

A) A single-line diagram of the Generating Facility is attached to and made part of this Agreement as Appendix A. The single line diagram shows the general arrangement of how the Generating Facility is interconnected with the Utility's System and shows all major equipment, including visual isolation equipment, Point of Common Coupling, ownership of equipment and meter location(s).

B) A description of the Generating Facility is attached to and made a part of this Agreement as Appendix B. Appendix B is standard form that provides the engineering and operating information about the Generating Facility, including the Generating Facility's Rated Capacity and scheduled operational (online) date.

#### **IV. RESPONSIBILITIES OF THE PARTIES**

A) The Parties shall perform all obligations of this Agreement in accordance with all applicable laws and regulations.

B) The Interconnection Customer shall design, construct, operate and maintain the Generating Facility in accordance with the equipment manufacturers' recommended maintenance schedules, the Manual and applicable laws and regulations, including local building codes and other applicable ordinances.

C) Interconnection of the Generating Facility in no way affects the Utility's obligation to serve the Utility's customer at whose location the Generating Facility is sited pursuant to the tariffs applicable to the customer's class of service.

D) The Interconnection Customer is responsible for the actual costs to interconnect and test the Generating Facility with the Utility to the extent required by the Manual. Estimates of these costs are outlined in Appendix C. While estimates, for budgeting purposes, have been provided in Appendix C, the actual costs are still the responsibility of the Interconnection Customer, even if they exceed the estimated amount(s). All costs, for which the Interconnection Customer is responsible, must be reasonable under the circumstances of the design and construction. The Interconnection Customer may commence interconnected operation only upon receipt of written authorization from PNM in the form of Appendix E.

E) The Interconnection Customer shall grant to the Utility, at no expense to the Utility, all easements and rights-of-way necessary for the Utility to install, operate, maintain, replace, and remove the Utility's Interconnection Facilities and Upgrades, including, but not limited to, adequate and continuous access rights to property owned or controlled by the Interconnection Customer. If any part of the Interconnection Facilities or Upgrades is to be installed on property owned by any person who is not a party to this Agreement, the Interconnection Customer shall, at no expense to the Utility, obtain from the owner of the property all such necessary easements and rights-of-way for the Utility. The Utility has no obligation to commence procurement, installation or construction of the Utility's Interconnection Facilities or Upgrades until the Interconnection Customer has provided all documents the Utility deems necessary to enable the Utility to obtain and record such easements and rights-of-way.

F) Upgrades:

- 1) The Utility shall design, construct, operate and maintain the Upgrades outlined in Appendix D in a good and workmanlike manner, and in accordance with standard design and engineering practices, the Manual and applicable laws and regulations, including local building codes and other applicable ordinances.
- 2) Once installed, the Upgrades shall be owned and operated by the Utility and all costs associated with the operating and maintenance of the Upgrades, after the Generating Facility is operational, shall be the responsibility of the Utility, unless otherwise agreed.
- 3) The Interconnection Customer grants permission for the Utility to begin construction and to procure the necessary facilities and equipment to complete the installation of the Upgrades, as outlined in Appendix D. The Interconnection Customer may, for any reason, cancel or modify the Generating Facility project, so that any or all of the Upgrades are not required to be installed. If for any reason, the Generating Facility project is canceled or modified, so that any or all of the Upgrades are not required, the Interconnection Customer shall be responsible for all costs incurred by the Utility, including but not limited to the additional costs to remove and/or complete the installation of the Upgrades. The Interconnection Customer shall provide written notice to the Utility of cancellation or modification. Upon receipt of a cancellation or modification notice, the Utility shall take reasonable steps to minimize additional costs to the Interconnection Customer, where reasonably possible.

G) Payments:

- 1) The Interconnection Customer shall provide for the payment of its obligations under this Agreement in one of the following ways:
  - a) The Interconnection Customer may pay the Utility the costs identified in Appendix C at the time the Parties execute this Agreement; or
  - b) The Interconnection Customer may pay the Utility in accordance with Section IV.G(2) if, at the time the Parties execute this Agreement, the Interconnection Customer provides reasonably adequate assurance of its creditworthiness to the Utility. Reasonably adequate assurance may be satisfied by evidence of the Interconnection Customer's creditworthiness, or a letter of credit in an amount sufficient to cover the costs identified in Appendix C, or a guaranty from another entity accompanied by evidence of that entity's creditworthiness.
- 2) If the Interconnection Customer provides for assurance of creditworthiness in accordance with Section IV.G(1)(b), the Utility will invoice the Interconnection Customer monthly for all amounts expended and all amounts for which the Utility has become obligated since the execution of this Agreement or the prior monthly invoice. The Interconnection Customer will pay each such invoice within 20 days.

