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Sent: Tuesday, December 27, 2005 12:07 PM
To: Filings@psc.state.fl.us
Cc: Connie Kummer; Tom Ballinger; Roy Young (E-mail); Judy Harlow; Bachmeier, Richard
Subject: OUC's Standard Offer Contract for Purchases from Renewable Energy Facilities

Attachments: OUC Standard Offer Contract for Purchase from a Renewable Energy Facility.doc



OUC

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Party: Orlando Utilities Commission ("OUC")

Attached Document: OUC Standard Offer Contract for Purchase from A Renewable Energy Facility

Number of Pages: 14

Description:

The attached document is Orlando Utilities Commission's "Standard Offer Contract For The Purchase Of Firm Capacity And Energy From A Renewable Energy Facility" in Microsoft Word .doc format for filing with the Florida Public Service Commission. I am also sending an original and 5 copies to the Division of the Commission Clerk and Administrative Services.

<<OUC Standard Offer Contract for Purchase from a Renewable Energy Facility.doc>>

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

**Standard Offer Contract For The Purchase Of Firm Capacity And Energy
From A Renewable Energy Facility**

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the Renewable Energy Facility, (hereinafter referred to as the "REF") and Orlando Utilities Commission (hereinafter referred to as the "OUC"), a statutory commission existing under the laws of the State of Florida. The REF and OUC shall collectively be referred hereinafter as the "Parties".

WITNESSETH:

WHEREAS, for purposes of this contract, any facility that produces electrical energy from a method that uses one or more of the fuel or energy sources stated in Subsection 366.91 (3), Florida Statutes, shall be defined as a Renewable Energy Facility ("REF"), and

WHEREAS, REF, being certified by OUC as such, desires to sell, and OUC desires to purchase, electricity to be generated by the REF, such sale and purchase to be consistent with the definitions and criteria contained in the Federal Energy Regulatory Commission Rules ("FERC") 292.101 and 292.301 through 292.308, effective March 20, 1980, and

WHEREAS, REF has signed a Parallel Operation Agreement with the electric utility (including OUC) in whose service territory the REF's generating facility is located, which is attached hereto as Appendix _____, and

WHEREAS, if an REF not directly interconnected with OUC's electric system, the REF has entered into the necessary agreements required to have the capacity and energy delivered to OUC's electric system, which is attached hereto as Appendix _____;

NOW THEREFORE, for mutual consideration the Parties agree as follows:

Section 1. Facility

REF has installed or operates or contemplates installing and operating a _____ kVA _____ generating facility located at _____. The generator has a nameplate rating of _____ megawatts (MW), or _____ kilowatts (kW) of electric power at an 85% lagging power factor (90% leading for induction generators), such equipment being hereinafter referred to as the "Facility."

Section 2. Term of the Agreement

This Agreement shall begin immediately upon its execution by the Parties and shall end at 12:01 a.m., _____, 20____. The date specified shall be no earlier than 10 years from the designated in-service date of OUC's Avoided Resource (the "In-Service Date").

If construction and commercial operation of the REF are not accomplished by a date prior to the designated In-Service Date, OUC may declare the REF in breach of this Agreement and if not remedied within thirty (30) days after written notice by OUC of such breach, OUC may immediately terminate this Agreement and OUC shall be entitled to take any remedies available to it in accordance with Florida law.

Notwithstanding the foregoing, a condition precedent to payment by OUC of capacity payments pursuant to Section 4.2 or Section 6 herein, this Agreement must be executed by both Parties and unconditionally effective no later than a date sufficiently in advance of the In-Service Date which allows for certification and construction of OUC's Avoided Resource.

Section 3. Sale of Electricity by REF

OUC agrees to purchase electric power generated at the Facility and transmitted to OUC by REF as metered at the point of interconnection and, when applicable, adjusted for losses to the appropriate location on OUC's electric system.

Section 4. Payment for Electricity Produced by REF

4.1 Energy.

4.1.1 OUC agrees to pay REF for energy produced by the Facility and delivered to OUC in accordance with the rates and procedures contained in Rate Schedule REF-1 and as may be amended from time to time.

4.1.2 Prior to the designated In-Service Date, REF will receive energy payments based on OUC's actual hourly avoided energy costs.

4.1.3 Beginning on the designated In-Service Date, REF's energy payments will be based on the lesser of OUC's actual avoided hourly energy costs or the sum, over all hours of the billing period, of the product of each hour's Avoided Resource energy cost times the delivered energy received by OUC for that hour.

4.2 Capacity.

4.2.1 Anticipated Committed Capacity. REF expects to sell approximately _____ kW of capacity, beginning on or about _____, 20____. (Date specified may not be later than the In-Service Date.)

The REF may finalize its Committed Capacity after initial facility testing, and specify when capacity payments are to begin, by completing Paragraph 4.2.2 at a date subsequent to the execution of this Agreement. However, the REF must complete Paragraph 4.2.2 before the designated In-Service Date in order to be entitled to any capacity payments pursuant to this Agreement. The final Committed Capacity set forth in Paragraph 4.2.2 shall not exceed plus or minus ten percent (10%) of the above estimate. The date specified in Paragraph 4.2.2 as the date on which capacity payments shall begin shall be no earlier than the date specified above, nor any later than the designated In-Service Date.

4.2.2 Actual Committed Capacity. The capacity committed by the REF for the purposes of this Agreement is _____ kilowatts beginning _____, 20____. The REF is committing this amount of capacity based on its agreement and commitment that this capacity will maintain an Equivalent Availability Factor ("EAF") of ninety-four percent (94%). REF elects to receive, and OUC agrees to commence calculating, capacity payments in accordance with this Agreement starting with the first billing month following _____, 20____ ("Payment Start Date").

4.2.3 Capacity Payments. At the end of each billing month OUC agrees to pay REF a Capacity Payment that is the product of REF's Committed Capacity and the applicable firm capacity rate.

The capacity payment for a given month will be added to the energy payment for such month and tendered by OUC to REF as a single payment as promptly as possible, normally by the twentieth business day following the day the meter is read.

Notwithstanding the foregoing, no capacity payments shall be made for any month during which the REF fails to comply with the provisions of Section 6 herein.

Section 5. Electricity Production Schedule

During the term of this Agreement, REF agrees at its cost to do all of the following:

(a) Provide OUC by March 1 preceding each fiscal year (October 1 through September 30) or at other times as may be requested, an estimate of the amount of electricity to be generated by the Facility and delivered to OUC for each month of the fiscal year, including the time, duration and magnitude of any planned outages or reductions in capacity;

(b) Promptly update the yearly generation schedule and maintenance schedule as and when any changes may be determined necessary;

(c) Coordinate the delivery of its generation output and its scheduled Facility outages with OUC and other utilities as appropriate;

(d) Comply with reasonable requirements of OUC regarding day-to-day and hour-by-hour communications between the parties relative to the performance of this Agreement;

(e) Provide all necessary information, including but not limited to data acquisition for real time telemetry and monitoring of actual generation output of the Facility, requested by OUC to implement and administer this Agreement and applicable rate schedules; and

(f) Adjust reactive power flow in the interconnection as may be reasonably required by OUC or the electric utility with which the REF has signed a Parallel Operation Agreement within the range of 90% leading to 85% lagging power factor unless otherwise provided in the Parallel Operation Agreement.

(g) Come off line quickly during emergencies where generation from the facility would contribute to the overloading of the interconnected utility system.