## V. TERM AND TERMINATION

A) This Agreement becomes effective when the Interconnection Customer and the Utility have both signed this Agreement. The Agreement shall continue in full force and effect until the earliest date that one of the following events occurs:

- 1) The Parties agree in writing to terminate the Agreement;
- 2) The Interconnection Customer terminates this Agreement by written notice to the Utility prior to the completion of the final acceptance testing of the Generating Facility by the Utility;
- 3) The Utility terminates this Agreement after 30 days written notice to the Interconnection Customer if the Interconnection Customer has failed to comply with the payment or creditworthiness terms of Section IV.G and has not taken appropriate corrective action;
- 4) The Utility terminates this Agreement after three days written notice to the Interconnection Customer if the Interconnection Customer does not obtain and deliver the easements and rights-of-way described in Section IV.E to the Utility within 90 days of the Utility's request for such easements and rights-of-way;
- 5) Once the Generating Facility is operational, the Interconnection Customer terminates this Agreement after 30 days written notice to the Utility, unless otherwise agreed; or,
- 6) The Utility terminates this Agreement after 30 days written notice to the Interconnection Customer if the Interconnection Customer fails to:
  - a) take all corrective actions specified in the Utility's written notice that the Generating Facility is out of compliance with the terms of this Agreement or the Manual within the time frame set forth in such notice, provided that the terms and timeframes stated by the Utility conform to this Agreement and the Manual; or
  - b) to complete construction of the Generating Facility within 24 months of the date of this Agreement or as otherwise agreed.

B) Upon termination of this Agreement the Utility may disconnect the Generating Facility from the Utility's System. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing, at the time of the termination.

## VI. OPERATIONAL ISSUES

A) Costs: Each Party will, at its own cost and expense, operate, maintain, repair and inspect, and shall be fully responsible for, the facilities which it now or hereafter may own, unless otherwise specified.

B) Right of Access: At all times, the Utility's personnel shall have access to the disconnect switch of the Generating Facility for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement, to meet its obligation to operate the Utility safely and to provide service to its customers. If necessary for the purposes of this Agreement, the Interconnection Customer shall allow the Utility access to the Utility's equipment and facilities located on the premises.

C) Cooperation and Coordination: Both the Utility and the Interconnection Customer shall communicate and coordinate their operations, so that the normal operation of the Utility does not unduly effect or interfere with the normal operation of the Generating Facility and the Generating Facility does not unduly effect or interfere with the normal operation of the Utility. Under abnormal operations of either the Generating Facility or the Utility system, the responsible Party shall provide timely communication to the other Party to allow mitigation of any potentially negative effects of the abnormal operation of their system.

D) Disconnection of Unit: The Utility may disconnect the Generating Facility as reasonably necessary for the following reasons: termination of this Agreement; noncompliance with this Agreement; System Emergency, and routine maintenance, repairs and modifications to the Utility's System. When reasonably possible the Utility shall provide prior notice to the Interconnection Customer explaining the reason for the disconnection. If prior notice is not reasonably possible the Utility shall after the fact, provide information to the Interconnection Customer as to why the disconnection was required. The Utility shall expend reasonable effort to reconnect the Generating Facility in a timely manner and to mitigate damages and losses to the Interconnection Customer.

E) Modifications to the Generating Facility: The Interconnection Customer shall notify the Utility in writing of any proposed modifications to the Generating Facility that could affect the Utility's System, providing twenty (20) Business Days notice or as many days notice as is reasonably possible. The notice shall provide all information needed by the Utility as part of the review described in this paragraph. Modifications that could affect the Utility's System include any change affecting the Generating Facility's Rated Capacity and any modification of Interconnection Facilities, which include without limitation: protective systems, generation control systems, transfer switches/breakers, voltage transformers and current transformers. When reasonably possible the Interconnection Customer agrees not to make any material modifications to the Generating Facility until the Utility has approved the modifications, in writing, which approval shall not be unreasonably withheld. The Utility shall not take longer than ten (10) Business Days to review and respond to the proposed modifications after the receipt of the information required to review the modifications, and if the Utility fails to respond within ten (10) Business Days, the modification(s) shall be considered to be approved by the Utility. When it is not reasonably possible for the Interconnection Customer to provide prior written notice of modifications, the Interconnection Customer shall provide written notice to the Utility as soon as reasonably possible after the modifications have been made.