Section 6. Performance Criteria

A REF, in order to be eligible to receive firm capacity and energy payments, must comply with the following minimum criteria, which shall be conditions precedent to the obligation by OUC to pay the REF a capacity payment under this Agreement during any month of the term:

(i) The REF shall begin to deliver energy and capacity no later than two years prior to the designated In-Service Date;

(ii) The REF shall maintain a minimum ninety-four percent (94%) annual EAF on a 12-month rolling-average basis;

(iii) The REF shall provide monthly generation estimates by March 1 of each calendar year during the term of this Agreement;

(iv) The REF shall promptly update the annual generation schedule when any changes are determined necessary;

- (v) The REF shall reduce generation or take other appropriate action as requested by OUC for safety reasons or to preserve system integrity;
- (vi) The REF shall coordinate the delivery of its generated output and scheduled outages with OUC and other intermediate utilities as appropriate;
- (vii) The REF shall comply with OUC's reasonable requests regarding daily or hourly information and communications requirements;
- (viii) The REF shall not receive capacity payments until the REF has attained commercial in-service status. The commercial in-service date of the REF is defined as the first day of the month following the successful completion of the REF maintaining an hourly kilowatt output, as metered at the point of interconnection with OUC equal to or greater than the REF's Actual Committed Capacity for a 24-hour test period.
- (ix) The REF shall coordinate the selection of the above described test period and operation of its facility during such test period with OUC in order to ensure that the performance of the REF during the 24-hour test period is reflective of the anticipated day-to-day operation of the REF.
- (x) The maximum hourly output of the REF shall not exceed the Actual Committed Capacity by more than 5%, as measured by OUC's billing meters at the delivery point on OUC's system.
- (xi) The REF will at all times during the applicable month be able during emergencies to perform as follows:(a) quickly coming on line, (b) quickly adjusting generation output, (c) remaining in operation and connected to the interconnection utility system, and (d) quickly coming off line where generation from the REF would contribute to the overloading of the interconnected utility system. OUC shall at all times during the term of this Agreement be entitled to require reasonable evidence from the REF of testing (if OUC deems it necessary) to demonstrate such readiness and capability.
- (xii) The REF shall, since fuel supply is a major factor in the delivery of a reliable supply of capacity and energy from the REF, demonstrate to OUC's reasonable satisfaction that it maintains an adequate and reliable supply of primary fuel during the term of this Agreement with backup fuel storage or supplementary fuel supply as deemed appropriate and shall provide pertinent information, including contract documents, upon request by OUC to verify such alternate fuel supply.
- (xiii) The REF agrees to comply with any additional criteria reasonably required by OUC under Rate Schedule REF-1 (as amended from time to time) related to the delivery of firm capacity and energy by the REF during OUC's daily and seasonal peak periods.
- (xiv) To the extent that the REF's continued operation depends on the sale of thermal energy, the REF shall maintain contracts for sale of such thermal energy during the term of this agreement and agrees to provide pertinent information, including contract documents, upon request by OUC as necessary to verify compliance with this requirement.

Section 7. Failure to Meet Performance Criteria

7.1 The REF's failure to meet the Performance Criteria in any month will result in no capacity payment by OUC to the REF for such month.

Section 8. Default

8.1 Should any of the following conditions exist, OUC shall have the right to declare the REF in default under this Agreement:

- (i) The REF ceases all electric generation for either of OUC's peak generation planning periods (summer or winter) occurring in a consecutive 12-month period. For purposes of this Agreement, OUC's summer peak generation planning period shall be May through September and OUC's winter peak generation planning period shall be December through February. The months included in OUC's peak generation planning periods may be changed, at the sole discretion of OUC, upon 12 months prior notice to the REF;
- (ii) After the Payment Start Date, the REF fails to maintain a ninety-four percent (94%) annual EAF on a 12-month rolling-average basis;
- (iii) The REF ceases the conduct of active business; or if proceedings under the Bankruptcy Act or insolvency laws shall be instituted by or for or against REF; or if a receiver shall be appointed for the REF, or any of its assets or properties; or if any part of the REF shall be attached, levied upon, encumbered, pledged, seized, or taken under any judicial process and such proceedings shall not be vacated or fully stayed within thirty (30) days thereof; or if the REF shall make an assignment for the benefit of creditors or admit in writing its inability to pay its debt as they become due;
- (iv) The REF fails to give proper assurance of adequate performance as specified under the Agreement within thirty (30) days after OUC, with reasonable grounds for insecurity; has requested in writing such assurance;
- (v) If construction and commercial operation of the REF are not accomplished by the designated In-Service Date and OUC declares the REF in breach of this Agreement under Section 2; and,
- (vi) The REF fails to perform any material condition or obligation specified under this Agreement.

8.2 The parties agree that any default by the REF as defined in this Section will result in substantial injury to OUC, but that a general amount for damages arising from such failures cannot be predetermined. Therefore, the parties agree that if the REF should default under the terms of this Agreement, the REF shall pay to OUC, as liquidated damages and not as a penalty, the amount of \$ _____, which amount is based on a calculation of twenty-four (24) months of exposure for OUC and the Firm Renewable Capacity Rate in dollars per kilowatt per month multiplied by the Actual Capacity stipulated in Section 4.2 of this contract for the remaining term of this Agreement (assumed to be an initial 10 year term). This provision shall in no way affect any right OUC might have to terminate this Agreement, and OUC's exercise of a right to terminate shall not release the REF from its obligation to pay liquidated damages in the amount set forth in this paragraph. The REF shall post a bond upon its execution of this

Agreement in the amount of the liquidated damages set forth herein and in a form acceptable to OUC. Said bond shall secure payment of liquidated damages to OUC in the event of default by the REF.

Section 9. General Provisions

9.1 Permits. REF hereby agrees to obtain any and all government permits, certifications, or other authority REF is required to obtain as a prerequisite to engaging in the activities provided for in this Agreement. .

9.2 Indemnification. REF agrees to indemnify and save harmless OUC and its respective employees, officers, directors, and agents against any and all liability, loss, damage, costs or expense which OUC and its respective employees, officers, directors, and agents may hereafter incur, suffer or be required to pay to the extent cause by the negligence of REF in performing or its failure to perform its obligations pursuant to this Agreement or REF's failure to otherwise comply with terms of this Agreement. REF shall include OUC as an additional insured to the extent its interest arises under any liability insurance policy or policies REF obtains with respect to REF's indemnity and hold harmless assurances to OUC contained in this Section.

9.3 Renegotiations Due to Regulatory Changes. Notwithstanding anything in this Agreement to the contrary, should OUC at any time during the term of this Agreement fail to obtain or be denied the regulatory authorization of any regulatory body which now has or in the future may have jurisdiction over OUC's rates and charges, to recover from its customers all of the payments required to be made to REF under the terms of this Agreement or any subsequent amendment to this Agreement, the Parties agree that, at OUC's option, it may either terminate this agreement or renegotiate this Agreement or any applicable amendment to bring it into compliance with applicable law or regulatory mandate. If OUC exercises such option to renegotiate, OUC shall not thereafter be required to make such payments to the extent OUC's authorization to recover them from its customers is not obtained or is denied. It is the intent of the Parties that OUC's payment obligations under this Agreement or any amendment hereto are conditioned upon OUC's being fully reimbursed for such payments through its Energy Cost Adjustment Clause or other authorized rates or charges. Any amounts initially recovered by OUC from its rate payers but for which recovery is subsequently disallowed by any regulatory body asserting jurisdiction and charged back to OUC may be set off or credited against subsequent payments made by OUC for purchases from the REF, or alternatively, shall be repaid by the REF.

9.4 Force Majeure. If either Party shall be unable, by reason of force majeure, to carry out its obligations under this Agreement, either wholly or in part, the Party so failing shall give written notice and full particulars of such cause or causes to the other Party as soon as possible after the occurrence of any such cause; and such obligations shall be suspended during the continuance of such hindrance, which, however, shall be remedied with all possible dispatch; and the obligations, terms and conditions of this Agreement shall be extended for such period as may be necessary for the purpose of making good any suspension so caused. "Force Majeure" as to a Party means each of the following events as affects the Facility: act of God or public enemy; landslide; sinkhole; lightning; earthquake; fire (unless caused by the applicable Party's willful misconduct or failure to follow Prudent Utility Practice); storm; ice; snow; hurricane; tornado; wind; flood; riot; civil disturbance; insurrection; war; sabotage; terrorism; shutdown of the Facility by a court order or Governmental Body not resulting from any action or inaction by the