F) Permits and Approvals: The Interconnection Customer shall obtain all environmental and other permits lawfully required by governmental authorities prior to the construction of the Generating Facility. The Interconnection Customer shall also maintain these applicable permits and compliance with these permits during the term of this Agreement.

## VII. INDEMNIFICATION AND LIMITATION OF LIABILITY

A) To the extent permitted by law, the Interconnection Customer shall indemnify and hold harmless the Utility against all damages, expenses and other obligations to third parties

attributable to the negligence, strict liability or intentional acts of the Interconnection Customer. The Utility shall indemnify and hold harmless the Interconnection Customer against all damages, expenses and other obligations to third parties attributable to the negligence, strict liability or intentional acts of the Utility. The terms "Utility" and "Interconnection Customer," for purposes of this indemnification provision, include their officers, directors, trustees, managers, members, employees, representatives, affiliates, successors and assigns.

B) Except in the event of acts of willful misconduct, each Party's liability to the other Party for failure to perform its obligations under this Agreement, shall be limited to the amount of direct damage actually incurred. Neither Party shall be liable to the other Party for any punitive, incidental, indirect, special, or consequential damages of any kind whatsoever, including for loss of business opportunity or profits, regardless of whether such damages were foreseen.

C) Notwithstanding any other provision in this Agreement, with respect to Utility's provision of electric service to any customer including the Interconnection Customer, the Utility's liability to such customer shall be limited as set forth in the Utility's tariffs and terms and conditions for electric service, and shall not be affected by the terms of this Agreement.

D) Any liability incurred by Interconnection Customer in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq., NMSA 1978, as amended. Interconnection Customer and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this agreement modifies or waives any provision of the New Mexico Tort Claims Act.

## VIII. DISPUTE RESOLUTION

A) Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.

B) In the event a dispute arises under this Agreement, the Parties may mutually agree to submit the dispute to mediation by a mutually acceptable mediator or either party may request that the New Mexico Public Regulatory Commission designate a facilitator to assist the Parties to resolve their dispute.

## IX. INSURANCE

The Interconnection Customer is not required to maintain insurance.

## X. MISCELLANEOUS

A) Force Majeure: Force majeure shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, [labor dispute,] labor or material shortage, sabotage, restraint by court order or public authority, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence, it shall be unable to overcome. If



either Party, because of force majeure, is rendered wholly or partly unable to perform its obligations under this Agreement, except for the obligation to make payments of money, that Party shall be excused from whatever performance is affected by the force majeure to the extent so affected, provided that:

- 1) the nonperforming Party, within a reasonable time after the occurrence of the force majeure, gives the other Party written notice describing the particulars of the occurrence;
- 2) the suspension of performance is of no greater scope and of no longer duration than is required by the force majeure; and
- 3) the nonperforming Party uses its best efforts to remedy its inability to perform. [This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the disputes.]

B) Notices: Any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given if delivered in person, sent by first class mail with postage prepaid, or sent by electronic mail as specified below:

1) To the Utility:  
Customer Owned Generation Programs  
Public Service Company of New Mexico  
Main Offices  
Albuquerque, NM 87158-1135  
E-mail: solarpv@pnmresources.com

2) To the Interconnection Customer:  
SFFD Station 8  
6794 Jaguar Dr  
Santa Fe, NM 87507

E-mail: clgrosse@santafenm.gov

3) A Party may change its address for notices at any time by providing the other Party written notice of the change, in accordance with this Section.

4) The Parties may also designate operating representatives to conduct the daily communications, which may be necessary or convenient for the administration of this Agreement. Such designations, including names, addresses, phone numbers and electronic mail addresses may be communicated or revised by one Party's notice to the other Party.

C) Assignment: The Interconnection Customer shall not assign its rights nor delegate its duties under this Agreement without the Utility's written consent. Any assignment or delegation the

Interconnection Customer makes without the Utility's written consent shall not be valid. The Utility shall not unreasonably withhold its consent to the Generating Entities assignment of this Agreement.

D) Non-waiver: None of the provisions of this Agreement shall be considered waived by a Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

E) Governing Law and Inclusion of Utility's Tariffs and Rules:

1) This Agreement shall be interpreted, governed and construed under the laws of the State of New Mexico as if executed and to be performed wholly within the State of New Mexico without giving effect to choice of law provisions that might apply to the law of a different jurisdiction.