applicable Party; strike, lockout or labor difficulty affecting the REF Site generally (excluding in the case of Seller any strike, lockout or labor difficulty that is limited only to employees of either Seller or its affiliates, and excluding in the case of Purchaser any strike, lockout or labor difficulty limited only to the employees of Purchaser); failure of contractors or suppliers (including, in the case of Seller, OUC and other Customers providing services to Seller) to provide fuel, equipment, material or services, provided that such failure would qualify as a Force Majeure under this provision if such failure were directly experienced by the applicable Party; or any other occurrence, nonoccurrence or set of circumstances, whether or not foreseeable, that is beyond the reasonable control of the applicable Party and is not caused or exacerbated by the applicable Party's failure to follow Prudent Utility Practices. REF agrees to pay the costs necessary to reactivate the Facility and/or the interconnection with OUC's electric system if the same are rendered inoperable due to actions of REF, its agents, or force majeure events affecting the Facility or the interconnection with OUC. OUC agrees to reactivate as its own cost the interconnection with the facility in circumstances where any interruptions to such interconnection are caused by OUC or its agents. Neither Party shall be relieved of its obligation to pay otherwise payable amounts to the other Party under the terms of this Agreement based on a claim by the paying Party of a Force Majeure event.

9.5 Assignment. The REF shall have the right to assign its benefits under this Agreement but the REF shall not have the right to assign its obligations and duties without OUC's prior written approval.

9.6 Disclaimer. In executing this Agreement, OUC does not, nor should it be construed to, extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with REF or any assignee of this Agreement.

9.7 Notification. For purposes of making any and all non-emergency oral and written notices, payments or the like required under the provisions of this Agreement, the Parties designate the following to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual.

For the REF:

Phone _____

For OUC:

Phone _____

9.8 Tax Exemption. OUC shall not be required to take any action under this Agreement if such action, in the opinion of OUC, would have an adverse effect on the tax exempt status of OUC's indebtedness within the meaning of the Internal Revenue Code of 1954, as amended, or its successor, and the applicable U.S. Treasury Regulations promulgated thereunder.

9.9 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida and any unresolved disputes if litigated, shall be

filled with the appropriate Florida courts or the Florida Public Service Commission, as applicable, based on which has jurisdiction over the matter in dispute.

9.10 Severability. If any part of this Agreement, for any reason, be declared invalid, or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Agreement, which remainder shall remain in force and effect as if this Agreement had been executed without the invalid or unenforceable portion.

9.11 Complete Agreement and Amendments. All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Agreement are hereby abrogated. No amendment or modification to this Agreement shall be binding unless it shall be set forth in writing and duly executed by both Parties to this Agreement.

9.12 Incorporation of Rate Schedule. The Parties agree that this Agreement shall be subject to all of the provisions contained in OUC's published Rate Schedule REF-1 as approved and amended from time to time, which Rate Schedule is incorporated herein by reference.

9.13 Survival of Agreement. This Agreement as may be amended from time to time shall be binding and inure to the benefit of the Parties' respective successors-in-interest and legal representatives.

IN WITNESS HEREOF, REF and OUC have executed this Agreement the day and year first above written.

Attested: _____ Renewable Energy Facility
By: _____ By: _____
Authorized Officer

Attested: _____ Orlando Utilities Commission
By: _____ By: _____
Authorized Officer

Standard Rate for the Purchase of Firm Capacity and Energy from A Renewable Energy Facility Rate Schedule REF-1

Availability

OUC will, under the provisions of this Schedule and OUC's "Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility" ("Renewable Standard Offer Contract"), purchase firm capacity and energy offered by a Renewable Energy Facility ("REF") that produces electrical energy by means of a method that uses one or more of the renewable fuel or energy sources stated in Section 366.91, Florida Statutes, irrespective of its location within or outside of OUC's service area ("Service Territory"), which is either directly or indirectly interconnected with the OUC. Unless and until such time as this Rate Schedule is revoked by OUC, OUC's offer to purchase firm capacity energy is available at all times to REFs.

Application

This Rate Schedule is applicable to any REF, irrespective of its location, producing capacity and energy for sale to OUC on a firm basis pursuant to the terms and conditions of this Rate Schedule and OUC's Renewable Standard Offer Contract. Firm capacity and energy for purposes of this Rate Schedule are capacity and energy produced and sold by a REF pursuant to the Renewable Standard Offer Contract or a negotiated contract and which meet the qualifying criteria set forth in this Rate Schedule.

Limitation of Service

Purchases under this Rate Schedule are subject to OUC's demonstrable need for firm capacity and energy. Further, all rates for capacity purchases by OUC under this Rate Schedule shall, as further detailed herein, be based on avoided capital expenditures and shall be calculated based on an avoided resource (the "Avoided Resource") which will be required by OUC within the term of the Renewable Standard Offer Contract (or alternate contract, as applicable) to be signed by the REF.

Service under this Rate Schedule is limited to those REFs which:

- A.** Execute a Renewable Standard Offer Contract with OUC no later than a date sufficiently in advance of the In-Service Date which allows for certification and construction of OUC's Avoided Resource.
- B.** Commit to commence deliveries of firm capacity and energy to OUC no later than the designated In-Service Date and to continue such deliveries through at least ten years beyond the designated In-Service Date.

As of the time of OUC's 2005 Ten-Year Site Plan ("TYSP"), OUC has no Avoided Resource through 2014, the final year of the 2005 TYSP. According to Section 366.91, Florida Statutes, capacity payments by OUC are not required if the REF is unlikely to provide any capacity value. Therefore, until OUC demonstrates a need for additional capacity, no capacity payments will be paid by OUC under this Rate Schedule based on avoided cost pricing methodology contained in the Renewable Standard Offer Contract. However, this does not preclude capacity payments by OUC to REFs subject to separately negotiated agreements between OUC and REFs.

Character of Service

Purchases within the Service Territory shall be, at the option of OUC, single or three phase, 60 hertz, alternating current at standard available voltage. Purchases from outside of the Service Territory shall be three phase, 60 hertz, alternating current at the voltage level available at an unconstrained interconnection point between OUC and the utility delivering firm capacity and energy from the REF.

Rates for Purchases By OUC

Firm capacity and energy shall be purchased under this Rate Schedule at a unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively. The rate for firm capacity purchases under the Renewable Standard Offer Contract are based on the value of deferring additional capital outlay for capacity resource(s) for OUC.

A. Firm Renewable Capacity Rates

Firm renewable capacity rates in dollars per kilowatt per month shall be based on the methodology used by OUC to calculate the monthly values of deferring OUC's Avoided Resource.

B. Renewable Energy Rates

(1) Payments Prior to the In-Service Date

The energy rates in cents per kilowatt-hour (¢/kWh) under the Renewable Standard Offer Contract for energy payments prior to the In-Service Date shall be based on OUC's actual hourly avoided energy costs which are calculated by OUC. Avoided energy costs include incremental fuel, identifiable variable operation and maintenance expenses, and an adjustment for losses reflecting delivery to the appropriate location on OUC's electric system. When transactions with other utilities take place, the incremental costs are calculated after purchases from other utilities or before sales to other utilities.

(2) Payments Starting on the In-Service Date

The calculation of payments to the REF for renewable energy delivered by OUC on and after the In-Service Date shall be the lesser of:

- (a) the sum, over all hours of the billing period, of the product of each hour's Avoided Resource energy cost times the delivered energy received by OUC for that hour, or
- (b) OUC's actual hourly avoided energy costs which are calculated by OUC as described in (1) above.

All purchases from REF shall be adjusted for losses from the point of metering to the appropriate location on OUC's electric system. Any REF located outside of the Service Territory shall be responsible for scheduling Firm Transmission and Ancillary Services for the energy delivered to the designated delivery point on OUC's system and any associated wheeling charges to get the energy to such delivery point.