2) The interconnection and services provided under this Agreement shall at all times be subject to the terms and conditions set forth in the tariff schedules and Commission rules applicable to the electric service provided by the Utility, which tariff schedules and Commission rules are hereby incorporated into this Agreement by this reference.

3) Notwithstanding any other provisions of this Agreement, the Utility shall have the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for change in rates, charges, classification, service, tariff or rule or any agreement relating thereto.

F) Amendment and Modification: This Agreement can only be amended or modified by a writing signed by both Parties.

G) Entire Agreement: This Agreement, including its Appendices, constitutes the entire Agreement between the Parties with regard to the interconnection of the Generating Facility of the Parties at the Point(s) of Common Coupling expressly provided for in this Agreement and supersedes all prior agreements or understandings, whether verbal or written. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement. Each Party also represents that in entering into this Agreement, it has not relied on the promise, inducement, representation, warranty, agreement or other statement not set forth in this Agreement or in the incorporated attachments and appendices.

H) Confidential Information: Except as otherwise agreed or provided herein, each Party shall hold in confidence and shall not disclose confidential information, to any person (except employees, officers, representatives and agents, who agree to be bound by this section). Confidential information shall be clearly marked as such on each page or otherwise affirmatively identified. If a court, government agency or entity with the right, power, and authority to do so, requests or requires either Party, by subpoena, oral disposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose confidential information, that Party shall provide the other Party with prompt notice of such request(s) or requirements(s)

so that the other Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. In the absence of a protective order or waiver the Party shall disclose such confidential information which, in the opinion of its counsel, the party is legally compelled to disclose. Each Party will use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any confidential information so furnished.

I) Non-warranty: Neither by inspection, if any, or non-rejection, nor in any other way, does the Utility give any warranty, expressed or implied, as to the adequacy, safety, or other characteristics of any structures, equipment, wires, appliances or devices owned, installed or maintained by the Interconnection Customer or leased by the Interconnection Customer from third parties, including without limitation the Generating Facility and any structures, equipment, wires, appliances or devices appurtenant thereto.

J) No Partnership: This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**XI. SIGNATURES**

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

Interconnection Customer by:  
City of Santa Fe:

John Blair  
John Blair (May 5, 2022 03:55 MDT)  
John Blair, City Manager

Public Service Company of New Mexico by:

Andrea Sanchez  
Andrea Sanchez, Manager, Team II

Date:  
May 5, 2022

Date:  
May 23, 2022

Attest:

Kristine Bustos Mihelcic  
Kristine Bustos Mihelcic, City Clerk XIV

City Attorney's Office:

Marcos Martinez  
Marcos Martinez (Apr 11, 2022 16:55 MDT)  
Senior Assistant City Attorney

Approved for Finances:

Mary McCoy  
Mary McCoy, Finance Director

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**APPENDIX A and B**

CUSTOMER'S WRITTEN REQUEST TO PNM OF  
INTENT TO INTERCONNECT QUALIFYING FACILITY  
including

- A SINGLELINE DIAGRAM OF THE GENERATING FACILITY
- A THREELINE DIAGRAM OF THE GENERATING FACILITY
- A DESCRIPTION OF THE GENERATING FACILITY

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**APPENDIX C**

**ESTIMATED COSTS TO INTERCONNECT AND TEST  
THE GENERATING FACILITY WITH THE UTILITY**

There are no additional estimated costs.

**APPENDIX D**



## REQUIRED UPGRADES

There are no required upgrades.



**APPENDIX E**

**UTILITY'S WRITTEN AUTHORIZATION TO INTERCONNECT  
AUTHORIZATION TO COMMENCE INTERCONNECTED OPERATION**

In accordance with the provisions of NMPRC Rule 17.9.568 and Electric Service Agreement Number 37589 ("Electric Service Agreement"), between Public Service Company of New Mexico ("PNM") and SFFD Station 8, PNM hereby authorizes the Qualifying Facility at 6794 Jaguar Dr, Santa Fe NM 87507 more fully described in Appendix A of the Electric Service Agreement, to interconnect and operate in parallel with the PNM distribution grid.

This authorization for interconnected operation is subject to the following limitations:

1. This authorization is for only the interconnection facilities described in Appendix A of the Electric Service Agreement, the proper operation of which was verified by PNM on .
2. This authorization is not an endorsement, confirmation, warranty, guarantee or representation concerning the safety, operating characteristics, durability or reliability of Customer's Qualifying Facility.

By:  Date: 

Name: Andrea Sanchez

Title: Manager, Team II

Public Service Company of New Mexico