Performance Criteria

Payments for firm capacity are subject to the REF's ability to comply with and maintain the following performance criteria, which criteria shall be considered a condition precedent to any obligation of OUC to begin firm capacity payments:

A. Commercial In-Service Date

Capacity payments shall not commence until the REF has attained and demonstrated commercial in-service status. The commercial in-service date of a REF shall be defined as the first day of the month following the successful demonstration of the REF maintaining hourly kilowatt (kW) output, as metered at the designated delivery point on the OUC system equal to or greater than the REF's "Actual Committed Capacity" for a test period as set forth in OUC's Renewable Standard Offer Contract (or alternate contract, as applicable). An REF shall coordinate the selection of the test period and operation of its facility during such test period with OUC to insure that the performance of the REF during this test period is reflective of the anticipated operation of the REF.

B. Availability Requirement

Upon achieving commercial in-service status, payments for firm capacity shall be made monthly by OUC subject to the condition that the generating facility must maintain a minimum ninety-four percent (94%) annual Equivalent Availability Factor ("EAF") on a 12-month rolling-average basis to be calculated monthly. Failure to achieve these availability factors shall result in the REF's forfeiture of payments for firm capacity during the month or months in which such failure occurred.

C. Additional Criteria

Ongoing compliance by the REF with the following terms shall be conditions precedent to continued payment of firm capacity and/or energy payments under this Rate Schedule:

1. The REF shall provide to OUC prior to March 1 for the next fiscal year or at other times requested by OUC, monthly generation estimates;
2. The REF shall promptly update its yearly generation schedule and maintenance schedule as and when any changes are determined necessary and such schedule changes must be mutually agreeable;
3. The REF shall agree to reduce generation or take other appropriate action as requested by OUC for safety reasons or to preserve system integrity;
4. The REF shall coordinate the delivery of its generated output and scheduled outages with OUC;
5. The REF shall communicate the day ahead projected hourly generation schedule to OUC at or before 3:00 p.m. Eastern Prevailing Time of the immediately preceding day before delivery is to be made;
6. The REF shall comply with the reasonable requests of OUC regarding daily or hourly communications and OUC shall have full scheduling flexibility within the technical limits of the REF generating unit(s);

7. The REF shall provide all necessary information including but not limited to data acquisition for real time telemetry and acquisition of actual generation output of the Facility requested by OUC to implement and administer this Rate Schedule and other applicable rate schedule(s); and
8. The REF's maximum hourly output shall not exceed the Actual Committed Capacity defined in its Standard Offer Contract (or other contract, as applicable) by more than five percent (5%).
9. The REF shall adjust reactive power flow in the interconnection as may be reasonably required by OUC or the electric utility with which the REF has signed a Parallel Operation Agreement within the range of 90% leading to 85% lagging power factor unless otherwise provided in the Parallel Operation Agreement.
10. The REF's environmental emissions shall be less than or equal to the projected emissions of the Avoided Resource.

Definition of Off and On-Peak Time Periods

The on-peak hours occur Monday through Friday except holidays, April 1 - October 31 from 12 noon to 9:00 pm, and November 1 - March 31 from 6:00 am to 10:00 am and 6:00 pm to 10:00 pm, clock time.

Delivery Voltage Adjustments

Energy payments to REFs within the Service Territory shall be adjusted to the appropriate location on OUC's electric system based on the delivery voltage level using the following adjustment factors:

<u>Renewable Energy Facility Delivery Voltage</u>	<u>Adjustment Factor</u>
Transmission Voltage Delivery (115 kV and above)	1.0163
Primary Voltage Delivery (12,500 volts to 69,000 volts)	1.0204
Secondary Voltage Delivery (less than 12,470 volts)	1.0493

These factors will be based on OUC's most recent annual data for the applicable system average loss percentage factor. If, in OUC's judgment, the use of average losses would not result in equitable compensation for losses incurred, incremental losses attributed to the transaction may be used. When incremental losses are to be used, the REF shall be so advised at least 30 days prior to the transaction.

Metering Requirements

REFs within the Service Territory shall be required to pay all costs associated with meters necessary to measure their energy production. Energy purchases from REFs outside of the Service Territory shall be measured as the quantities scheduled for interchange to OUC by the utility delivering firm capacity and energy to OUC on behalf of the REF.

Hourly recording meters shall be required for all REFs delivering energy to OUC.

Terms of Payment

A statement covering the charges and payments due the REF shall be prepared and rendered monthly by OUC, and payment normally will be made by the twentieth business day following the end of the billing period or within ten (10) days of mailing (as defined by postmark), whichever is later

Charges to Renewable Energy Facility

A. Charges for Additional Services

OUC will charge and collect for meter reading, billing, other applicable administrative costs, any additional services offered by OUC and requested by the REF. Any such charges shall be in accordance with OUC's applicable published rate schedule(s) governing such services, as such rate schedules may at OUC's option be revised from time to time.

B. Interconnection Charge for Non-Variable Utility Expenses

The REF shall bear the cost required for the interconnection facilities including the costs associated with eliminating any impairment or reduction of the electric power transfer capability of OUC's transmission system, resulting from or attributable to the interconnection of the REF.

C. Interconnection Charge for Variable Utility Expenses

The REF shall be billed monthly for the cost of variable utility expenses associated with the operation and maintenance of the interconnection facilities. These expenses include (a) OUC's inspections of the facilities, and (b) ownership cost of any equipment beyond that which would be required to provide normal electric service to the REF if no sales to OUC were involved.

D. Taxes and Assessments

The REF shall be billed monthly an amount equal to the taxes, assessments, or other imposition, if any, for which OUC is liable as a result of its purchases of firm capacity and produced by the REF.

Terms of Service

1. It shall be the REF's responsibility to inform OUC of any change in its electric generation capability.
2. Any electric service delivered by OUC to the REF shall be metered separately and billed under the applicable retail rate schedule and the terms and conditions of the applicable rate schedule shall prevail.
3. A security deposit will be required in accordance with OUC's rules and regulations and the following:
 - a. In the first year of operation, the security deposit should be based upon the singular month in which the REF's projected purchases from OUC exceed, by the greatest amount, OUC's estimated purchases from the REF. The security deposit should be

equal to twice the amount of the difference estimated for that month. The deposit shall be required upon interconnection.

- b. For each year thereafter, a review of the actual sales and purchases between the REF and OUC should be conducted to determine the actual month of maximum difference. The security deposit shall be adjusted to equal twice the greatest amount by which the actual monthly purchases by the REF exceed the actual sales to OUC in that month.
4. OUC shall specify the point of interconnection and voltage level.
5. OUC will, under the provisions of this Rate Schedule, require a Parallel Operation Agreement between the REF and the electric utility in whose service territory the REF's generating facility is located (if outside the Service Territory). The REF shall recognize that its generation facility located in OUC's Service Territory may exhibit unique interconnection requirements which will be separately evaluated by OUC, modifying OUC's "Safety and Technical Standards for Parallel Operation of a Renewable Energy Facility" where applicable.
6. Service under this Rate Schedule is subject to the rules and regulations of OUC.

Special Provisions

1. Special contracts deviating from the above standard Rate Schedule are allowable provided they are agreed to by OUC.
2. If transmission system improvements are needed as a result of the interconnection of the REF to OUC's system, the REF shall be responsible for all costs relating to such transmission system improvements.
3. A REF located within OUC's Service Territory may sell firm capacity and energy to a utility other than OUC when adequate transmission capacity is available on OUC's system. When such capacity exists, OUC will provide transmission wheeling service through its Service Territory for delivery to the purchasing utility or to an intermediate utility. In either case, OUC will charge the REF for wheeling capacity and energy pursuant to the provisions of OUC's Rate Schedule CG-3 for Transmission Service .
4. OUC shall be relieved of its obligation to purchase and pay for electric capacity and energy from a REF when purchases result in higher costs to OUC's other customers than without such purchases, and where service to OUC's other customers may be impaired by such purchases. On such occasions OUC shall notify the REF as soon as possible or practical.